

INDIAN LEGAL SYSTEM AND JUSTICE TO CRIME VICTIMS: EXPECTATIONS

Dr. Suwarna Sachin Mangrulkar,
Assistant Professor,
Shantaram Potdukhe College of Law,
Tadoba Road, Tukum, Chandrapur
Mob. : 9420138072
Email : suwarna.mang@gmail.com

Abstract : *Fair and appropriate treatment is the basic requirement of crime victim. Crime is having both short term and long term effect on the unfortunate victims. Majority of the Victims' Rights instruments around the world have been based on the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985. Thereafter in the year 2005, the UN used these principles and the UN Convention on the Rights of the Child to develop guidelines on matters involving child victims and witnesses. In 'Victim Service Worker Handbook of the British Columbia and other landmark International instrument and various laws in other countries, some of the specific rights expected as a victim of crime to receive fair and impartial justice from the criminal justice system. The mentioned rights of the victims are just an attempt of the Researcher to understand the expectations of the crime victims towards the criminal justice system.*

"Apart from financial needs, victims of crime may have a variety of needs of a material, medical, psychological and social nature. Such needs for assistance will vary according the situation of the victim and the nature of the crime. To be able to provide victims of crime with prompt and efficient help, all relevant professional groups, including judges, prosecutors and lawyers, must be sensitized to the needs of victims and available assistance schemes"

Keywords: *Victims, Rights, Criminal Justice System, Crime*

Introduction:

The concept of justice is old enough as origin and growth of human society itself. The social nature of man demands that he must live peacefully in society. While living in a society, he experiences a conflict of interests and expects rightful conduct on the part of others. This is the reason there is importance of justice while defining the law. Law is an instrument of justice. In simple term it declares what is just. No one wants to be a victim of crime. The expectations of the citizens of any country start from crime prevention. Information-gathering instrument on United Nations standards and norms related primarily to the prevention of crime emphasizes on co-operation and partnership as integral part of crime prevention. This includes partnerships working across ministries and between authorities, community organizations, non-governmental organizations, the business sector and private citizens. For crime prevention the Government can do a lot which include;



- a) Establishing centers or focal points with expertise and resources;
- b) Establishing a crime prevention plan with clear priorities and targets;
- c) Establishing linkages and coordination between relevant government agencies or departments
- d) Fostering partnerships with non-governmental organizations, the business, private and professional sectors and the community;
- e) Seeking the active participation of the public in crime prevention by informing it of the need for and means of action and its role.

While studying victim protection and victim protection schemes, it becomes clear that there is known not much about the needs of the crime victims concerned and the victim help respectively victim support often start working on the base of supposed victim needs and victim expectations. Various States have come forward with their legislations solely deal with the victims of crime.. While entering into the door of criminal justice system, the victims of crime require certain important components which include-

Requirements to Crime Victims :

- The right to be treated with dignity, compassion, fairness, sensitivity and respect through trouble free access in the criminal justice system
- The right to enforcement of all the rights provided for the victims of crime and easy access to other services provided thereof
- Right to Immediate Medical Facilities to the Victims of Crime suffering from Grave Physical and Psychological Harm
- The right and assurance of safety and protection
- The right to due process in criminal court proceedings
- The right to be informed concerning the proceedings and events in the criminal justice process, which include the release or escape of the offender, legal rights and remedies, and available benefits and services, and access to records, referrals, and other information
- The right to be heard in the criminal justice process, which includes the right to confer with the prosecutor and submit a victim impact statement at sentencing, parole, and other similar kinds of proceedings
- The right to be counseled
- The right to reparation and restitution from the offender or State
- Right of the crime victim to claim compensation and information about how to apply for the crime victim compensation
- Right to participation on the justice process
- The right to privacy
- The right to preservation of property and employment
- The right to quick return of property seized as evidence whenever possible
- The right to speedy trial and other proceedings which should be free from unreasonable delays
- Continuity of the Support and Services throughout the Justice Process

As provided by the International instrument and various laws in other countries, some of the specific rights expected as a victim of crime to receive fair and impartial justice from the criminal justice system may be summarized as below; The right to be treated with dignity, compassion, fairness, sensitivity and respect by providing trouble free access in the criminal justice system

If criminal proceedings cause psychological harm to the victims involved in the case, it must be considered a serious undesirable effect of the criminal justice system and an instance of secondary victimization of victims. The victim of crimes expects an easy access to participate in the justice system. The woes and agonies of crime victim should not go unheard. The crime victim expects to obtain information and services regardless of individual and family circumstances. An easy access to the gateways of justice system shows practical help the victim needed. Such needs are most likely to occur immediately aftermath of the event.

Victims expect clear information about the criminal justice system. In simple language, victims are entitled to receive clarification of information about the services, the types of available support, reporting the offence, procedure to receive protection, the procedures following the offence, procedure of receiving legal aid and legal advice, procedure of receiving compensation etc.

The police must ensure that the victims feel that they are being considered properly. Victims expect respect, compassion and understanding from the police. The trouble free access to criminal justice system also suggests the victim friendly approach of police.

Non - Governmental Organizations and the Victims of crime :

The Private Organizations can also play a positive role to assist victims of crime. In the countries like U.K. and U.S.A. the Private Organizations are playing very active role in assisting them. Private Organizations of these countries have opened 'Rape Crisis Centre' and Victim Support Schemes to support victims of crime. These Organizations are providing the services of counseling, information regarding the state of case, remedies which victims may receive from the court, rehabilitation and the compensation to the victims which also include services of lawyers. In India such private organizations are needed for victims.

Such kind of support is required for the rehabilitation of crime victims in various areas of the country to soothe them from the most unforgettable moments of their lives leaving them in despair. Right to Immediate Medical Facilities to the Victims of Crime suffering from Grave Physical and Psychological Harm

Crime victims really want the immediate medical facilities. It is mandatory on the part of all hospitals be it public or private to provided the medical treatment or possible first aid to the victims to the victims of any offence covered under section 326A, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code for free of cost as per the section 357C of criminal Procedure Code. It is also mandatory to inform the police of such incident. This facility is given only in the abovementioned offences and not in others.



Right and Assurance of Safety and Protection :

Any victim of crime expects safety and the protection from the perpetrator against victimization. Offender may try to intimidate victim/witness from co-operating with the authorities. Threats of retaliation and actual physical violence intimidate many victims and witnesses into not co-operating with criminal proceedings. The Rome Statute that created the International Criminal Court has also recognized the problem. The Statute clearly states that if witness protection is not provided, it would be impossible to gather evidence for any crime. Section D of Article 6 of U. N. Declaration recommends that, states should take measures “.....to ensure their (victim) safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.”

The person can speak truth only when he is free to depose the same before the court of law. Therefore safety is most essential factor required by any victim or the witness of crime. Victim-witness protection squads should be created to protect the vulnerable victims by providing 24 hours services in this behalf.

Right to be Informed :

The criminal justice system is often required to provide general information of interest to victims. The victims should have the right to be notified of important, scheduled criminal proceedings and the outcomes of those proceedings. The crime victims are already disturbed. Most of the victims enter into doorway of justice system for the very first time. They become confused about the role they have to play for seeking justice. They require information about justice processes, recovery from trauma and repair of harm caused to them as a result of crime. The information which is provided to the victim requires being both in verbal and written form. The information should be in easy language provided them in the language which they can understand. In short it must be clear, concise, exact and user friendly. The Police and other Service providers should be specially trained in this regard.

In various countries there are provisions by which the victims are kept informed about their case. Perhaps it is their fundamental right.

Right to Participation in Justice Process :

When the case goes to the court the victims should be treated with compassion. They must be treated as a party to the proceeding. For discovering the truth the victim may be made a party to assist the court. The permission may be granted to him to put questions or suggest questions to the witnesses produced by the opposite party. The victim should get right to participate in the criminal proceeding which includes right to know, right to be heard and right to assist the court in pursuit of the truth.

Right to Restitution through Compensation from the State and the Accused :

Restitution refers to the restoration of the harm caused by the defendant. Most commonly the term refers to the payment in form of damages. It may also refer to the return



or repair of property which has been stolen or damaged in course of crime while committed. The Court should order restitution by the convicted offenders as part of their sentence. The court should direct the convict to retribute for the losses of victims in form of compensation. If the convict is not in economic sound position to pay the money in cash, the installment facility should be provided to him by attaching the amount to the wages which he receives from the prison. Legal mandates are necessary in this regard.

State government must provide the compensation to crime victims through the Victim Support Programme for the victims of violent crimes. Section 357A of Cr. P. C. has been provided with the State Compensation Programme but as a victim proper implementation of the Scheme is necessary. The compensation is also needed to stand the victim on his own feet and live a respectful life in the society. The Government is having with the various Schemes and Policies for supporting the victims of crime. The justice system should support the victim to avail the Schemes and policies without delay. Proper implementation mechanism is needed for providing prompt services to the victims of crime.

Right to Rapid Justice through Speedy disposition of Case without Unnecessary Delays :

The Victims of crime expect rapid justice from the court of law. The criminal justice system is based mainly on the concept of justice to the society at large in the criminal jurisprudence of India. It clearly shows that the criminal justice is more confined to the 'guilt of offender' than the welfare of the victims. The justice to the dignity and the welfare of the victims is neglected in the waves of the concept of "society at large."

The newest Criminal Procedure Code among the countries in the study, the 1981 Code in Norway, contains a general provision on this. Sec. 113 of the Code states simply that 'an attempt shall be made to avoid unnecessary waste of time and inconvenience to witnesses.'

The concept of rapid justice delivery system signifies two concepts namely real justice and the just compensation amount to the victims of crime. Seeking rapid justice by the victims of crime from the court of law is fundamental right under Article 21 of Indian Constitution. Victims expect the law dynamic, positive and rational for the society according to the changing needs. It must be rapid in nature. It is the need of this hour that the victims of crime should receive justice more quickly with fewer Court hearings. Our District and Sessions Courts are overburdened. The Fast Track Courts are needed in each and every district to provide quick and rapid justice.

Right to Privacy :

Most of the time it is found that, victims afraid of harassment and retaliation by offenders may worry that their personal information available in the public records provides an easy access to the offenders to reach them. Victim of crime should have right to protect the privacy. In the documents submitted in the justice process, the personal information including their identity, place of residence, employment etc. is mentioned. The safety of victim may on stake if the information is made public. In the criminal justice system of India, the identity of



rape victims cannot be disclosed, but in other offences the identity of victim is disclosed publicly.

Continuity of the Support and Services throughout the Justice Process :

The support services should be for long term according to the needs of the crime victims. Mass Media can play an important role in attracting attention of the justice system towards the needs of the victims. One question arises in mind that what about those cases and victims for which media has not come forward. Media creates an overall outrage of the people at large resulting in the pressures on the police to take immediate step and the government to provide all the necessary medical treatment to recover the victim from trauma. The cases remain unreported because of the undue pressure of the society or because of the inadequacy of the support services the victims need.

In the Indian Criminal Justice System, as the State prosecutes the offender, on behalf of victim and society there must be a clear communication between the prosecutor and the victims. The meeting or contact with the prosecutor regardless of the victim is witness or not can support victim a lot. The communication gap may be responsible for a weak case by prosecution. This lacuna may be fulfilled by the communication. The crime victim requires continuity of support through all stages of justice process and trauma recovery. All the victims should get equal medical treatment from the specialist doctors.

Conclusion :

India is having a democratic civilized society and expects maximum sense of security to the people at large by dealing with crime and criminals effectively. It covers maximum detection of reported crimes, conviction of the accused persons without delay, awarding appropriate punishments to the convicted to meet the ends of justice. It's a dual hardship to be a victim in India. In fact no one expects to be victimized and enter into the doorway of criminal justice system. A crime victim demands accountability from the justice system. It is a bitter truth to accept that becoming a crime victim in India may cause double victimization to them through society and the criminal justice system.

References :

- <http://www1.umn.edu/humanrts/monitoring/adminchap15.html>
- <http://www.un.org/en/ecosoc/docs/2006/resolution%202006-20.pdf>
- Randhawa Gurpreet Singh, Victimology and Compensatory Jurisprudence, first edn 2011, p.n. 211
- <http://devgan.in/ipc/section/376DB/>
- <https://www.un.org/en/universal-declaration-human-rights/>
- www.victiminfo.govt.nz
- www.ncjrs.gov

