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HUMAN RIGHTS OF VICTIM'S

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Abstract

In this paper the author talks about the Human rights of victim's. It is true that our Criminal justice system is enough to providing a proper justice to the victims. But sometimes due to lack of evidences they are not access to fair and reasonable justice and somewhere societal prospective also put a restriction on victims to file a FIR (First Information Report). Therefore we can say that victim's suffered the most throughout their lives. Victims are also considered as a witnesses of crime that's by they indulge in various trails of court proceedings. The Indian Constitution and Criminal Procedure code, 1973 provides various rights to victims. But people are not aware about there human rights therefore victims suffered a lot for accessing a proper justice. In 1985, UN declaration of human rights provides basic principles of justice for victims of crime and abuse of power in International Law. Crimes are increased due to lack of proper implementation of law. Therefore to increase the security level of people various human rights are provided to the citizens. From this we can take the idea that where the law stood on providing justice to victims. State has a matter of human rights law it is the duty of state to proper investigate the crime, it is not mandatory that if there is a extreme coercion of crime only then accused is liable but it is important that the victims are entitled to help and support as their rights, whether the case goes to court or not. Criminal justice system purpose is to investigation of offence and treatment of offenders. In this research paper, the author has first tried to acknowledge the definition of a victim in our legal system as well as definition provided by the international body.

Keywords – Human rights, Criminal justice system, Victim, Rights of victim's

Introduction

In India, the protection of human right act 1993 defines the "Human rights" as the rights related to life, liberty, dignity and equality of the individual guaranteed by the constitution or embodied in the international convents. Human rights are rights we have simply because we exist as

human beings – they are not granted by any state. The Universal Declaration of Human rights adopted by UN general assembly in 1948, was the first legal document to set out the fundamental human rights to be universally protected. Human rights law obliges government to do some things, and prevent them from doing others. The right mentioned include the right of a victim to be treated with dignity and victim has also a right to preserve his privacy. Victims as well as their families are harrassed by the members of society or by offender or even by their own family members. Victim is a person who suffered a harm, that harm can be physical and Mental. Victims are mostly ignored by their family, police, courts in their criminal justice system. Victims have access to some material like that they have confidence to go to their local authorities. Victims need a help, it should be given to them, I think it's their legal right.

Definition of victim

According to Indian legal framework the term **victim is defined under Section 2(a) of the Criminal Procedure code, 1973 as a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression victim includes his or her guardian or legal heir.**

Victims have very few legal rights as compared to criminals or accused of crimes in the criminal justice system. Victims do not have any right to be notified about the trials, court proceedings, or arrest of the defendant but they have the right to be informed, heard, and present within the criminal justice system. Victims have very few legal rights as compared to criminals or accused of crimes in the criminal justice system. Victims do not have any right to be notified about the trials, court proceedings, or arrest of the defendant but they have the right to be informed, heard, and present within the criminal justice system.

Rights of victims

1. Access to justice and fair treatment
2. Restitution
3. Compensation
4. Assistance
5. Privacy
6. Protection

Ensuring access to justice and fair treatment, compensation/restitution and providing the

required assistance to the victim are some of the rights that should be given to the victim without any default in any criminal justice system. These sacred elements have been given recognition in the Indian criminal justice system too.

Justice V R Krishna Iyer in Rattan Singh v. State of Punjab correctly said that, It is a weakness of our jurisprudence that victim of crime and the distress of the dependents of the victim do not attract the attention of law. However, the reimbursement for victims is still the disappearing opinion of our criminal law. This shows the deficiency in our system, which must be rectified by the legislature.

1. Access to justice and fair treatment

The first step to begin the Criminal proceedings in India is to register a FIR. FIR is a first information report which is provided by aggrieved party or victim to the police officer. It is a right of victim to register a FIR under sec 154 of CrPC to access a proper justice.

Victims have also a right to choose his or her own choice of advocate under section 24(8) of CrPC, which provides a fair treatment to victims with one's who have not enough money to pay the advocates fee for trial proceedings of the court.

Section 372 of CrPC provides right of a victim to appeal against any order passed by the court on acquittal of accused.

2. Restitution

Victim have a right to seek restitution. Victims have the right to making a restitution order for their financial losses and to have any unpaid amount enforced through a civil court. But yet this right of restitution has no statutory recognition.

Financial losses related to –

- Damaged or loss of property due to crime
- Physical injury
- Psychological harm

Restitution is the restoration of the harm caused by the defendant, most commonly in the form of payment of damages return or repair of property stolen or damaged in crime.

3. Compensation

Victim has experienced harm, injury or loss due to harmful or unlawful activities done

by others. To overcome their loss or harm, victims have the Right to take a compensation from offender. Compensation provides a additional support to victims. Section 357 of CrPC empowers a court to award compensation for loss or injury suffered by a person.

S.S Ahluwalia vs Union of India

The supreme court agreed in principle that the government should pay compensation to the family members of the persons killed in riot.

4. Assistance

If the victim has been impacted by the crime, one of the best way to recover the victim is to provide a emotional or financial assistance which that they require. Certain counseling are arranged for the victims to retrieve their families.

Police, lawyers , judiciary and NGO's plays a vital role for providing assistance to victims they handle the victims and provides a additional support to them.

5. Right to privacy

Victim has the Right to hide their identity. According to Sec 228A of IPC. This provision is also help to hide the identity of victim, it prohibits everyone to print or published the name of victim of sexual offences. It is illegal to print or publish the name of the name of the victim.

6. Right to Protection

It is the duty of government and society that the victim should be feel protected in the society, no person has right to intimidated or harass the victim on any ground. It is the basic right of the victim to protected in the society.

Conclusion

There is no doubt that Criminal justice system favour the protection of Rights of Victim's but certain positive changes are required to be added in the CJS that will surely delivering a justice to victims, where the rights and interest of the victims are ignored. Certain policies are to be amended by the legislature which protects the rights of victim's. Moreover, victims should be treated with compassion and respect for their dignity. Unnecessary delay should be avoided for granting decrees to victims.

References

I publisher Victims human rights in India

<https://www.slideshare.net/avinash.rajput166/victims-rights-30380336>

www.indiankanoon.com

<http://docs.manupatra.in/newsline/articles/Upload/D4A9C7F0-8A98-4E34-B88E-0145775149D7.pdf>

<http://www.ielrc.org/content/a0402.pdf>

