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CRIMINAL JUSTICE AND VICTIMOLOGY: A COMPARATIVE ANALYSIS

AUTHORED BY: MRIDU JOYDEB MUKHERJEE

ABSTRACT

This paper is an analysis and findings about the criminal justice system and the aspects of victims who have faced loss or damage or to say the concept of victimology. The use of the law to achieve justice is known as criminal justice. Within the criminal justice system, the intent of victimology is to cater to the needs and experiences of victims. The relationship between victimology and criminal justice and the law emphasizes how difficult it is to maintain equity and fairness in society.

CHAPTER-1

INTRODUCTION:

This research paper is basic, descriptive, and correlational based work in APA style on Criminal Justice and Victimology: A Comparative Analysis.

The question that comes to my mind that has encouraged me to write on this subject-matter is to understand:

- **How does criminal justice contribute in providing justice to the victims of any crime?**
- **How does victimology contribute to the law and justice procedure?**
- **What impact does victimology has on criminal justice?**

Crime is where a person is punished (like being sentenced for imprisonment) for doing something that has been prohibited or restricted by the law¹.

The term criminal is used for a person who is associated or has any kind of involvement in illegal work i.e. which is prohibited by the law of land and has severe implications amounting to crime.

¹ <https://www.merriam-webster.com/dictionary/crime>

We can also define criminal as a person who has defied any law, irrespective of the fact whether they have been convicted or not². Example: cheat, theft, murder, etc.

Criminal law specifically deals with the laws that states punishment for the crime which creates or possess threat to the society or its welfare.

The area of law that deals with crimes is known as criminal law. It shields society against dangerous practices that have an impact on individuals and/or communities. To address crime, there is a system known as criminal justice. Individuals and organizations like juries, probation officers, law enforcement officers, attorneys, and prison authorities are all part of this system³.

To handle crime and its effects on society, the vast field of criminal justice integrates elements of the law, legal procedures, and the more general concept of justice. We must dissect these ideas separately and look at how they are related inside the criminal justice system to comprehend the relationship between criminal justice and law and justice.

Victim is a person against whom any crime or violation has occurred or has been hurt by someone in some manner like being assaulted, murdered, attempt to murder, etc.

Victimology is the study of crime victims, with an emphasis on how crime affects both individuals and communities, as well as how victims' function within the criminal justice system. The study of victimology looks at the reasons for victimization, trends in victimization, and societal reactions to victims.

LITERATURE REVIEW:

1. **TITLE:** Criminal Justice System⁴

AUTHOR: Forensic Victimology (Second Edition), 2014

NAME OF THE PUBLISHER/NAME OF THE JOURNAL: Science Direct

ABOUT⁵:

In a way, the criminal justice system is a symbol of a society that aims to keep everyone safe and control violent and other undesirable human conduct. But in practice, it

² <https://www.vocabulary.com/dictionary/criminal>

³ <https://www.lloydlawcollege.edu.in/blog/criminal-law>

⁴ <https://www.sciencedirect.com/topics/psychology/criminal-justice-system>

⁵ <https://www.sciencedirect.com/topics/psychology/criminal-justice-system>

becomes more difficult and can quickly become a tool for social control, not to mention a source of violence in and of itself or a way to exacerbate already existent violence.

Many lessons about what truly improves public safety and reduces violence can be learned from the U.S. experiment with mass incarceration, solitary confinement, and the death penalty. In addition to undermining the system, racial inequality and class bias might be examples of other abuses that a law-bound, justice-serving institution is supposed to prevent.

The network of public and private organizations that handle criminal suspects and convicted individuals is known as the criminal justice system.

2. **TITLE:** Victimology-Separate Field?⁶

AUTHOR: Pramit Bhattacharya

MONTH AND YEAR OF PUBLICATION: JULY 19, 2016

NAME OF THE PUBLISHER/NAME OF THE JOURNAL: Blog Ipleaders

ABOUT⁷:

Slowly and steadily victimology is gaining importance in criminal justice system. In plight of the victims the judiciary and the legislature need to ensure the growth by putting efforts for the same. It looks at a variety of topics, such as how people are harmed, how crime affects victims, how society reacts to victims, and how the legal system might meet the needs of victims. While trying to balance, it would contribute to first step in crime reduction.

CHAPTER-2

CORRESPONDENCE BETWEEN LAW & JUSTICE IN CRIMINAL JUSTICE:

⁶ <https://blog.ipleaders.in/victimology-separate-field/>

⁷ <https://blog.ipleaders.in/victimology-separate-field/>

In the context of criminal justice, the law is a set of guidelines created by society to control conduct, identify crimes, and specify the legal repercussions for transgressions. Statutes, case law, regulations, and constitutions are constituents of these laws. The law under the criminal justice system specifies:

✚ Factors contributing to crime⁸:

- Unemployment, poverty, and a lack of educational possibilities can all raise one's risk of committing a crime.
- Children are more prone to commit crimes if they are grown and brought up in dysfunctional or unstable homes.
- Criminal activities can be a result of drugs that impair self-control, judgment and consciousness like intake of alcohol or cocaine, etc.
- Deficiency in executive, problem-solving, and decision-making skills can also result in several criminal activities.
- Often people with a prefrontal cortex that is undeveloped or injured may lead an Antisocial behavior.
- People may be more likely to commit crimes if they believe the criminal justice system is lax or ineffectual.
- A community's ideals and priorities might be reflected in its social structure.
- In the absence of effective governance and enforcement, organized crime may arise.

There is a complicated link in criminal justice that aims to guarantee that legal systems respect both the rule of law and the values of justice. Justice refers to the more general moral and ethical objectives of fairness, equity, and the defense of human rights, whereas law refers to a body of formal regulations created by governments to uphold order, control behavior, and enforce rights and obligations. Debates concerning the efficacy, equity, and legitimacy of criminal justice systems revolve around the alignment—or lack thereof—between law and justice.

Justice being the tool of law which achieve the framework by ensuring that no one, based on socio-economic status, race and gender is being unfairly or unjustly treated. Also promotes the accountability while protecting the rights of both the parties i.e. the accused and the victim

⁸ <https://blog.ipleaders.in/causes-of-crime/>

ensuring their dignity and respect and providing appropriate resources to both as to ensure justice⁹.

Systems of criminal justice that uphold and embody the values of justice are the most successful.

A strong correlation between law and justice is established when a society's laws are in line with its moral values and ethical principles. For instance, laws that defend individual liberties, forbid discrimination, and safeguard human rights are regarded as just because they are consistent with the principles of equality and justice.

When the penalty for a crime is commensurate with the harm the offense caused, justice is served. This guarantees that the method the law administers penalties is in line with the offense as well as the overarching goals of rehabilitation, deterrence, and retaliation.

When judicial processes guarantee that people are treated equitably throughout their trials, justice is served. This covers the rights to legal representation, a fair trial, immunity from self-incrimination, and protection from unusually harsh punishment.

CHAPTER-3

⁹<https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>

COMBAT BETWEEN LAW & JUSTICE WITH RESPECT TO VICTIM:

Conflicts between law and justice in criminal justice can result in circumstances when the legal system fails to sufficiently address or respect the victim's rights, welfare, or sense of justice. Although the goal of the law is to maintain justice, fairness, and order, there are situations in which the strict application of the law might compromise the victim's perception of justice, especially when the law itself lacks compassion or fairness toward victims.

SHIFTING THE BLAME ON VICTIM:

One major problem arises when laws or legal procedures place the blame on the victim, suggesting that they were somehow involved in or responsible for the crime. Victim-blaming views, which may be evident in the legal system as well as in social attitudes, might cause this. For example, a victim of sexual assault may be asked about their choices, attire, or demeanor.

THEORY OF VICTIM PRECIPITATION¹⁰:

According to the victim precipitation theory, victims may have contributed to the circumstances that led to their victimization, which may have an impact on the actions of criminals. This idea centers on the ways in which specific victim behaviors, acts, or traits may incite or aid in the crimes against them. It emphasizes the dynamic relationship between victims and offenders, emphasizing that some situations can intensify conflicts or enhance vulnerability without placing blame on victims for their mistreatment.

The theory aims to understand how victim behaviors may unintentionally attract crime, not that victims deserve to be harmed. Environments where victims are seen as more vulnerable have been linked to increased rates of specific crime categories, including assault and robbery, according to research. Discussions concerning societal norms and expectations for individual safety and accountability frequently touch on victim precipitation theory.

We can learn more about the relationship between the victim and the criminal by researching precipitation. Every attempt must be made to comprehend the range and complexity of each party's physical and emotional experiences, as well as how they interpreted and reacted to events, how others reacted to their reactions, and so forth, whether creating a victimology or conducting a comprehensive analysis of a criminal incident¹¹.

¹⁰ <https://library.fiveable.me/key-terms/criminology/victim-precipitation-theory>

¹¹ <https://medcraveonline.com/FRCIJ/victim-precipitation-why-we-need-to-expand-upon-the-theory.html>

STRINGENT LEGAL PROCEDURES:

In certain cases, the procedure that is prioritized is the due process which unknowingly might get harmful for the victim. Let us say, While the accused enjoys legal protections that postpone or impede justice, the victim could have to suffer drawn-out court proceedings, cross-examinations, or the pain of repeated testimony.

At times while protecting the accused rights during the trial to be just and fair, it results in victims' confidence to achieve justice and many a times also cause a threat to his/her security leading to cause imbalance in the criminal justice system.

LACK OF LEGAL REMEDIES FOR VICTIMS¹²:

The legal system could put the offender's punishment ahead of the victim's need for justice or closure. As a result, victims may feel excluded or dismissed from the process that has a direct impact on their lives. Decisions about prosecution and plea negotiations are made without consulting victims of crime, who are viewed as secondary players in the criminal justice system.

In many nations, victims may not receive sufficient restitution or compensation from their legal systems, especially when the perpetrator is unable to pay damages. For instance, the victim's emotional or financial losses are frequently not covered by the perpetrator in cases of physical assault, property crime, or domestic abuse. The concept of restorative justice may be compromised if victims are not given the resources they need to heal.

INEQUALITY IN SERVING JUSTICE¹³:

Bias and discrimination can affect how the victim is handled as well as how the offense is prosecuted. When reporting crimes, victims from groups, such as the LGBTQ community or the backward classes, may encounter bias or skepticism, which can hinder their ability to obtain justice or be regarded seriously by law enforcement or the legal system. Due to gender prejudices, the judicial system may not give victims of sexual assault, domestic abuse, or other types of gender-based violence enough protection or justice.

¹² <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>

¹³ <https://blog.iplayers.in/access-justice-marginalised-section-india/>

WRONGFUL CONVICTIONS AND ITS IMPACT¹⁴:

The victim's suffering may not be repaired in certain situations where the accused is acquitted for lack of evidence or an offender is never put on trial.

In certain instances, erroneous convictions may prevent the law from providing victims with justice. The wrongfully convicted as well as the actual victims, who might never see the offender brought to justice, suffer greatly when innocent individuals are found guilty of crimes they did not commit. When the legal system fails to make amends, victims may not find closure, and the person who was unfairly convicted may receive an unfair punishment.



CHAPTER-4

CORRESPONDENCE BETWEEN LAW AND JUSTICE IN VICTIMOLOGY:

¹⁴ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4560030

The criminal's identity was the main emphasis of traditional criminal justice systems. Nonetheless, victimology has contributed to a greater understanding of the part victims play in the legal system. Legal frameworks have changed throughout time to incorporate victim protections, the ability to participate in procedures, and initiatives to lessen the suffering that crime causes.

To guarantee that victims receive respect and dignity, contemporary criminal justice systems have started to formally codify their rights.

Victimology is a critical viewpoint that emphasizes how the legal system engages with victims, attends to their needs, and protects their rights in relation to law and justice.

Restorative justice is a key victimology-influenced framework that aims to make amends for the harm done to victims rather than concentrating just on punishing perpetrators. Communities, offenders, and victims collaborate to address the repercussions of a crime and identify strategies for reestablishing harmony and healing through restorative justice techniques. This could involve reparation arrangements, community service, or victim-offender discussions¹⁵.

Victimology places a strong emphasis on the value of victim empowerment in the criminal justice system. This may entail informing victims, making sure they receive respectful treatment, and giving them the chance to participate in choices that impact them. This strategy is consistent with a more victim-centered approach to justice, where the needs of victims are acknowledged in addition to the necessity of deterrence and punishment.

CRIMINAL VICTIMIZATION¹⁶:

Being the victim of a violent crime (such as rape or sexual assault, robbery, aggravated or simple assault, or a property crime (such as burglary and theft) is referred to as criminal victimization. Individuals who suffer from serious mental illness may be more vulnerable to criminal victimization. This could be the consequence of impaired social circumstances (such as poverty, unemployment, homelessness, and social isolation) and potential cognitive

¹⁵ <https://law.wisc.edu/fjr/rjp/justice.html#:~:text=Restorative>

¹⁶ <https://library.neura.edu.au/schizophrenia/illness-course-and-outcomes/course-outcomes-criminal-victimization/index.html>

impairment (such as poor reality testing, judgment, social skills, planning, and problem solving).

In more simple words, the experience of becoming a victim of a crime is known as criminal victimization. It includes any situation in which a perpetrator's acts cause hurt, injury, loss, or damage to an individual, group, or entity.

From violent crimes like robbery and assault to property crimes like burglary and vandalism, criminal victimization can take many different forms. Victimization can have emotional, psychological, and social effects in addition to legal and physical ones.

We can also explain it as, the study of victims and victimization patterns, with an emphasis on their experiences, the reasons behind and effects of victimization, and how society reacts to victims, is known as victimology. Even while victimology has come a long way, there are still many obstacles to overcome, particularly when it comes to justice.

These difficulties may make it more difficult to guarantee responsibility, offer victims all-encompassing care, and advance an equitable and just criminal justice system.

CHAPTER-5

THE CHALLENGES IN VICTIMOLOGY AND JUSTICE:

For a variety of reasons, such as fear of reprisals, embarrassment, shame, or mistrust of authorities, or because they feel their case is not serious enough, many victims choose not to report their experiences of victimization to law enforcement. For instance, in cases of child abuse, marital violence, etc.¹⁷

Unreported crimes make it more difficult to gather reliable statistics, spot victimization trends, and bring criminals to justice. Victims' chances of obtaining justice are further diminished when they are unable to report, as this limits their access to legal remedies and support services¹⁸.

Victim blaming can deter victims from pursuing justice and reinforce negative myths. In the legal system itself, it could result in re-victimization, when victims are made to feel as though they were involved in the crime. This may influence victims' mental health, lessen public sympathy for them, and lead to subpar judicial results.

When the victim is considered partially or fully accountable for the crime perpetrated against them, this is known as victim blaming. This might occur because of societal views or cultural preconceptions that blame the victim, particularly in cases of rape, domestic abuse, and sexual assault.

It can be challenging for victims from marginalized groups to traverse the court system because they frequently lack access to victim support services or encounter linguistic and cultural difficulties. These differences feed the vicious cycle of marginalization and victimization.

Biased policing, racial profiling, and unfair treatment by authorities are all consequences of discrimination in the criminal justice system, and they may deter victims from coming forward or taking part in court cases.

During the criminal justice system, many victims are subjected to revictimization, particularly when they are asked to testify in court or are subjected to cross-examination by defense

¹⁷ <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/victimswithdisabilities/stateguide/challenges.html>

¹⁸ <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/pubs/victimswithdisabilities/stateguide/challenges.html>

lawyers. Reliving traumatic incidents can occasionally result in psychological injury by reviving the distress associated with the first crime.

After a crime, victims frequently must deal with high financial and psychological expenses, such as lost income, medical expenses, property damage, and psychological suffering. Although victim compensation or restitution programs are provided by certain legal systems, they are frequently insufficient or challenging to obtain.

Offenders might not be able to pay even if restitution is mandated, depriving victims of the money they are due. For victims of violent crimes, who can have chronic or long-term disabilities yet never get the financial assistance they need to start over, this can be very concerning.

Legal systems around the world lack the necessary resources to meet victims' requirements. Laws may be poorly enforced or there may not be enough laws to protect victims of specific crimes. In certain instances, antiquated legislation might not adequately address new types of victimization, such as cybercrime, online abuse, or human trafficking.

In certain places, victim support services (such as financial compensation, legal advice, or therapy) may be lacking, overworked, or underpaid, even in well-established legal systems. Recuperation and confidence in the legal system may suffer if victims are left to handle the trauma of crime and the legal system by themselves.

CHAPTER-6

ANALYSIS:

The use of the law to achieve justice is known as criminal justice. The pursuit of justice guarantees that these rules are enforced in a fair and just manner, even though laws offer the legal framework for dealing with crime and enforcing sanctions. The desire for reform or change to bring legal outcomes into line with more equitable principles arises when the law is perceived as unjust in certain situations (for as when there is racial discrimination or disproportionate punishment).

In the end, a balance between the need for justice, rehabilitation, safeguarding societal values and the application of the law which the criminal justice aims to adhere. When justice and the law work together, the system upholds rights, encourage and cultivate accountability, and promotes the welfare of society.

Within the criminal justice system, the intent of victimology is to cater to the needs and experiences of victims. Victimology seeks assurance that justice involve not only punishing offenders but also healing and make amends to those who have been harmed by the acknowledgment, support, and fair treatment of victims. It promotes a thorough and all-inclusive victim-centric strategy for dealing with crime and justice, where victims' rights are upheld, their voices are heard, and their recovery is given utmost priority.

Henceforth, by defending the victims' right, safeguarding their interests, and by working rigorously to make up for the harm caused by criminal acts to them, the criminal justice system plays a crucial part in providing justice for victims of the crime.

By looking into and prosecuting offenders, the criminal justice system helps to guarantee victim protection, access to support services, and a fair trial procedure. To ensure that justice is done not just by punishing the guilty but also by assisting victims in their healing and recovery, a victim-centered strategy that puts the victim's interests first while holding the perpetrator accountable is crucial. Even if there are still issues like victim-blaming, delayed justice, and insufficient support, improvements are making the system better at meeting victims' needs.

The criminal justice system in India is essential to providing justice for victims of crime, despite several obstacles that prevent the system from adequately attending to victims' demands. Regardless of these obstacles, India's criminal justice system is set up to shield the victims,

defend their rights, and pursue reasonable & rational compensation for the harm that crime has caused. Such as the trial court has the power to compensate victims of crime under Sections 357 (1) and 357 (3) of the Criminal Procedure Code (CrPC). Subsection (3) states that even in cases when the accused has not been fined, the court may still order them to compensate the victim of their crime. Another example, People who have been in car accidents or their legal representatives are entitled to compensation from the at-fault party under Section 5 of the Motor Vehicles Act, 1988 and many more¹⁹.

Each country develops its own systems and structure that are affected by its legal traditions, culture, and social demands, resulting in a wide range of approaches to victimology and criminal justice. In spite of these variations, the significance of victim-centered justice is being increasingly acknowledged on a global level. For instance, in the United States, victims of violent crimes can receive financial aid for lost wages, counseling, and medical expenses through victim compensation programs run by each state. The money for these programs comes from the fines that offenders pay. Another illustration is Canada's evolving approach to victimology, which includes important law changes meant to strengthen victim rights and support. The right to information, protection, and support during the criminal justice process is guaranteed to victims in Canada by the Victims' Bill of Rights. It covers the rights to submit victim impact statements and to be informed of parole proceedings.

By providing insights into the effects of crime on victims, fighting for their rights, and proposing solutions to enhance the way the legal system treats victims, victimization plays a vital role in advancing the law and justice process. It has played a key role in the creation of legislative frameworks that acknowledge the rights of victims in the judicial system.

The criminal justice system frequently ignored the interests and rights of victims in favor of the rights of criminals prior to the emergence of victimology. Victimology advocates the notion that criminals ought to make up for victims' emotional and monetary damages. The way victims are handled during criminal investigations, trials, and sentencing processes has changed because of it.

In India, victimology has impacted the creation of victim compensation programs. The Indian government implemented victim compensation for victims of crimes like rape, acid assaults,

¹⁹ <https://blog.ipleaders.in/victims-rights-under-the-indian-criminal-law-system/>

and human trafficking under the Criminal Law (Amendment) Act, 2008. When it comes to helping victims, especially those who are unable to pay for legal representation, the National Legal Services Authority (NALSA) is essential. In addition to providing a forum for complaints about gender-based violence and discrimination, the National Commission for Women (NCW) has been actively involved in victim-related issues.

The contributions of victimology continue to promote a more equitable and compassionate judicial system in India, despite ongoing difficulties, particularly with regard to addressing vulnerable groups and guaranteeing victim-sensitive law enforcement tactics.

It has affected how victims are handled as well as how the legal system handles crime and justice in general. It was a key player in promoting the legalization of victims' rights. Also brought attention to the emotional and financial strain that victims endure. This resulted in the creation of victim compensation schemes in numerous nations, which aid victims in recouping expenses for counseling, lost earnings, and medical bills, so promoting financial justice for victims.

It has brought attention to the emotional and psychological damage that crime may cause to victims, which paved the way for trauma-informed justice procedures and worked to dispel victim-blaming and other negative societal perceptions of crime victims. It highlights that the perpetrator, not the victim, bears the blame for a crime.

Through research and analysis, victimology informs law enforcement about how to better respond to victim reports and prevent re-victimization by improving police training and procedures. It also includes initiatives that educate the public about how to prevent crime (e.g., personal safety programs, anti-bullying campaigns) and recognize victimization risks. Victimology has thereby helped to build a more equitable, compassionate, and balanced criminal justice system that acknowledges the value of both prosecuting perpetrators and assisting victims.

CHAPTER-7

CONCLUSION:

To conclude, we can say that victimology and criminal justice both revolve around the relationship between justice and the law. Although the terms justice and law are sometimes used synonymously, they have different meanings that affect how society views, responds to, and resolves victimization and crime.

The term “law” refers to the set of guidelines created by governments or other social organizations to control conduct, uphold order, and offer dispute resolution procedures while justice relates to the more general ethical idea of fairness, moral rightness, and the goal of equal treatment for all people, whereas laws are usually formalized, codified, and enforced by official institutions like the police, courts, and legislatures. Justice frequently entails maintaining human dignity, equity, and equality as well as making sure that people get what they are entitled to, whether it be protection, restitution, punishment, or rehabilitation.

The relationship between victimology and criminal justice and the law emphasizes how difficult it is to maintain equity and fairness in society. Even if the law is required to protect people and keep the peace, it is not always in line with the larger moral precepts of justice, especially when it comes to victim experiences. Both disciplines aim to bridge these gaps: victimology promotes a more victim-centered approach that attends to victims' material, emotional, and psychological needs, while criminal justice works to ensure that the judicial system is just and equal. The ultimate objective is to establish a criminal justice system in which victims are protected, restored, and fairly compensated while perpetrators are held accountable by the law and the administration of justice.