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Support Services to the Victims of Crime in India: An Appraisal

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Abstract: In the contemporary victimological research, there has been a substantial growth in the study of the aftereffects of crime on the victims and how to assist them. Apart from physical and financial loss, victims of crime suffer from emotional losses. Such emotional losses may be in the form of depression, lowering of self-esteem, post-traumatic stress disorder (PTSD). The traditional criminal justice administration is bed rocked on the concept that the victims of crime get justice when the accused is convicted and sentenced to imprisonment. In recent times experiences in many countries across the globe have shown that one of the effective way of addressing the needs of the crime victims is by establishing within the criminal justice system programs that will provide victims of crime social, financial, emotional and psychological support.

Keywords: victimology, victims of crime, support services, victim assistance, compensation.

INTRODUCTION

Crime involves an injury done to an individual either in the form of physical, financial or psychological. Stephen Schafer in his book *Victimology: The Victim And His Criminal* mentions:

The violator of public order is also an offender against an individual victim. There has been renewed recognition during the past few decades that crime gives rise to legal, moral, ethical, and psychic ties not only between the violator and the society, but also between the violator and his victim.

Crime upsets the balance not only between the criminal and his social group, but also between the criminal and the individual victim [1].

The victims of crime need "help and support to pull them out of the emotional trauma and physical and financial injuries suffered by them"[2]. They also need "support for participating in the criminal justice process and compensatory relief from the offender/ or the government"[3].

With the growth of Victimology and the rise of the victim movements in the later part of the 20th century, victims of crime have been given a greater recognition, support and formal rights. In order to deal

with the after effects of crime, compensation schemes, victim assistance and support programs have been developed.

The issue of the victims of crime drew the attention of the United Nations (UN). The General assembly of the UN adopted the "UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power," 1985 (Declaration). This Declaration was based on the conviction that victims "are entitled to prompt redress for the harm that they have suffered, through access to the criminal justice system, reparation and services to assist their recovery." [4]. The Declaration recognized the following rights for the victims of crime:

- Access to justice and fair treatment.

¹S.Schafer, VICTIMOLOGY:THE VICTIM AND HIS CRIMINAL, 24(1977).

² N.V.Paranjape, CRIMINOLOGY & PENOLOGY WITH VICTIMOLOGY, 738 (2016).

³*Id.*

⁴ available at http://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf (Last visited on Dec 1st,2014).

- Restitution
- Compensation
- Assistance

With regard to assistance being provided to the victims of crime, the Declaration mentions that the crime victims should receive the necessary material, medical, psychological and social assistance. These sort of assistance be provided through governmental, voluntary community based and indigenous means. The crime victims should be informed about the availability of health and social services and other relevant services. Police, Justice, health, social services and other personal concerned should receive training to sensitize them to the needs of the crime victims.

In the year 1999, the Handbook on Justice for Victims [5] (Handbook, 1999) outlined victim assistance schemes with the purpose of redress, relief and rehabilitation of the victims of crime [6].

The World Health Organization (WHO) in its Global Status Report on Violence Prevention 2014 (Report) mentions that providing high-quality care and support services to victims is important for reducing trauma, helping victims heal and prevent repeat victimization and perpetration. The Report also mentions that there are many services for victims of violence, including: emergency response services for injured victims; other health services to identify and address the longer-term impact of violence on health; community services related to housing; victim advocacy; substance abuse and mental health services; and legal and social support services.

SUPPORT SERVICES FOR VICTIMS- IT'S ORIGIN

As the victimologists “were discussing the theory of victimology and developing surveys of victimization, there was a concurrent development in the field of traumatology. This work focused on the psychological impact of individual and social catastrophes” [7]. With the post-traumatic stress

⁵The Handbook, 1999 was framed in response to a resolution adopted by the United Nations Commission on Crime Prevention and Criminal Justice at its fifth session in May 1996. The resolution was to develop a manual or manuals on the use and application of the Declaration (Economic and Social Council resolution 1996/14).

The Handbook is designed as a tool for implementing victim service programmes and for developing victim-sensitive policies, procedures and protocols for criminal justice agencies and others who come into contact with victims

⁶See Paranjape, *supra* Id 3.

⁷*Id.*, at 326.

disorder (PTSD) being acknowledged as a formal diagnosis in the psychiatric nomenclature in the year 1980, there resulted “an explosion of scientific studies on how people react to all sorts of trauma, including, most significantly, criminal victimization” [8].

At the intersection of traumatology and victimology, the field of victim assistance radically changed. In the 1970s, most of those concerned with victims focused on problems in the criminal justice system and how those bureaucracies could be made friendlier to victims. In the 1980s, greater emphasis was placed on what was considered to be the central issue in the aftermath of trauma - the emotional injuries inflicted on the victim, including fear and terror[9].

Countries like United States of America (USA) and United Kingdom (UK) have become leaders in the field of victimology and victim services and have also become the most active and productive countries in having major international influence [10]. UK is the first country in the world to start the victim support services in Bristol in the year 1973.

The Handbook, 1999 mentions that in the “traditional justice systems, victims of aggression have usually found support and assistance from their family, village or tribe. The informal social network softens the impact of victimization and assists the victim in recovery” [11].

Ezzat A.Fattah in his article Victimology: Past, Present and Future (published in the year 2000) says “Victim services have been called the growth industry of the decade. The expansion of service programs for victims of crime has been nothing short of phenomenal (Fattah, 1992b:260).” He however mentions, “Despite enormous strides, a great deal remains to be done.”

MEANING OF SUPPORT SERVICES

The victims have a right to get justice, to remedy the harm suffered as a result of crime. This right of the victim is different from the right to retribution, responsibility of which has been assumed by Rule of Law. But if the State fails in discharging this responsibility, the State must provide a mechanism to ensure that the victims are compensated for their injury and are given assistance by way of support services. By

⁸*Id.*, at 327.

⁹*Id.*

¹⁰ J.P.J.Dussich, *VICTIMOLOGY-PAST, PRESENT AND FUTURE*, available at http://www.unafei.or.jp/english/pdf/RS_No70/No70_12_VE_Dussich.pdf (Last visited on Dec 4th, 2017).

¹¹ available at http://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf (last visited on Dec 1st,2014).

victim support services we mean those activities which are applied in response to victimizations [12] with the intention of relieving suffering and facilitating recovery. The support services includes offering information, assessments, individual interventions, case advocacy, system advocacy, public policy and programme development [13].

The reparative mission of justice system should be to enforce the order of law and to restore a sense of safety and security to victims and the general community. Providing victims' rights and services, then, does more than give humane treatment to people who deserve it; it should be seen as essential components of the whole justice enterprise [14].

TYPE OF SUPPORT SERVICES

The UN Declaration, 1985 which is considered as the *magna carta* of victims rights talks about assistance to the victims in paragraphs 14, 15, 16 and 17. Paragraph 14 mentions that victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means. Paragraph 15 says that victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them. Paragraph 16 provides that police, justice, health, social service and other personnel who are concerned with providing assistance to the victims should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid. Paragraph 17 mentions that in providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those which are mentioned in paragraph 3 [15] of the UN Declaration, 1985.

¹² According to Andrew Karmen, victimization is an asymmetrical interpersonal relationship that is abusive, painful, destructive, parasitical, and unfair.

¹³ J.P.J.Dussich, *VICTIMOLOGY-PAST, PRESENT AND FUTURE*, available at http://www.unafei.or.jp/english/pdf/RS_No70/No70_12_VE_Dussich.pdf (Last visited on Dec 4th, 2017).

¹⁴ M.A.Young, *Present and future developments in victim services and victim rights A view from the United States* in SUPPORT FOR VICTIMS OF CRIME, 325, 325 (W-C.Chan ed.,2008).

¹⁵ Para 3 of the UN Declaration, 1985 says, "The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

The Handbook, 1999 outlined some basic steps for the purpose of developing comprehensive assistance service for victims of crime. The first and foremost step in the provision of victim services should always be to provide for the physical safety and immediate medical needs of victims. There may be victims who might benefit from services such as crisis or long-term counselling, compensation, accompaniment to court and other advocacy services [16].

The Handbook in its Chapter II deals with Victim assistance programmes. The Chapter mentions that the goal of a victim assistance programme is to assist victims in dealing with emotional trauma, participating in the criminal justice process, obtaining reparation and coping with problems associated with victimization. It also says that the objectives of the victim assistance programme are to do the following:

- (a) To increase the commitment of Governments and organizations to do everything possible to assist victims;
- (b) To increase the range and availability of services for victims from the time of the victimization and throughout the aftermath;
- (c) To expand the victim's opportunity to participate at all critical stages of the criminal justice process and to ensure consideration of the impact of victimization upon the victim in all criminal justice systems and international tribunals;
- (d) To increase coordination and networking of all appropriate agencies, organizations, groups and families, and kinship and community support systems providing services to victims or affecting the treatment of victims in order to develop an integrated system of victim assistance;
- (e) To improve the quality of outreach to victims in need and their treatment;
- (f) To be aware of the unique needs of underserved or new victim populations.

Chapter II of the Handbook, 1999 mentions nine types of services that should be provided under the victim support programme. These services are crisis intervention, counselling, advocacy, support during investigation of a crime, support during criminal prosecution and trial, support after case disposition, training for professionals and allied personnel on victim issues; violence prevention and other prevention services; public education on victim issues.

Chapter III of the Handbook, 1999 deals with the role and responsibility of front-line professionals and others to victims.

¹⁶ See available at http://www.unodc.org/pdf/criminal_justice/UNODC_Handbook_on_Justice_for_victims.pdf (Last visited on Jan 23rd, 2016).

It mentions that the dignity and healing of victims depends on the respect and assistance extended towards them by the professionals and others (which includes the police and other law enforcement personnel, prosecutors, victim advocates, legal aid providers, judges, corrections personnel, medical staff, mental health providers, elected officials, ombudsmen, spiritual leaders, civil organizations, traditional leaders, the media and others) who come in contact with such victims. With regard to police and victim assistance, this Chapter sets a goal to integrate the philosophy and implementation of victim assistance into routine police policy and practices. The Chapter while dealing with Prosecutors and victim assistance has set a goal to integrate the philosophy and implementation of victim assistance into routine prosecutorial policies and practices. With regard to the role of the judiciary in justice for victims, this Chapter lays down the goal to promote judicial recognition and acknowledgement that victims have legitimate interests which must be taken into account at all stages of the criminal justice proceedings. The Chapter has also set a goal for schools, universities and institutes to integrate the philosophy and implementation of victim assistance into schools, universities and other programmes for advance learning in their policy, research and community service practices.

Article 4 [17] of the Draft UN Convention on Justice for Victims of Crime and Abuse of Power, 2005 (Draft UN Convention) deals with the State Parties commitment to provide both justice and support for victims and to reduce victimization consistent with international guidelines.

Article 8 of the Draft UN Convention deals with assistance. It lays down that the State parties shall

¹⁷Article 4

Commitment to reduce victimization

State Parties shall commit to provide both justice and support for victims and to reduce victimization consistent with international guidelines by, *inter alia*, developing:

- (a) more effective detection, prosecution, sentencing and corrections of perpetrators, consistent with internationally recognized norms;
- (b) measures to reduce the risk of occurrence of victimization by considering vulnerable groups and identifying resource deficiencies and vulnerability factors; and, creating ways to neutralize these weaknesses;
- (c) strategies to reduce the opportunity for repeat victimization by improving services and support for those already victimized;
- (d) international cooperation to exchange proven and promising practices and seek transnational solutions.

ensure that the necessary material, medical, psychological and social assistance to victims is provided through government, voluntary, community-based and indigenous means. Such assistance may be provided through any agencies or comprehensive programs that are appropriate under domestic laws or norms. State parties should be encouraged to develop networks of criminal justice, social services, health and mental health services, victim assistance services and other relevant groups or institutions in order to facilitate referrals, coordination and planning among those providing assistance; establish local and regional victim assistance centers to coordinate networks, develop and make referrals, and provide outreach to victims and direct services where appropriate. The State Parties should facilitate the referral of victims by the police and other relevant agencies to victim assistance centers or other service institutions. The language which the victims understand should be encouraged and where a translator is required, such translator should be trained in the subject matter that they are addressing and victim support personnel should be familiar with the common terms that will be used. Paragraph 6 seeks to establish the following kinds of assistance to victims by the State Parties:

A. Immediate Assistance:

- medical attention and accompaniment to medical exams, including first aid, emergency medical attention and medical transport. Support services should be provided to victims when forensic examinations are called for or in the aftermath of death;
- material support such as shelter, housing, transportation, or property repair;
- crisis intervention, involving crisis counselling and problem solving;
- information and notification about what happened to the extent that such information does not interfere with investigation, including notification of any immediate responsibilities to the criminal justice system. Assistance should be offered in notifying family or friends of what happened;
- protection from repeat victimization should be provided through the development of safety and security plans. This may include information on police surveillance, relocation, emergency communication and the like. It may also involve assistance with obtaining protection orders through the judicial system;
- victims should be protected from media intrusion;
- general support and advocacy should be offered when victims interact with social, justice and medical institutions as well as appropriate referrals for urgent needs;
- confidentiality and privacy should be guaranteed to the extent allowable under current law and policy.

B. Medium term Assistance:

- The continuation of the services provided under A ‘Immediate Assistance’;
 - Psycho/social health and spiritual interventions that may include post-trauma counselling, mental health therapy, family counselling, pastoral counseling, or traditional healing intercessions;
 - assistance with financial needs or claims including filing and advocacy for compensation claims, restitution, insurance, or emergency funds.
 - legal referrals should be provided for legal assistance in the criminal or civil justice systems. To the extent possible such legal assistance should be free.
 - Information, support and assistance concerning options for participation in alternative justice forums should be provided.
- C. Long term Assistance:
- (a) the continuation of the services provided under A ‘Immediate Assistance’;
 - (b) assurances and re-establishment of the victim’s place in the family, community, education and in the workplace should be encouraged;

VICTIMS OF CRIME IN INDIA- CURRENT SCENARIO

Since the amendment in the Code of Criminal Procedure, 1973 (CrPC) in 2008, there has been many changes regarding victims of crime in India. Victim has been defined for the first time under section 2 (wa) [18] of CrPC. The introduction of section 357A has resulted in the framing of victim compensation schemes (VCS) by the States/ Union Territories (UTs.). CrPC under sub section (6) of section 357A mentions that in order to alleviate the suffering of the victim, the State or District Legal Services Authority may order for immediate first-aid facility or medical benefits.

The Criminal Law Amendment Act, 2013 introduced many provisions which furthers victims interests. They are:

1. A provision under section 357C of CrPC for providing treatments to the victims has been introduced. It provides that all hospitals, public or private, whether run by the Central Government, the State Government, local bodies or any other person, shall immediately, provide the first-aid or medical treatment, free of cost, to the victims of any offence covered under section 326A, 376, 376A, 376B, 376C, 376D or section 376E of the Indian Penal Code.

¹⁸ Section 2(wa) “victim” means 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.

2. A new proviso is added to section 154 of CrPC which says :-
Provided that if the information is given by the woman against whom an offence under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 376D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, then such information shall be recorded, by a woman police officer or any woman officer:

Provided further that-

- (a) in the event that the person against whom an offence under section 354, section 354A, section 354B, section 354C, section 354D, section 376, section 376A, section 376B, section 376C, section 36D, section 376E or section 509 of the Indian Penal Code is alleged to have been committed or attempted, is temporarily or permanently mentally or physically disabled, then such information shall be recorded by a police officer, at the residence of the person seeking to report such offence or at a convenient place of such person’s choice, in the presence of an interpreter or a special educator, as the case may be;
 - (b) the recording of such information shall be videographed;
 - (c) the police officer shall get the statement of the person recorded by a Judicial magistrate under clause (a) of sub-section (5A) of section 164 as soon as possible.
3. Introduction of a new proviso before the Explanation in section 273 CrPC which says that where the evidence of a woman below the age of eighteen years who is alleged to have been subjected to rape or any other sexual offence, is to be recorded, the court may take appropriate measures to ensure that such woman is not confronted by the accused while at the same time ensuring the right of cross-examination of the accused.
 4. Insertion of a new section 166B in the Indian Penal Code which deals with punishment for non-treatment of victims. It says that whoever is in charge of a hospital, public or private, whether run by the Central Government, the State Government, local bodies or any other person, contravenes the provisions of section 357C of the Code of Criminal procedure, 1973, shall be punished with imprisonment for a term which may extend to one year or with fine or with both.

The introduction of section 357A which deals with victim compensation scheme in CrPC was a noteworthy step. Following the insertion of section 357A, the States and UTs have enacted the VCS. The purpose behind these VCS have been providing compensation to the

victim or his dependents who require rehabilitation as a result of the loss or injury suffered by them. The main concern of these schemes have been the amount of compensation to be paid. In keeping with section 357A (6), the VCS in order to alleviate the suffering of the victim directs their respective Legal Services Authority to make available first aid or medical facility to them.

Very recently on October 14th, 2015, the Ministry of Home Affairs introduced a Central Victim Compensation Fund (CVCF) guidelines that came up with an aim to reduce disparity in quantum of compensation amount notified by different states for similar crimes. This scheme is now known as the Central Victim Compensation Fund (CVCF) Guidelines – 2016. The objectives behind this CVCF are:

- i. To support and supplement the existing Victim Compensation Schemes notified by States/UT Administrations.
- ii. To reduce disparity in quantum of compensation amount notified by different States/UTs for victims of similar crimes.
- iii. To encourage States/UTs to effectively implement the Victim Compensation Schemes (VCS) notified by them under the provisions of section 357A of CrPC and continue financial support to victims of various crimes especially sexual offences including rape, acid attacks, crime against children, human trafficking etc.

As already mentioned, the thrust area of the VCS have been compensation. However, the VCS of only two States i.e. Odisha and Meghalaya have laid down explicit provision for support services. These two schemes have set an objective of providing support services such as counselling, legal assistance, medical aid, shelter, vocational training and education. Such support services shall be provided depending on the needs of the victims.

Meghalaya in its VCS mentions that the District Legal Services Authority shall in accordance with the procedures prescribed under the scheme consider the claims and provide financial assistance and support services; recommend for psychological, medical, educational and legal assistance to the affected persons, by the concerned authorities.; to arrange for counselling support to the affected woman including counseling of the spouse in case the affected woman is married; to arrange shelter for the affected person for such period as may be required and in this regard issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.

Odisha in its VCS mentions that victim or his dependents shall be entitled to financial assistance and restorative support services. It says that the District Legal Services Authority shall arrange for

psychological, medical and legal assistance to the affected persons; arrange for counselling support to the affected woman including counselling of the spouse in case the affected woman is married; arrange for shelter for the affected woman for such period as may be required; arrange for education or vocational/professional training as the case may be for the affected woman under the ongoing schemes/programmes should she require such a support for rehabilitation; issue directions to the appropriate authorities to provide protection to the affected persons whenever deemed necessary.

The position of crime victims have changed immensely since 2008. However, the development concentrates more towards providing compensation to the victims of crime. In India, there is a lack of approach towards providing support services to the victims of crime. India has in recent time come vocal regarding victim compensation to crime victim. But then it has not been vocal about support services. Money alone cannot soothe the crime victims. They also need to be provided with support services. It is time that India should start working towards developing victim support services in the lines of the UN Handbook, 2009.

CONCLUSION

Under the CrPC, the position of the victims of crime has changed from what it was earlier. It can be said that the victims of crime have come a long way. A lot of development has happened regarding victim compensation. Though there has been a change in approach towards victims of crime. But lot needs to be done with regard to support services. Along with victim compensation, equal priority should be given to render support services to the victims of crime. In this regard, help may be taken from voluntary organizations for providing support services to the victims. Countries like USA and UK have gained a lot in victim support services by taking help of voluntary organizations. Facilities for providing support services like free medical assistance, psychiatric treatment, counselling services to the victims of crime should be developed. Awareness regarding victim support services be created. Government should develop effective measures for providing victim protection and assistance. Victim of crime needs to be aware of their right. Creating a helpline that will provide advocacy, information and guide the victims about their rights and support services will augment victim services in India. Awareness regarding victim services be created through posters, advertisements in print media, television, social media etc. For an effective support services, various agencies of criminal justice system needs to be trained to deal and help victims of crime in different situations and needs. The society at large needs to be sensitized. We

may conclude with the words of Justice P. V. Reddy as follows:

“Any civilized system of criminal justice should aim at ensuring safety and instilling a sense of security in the victims and their families. This not only requires that the victim be allowed to participate in a meaningful way in the criminal proceedings, but also that she be provided aid and assistance, both monetary and psychological [19].

¹⁹Justice (Retd.) P.V.Reddi, *Role Of The Victim In The Criminal Justice Process*, available at www.heinonline.org (Last visited on July 17th,2015).