INTRODUCTION

Criminal Law has always discouraged the acts or omissions which in general can affect right in rem and violators have always been punished with strict sanctions but the crime rate is not falling and State is in regular quest to preserve social solidarity and peace in society. The initial focus of criminologists were only on the aspect of punishment but the focus started shifting when they encountered with the fact that the person who is victim of crime is getting nothing out of the whole process of Criminal Justice System or is getting a so called satisfaction by seeing the offender punished. Therefore jurists, penologist etc., in all countries started giving their full attention to the cause of victim in the form of compensation and hence the whole debate started about ways, means and extent of compensation.1

Victimology, as a separate discipline deals with the study of the problems of victims of crimes and their right to claim compensation. Victimology is an academic scientific discipline which studies data that describes phenomenon and casual relationships related to victimization. This includes events leading to the victimization, the victim’s experience, its aftermath and the actions taken by society in response to these victimizations. Therefore, Victimology includes the study of the precursors, vulnerabilities, events, impacts, recoveries and responses by people, organizations and cultures related to victimizations. In another words Victimology is the scientific study of victimization, including the relationships between victim and offenders, the interactions between victim and Criminal Justice System- that is, the police and the courts.2

President Gerald R. Ford sent the following message to the American Congress in 1975:

“For too long, the law has centred its attention more on the rights of the criminal than on the victims of crime. It is high time we reversed this trend and put the highest priority on the victims and potential victims.”3

Meaning and Nature of Victimology

The word “Victimology” was coined in 1947 by Benjamin Mendelson by deriving from the Latin word “victma” and the Greek word “logos” has two basic meanings: One implies the living creature sacrificed to a deity or offered in performance of a religious rite and the other is that used in criminology

2 Ibid.
and related fields. “Victimology”, as a separate discipline deals with the study of the problems of crimes and their right to claim compensation which includes rehabilitation and restitution, from the offender or the authorities of the State.

“Victimology is the scientific study of the dynamics and similarities between the offender and the victim. It has emerged from legal, medical and sociological disciplines to a distinct field with an interdisciplinary perspective. While each may claim Victimology as its subfield, but Victimology not owned by one discipline, is complemented by and complements these fields. Victimology is the science which deals with all socially relevant categories of victims, with regard to different types of damages. It also investigates the causes of victimization in search of effective remedies. Thus, it follows the example set by medicine and criminology, the former dealing with different categories of diseases, the latter different categories of criminality. Therefore, the tasks of Victimology are similar to those which every science, though in various ways, has to fulfil. They are to make diagnosis of the prevailing situation, to give an interpretation of it to prevent undesired situations and to suggest ways and means of creating desired ones.”

“In the Criminal Law the whole task of investigation rests on the study of the perpetrator and his acts, while the victim is taken into consideration casually, and for a long time no specific attention has been paid to him. Victimology has a task to perform. It must enter into a phase of systematic investigation into the problems, miseries, injuries and damages of the victim. This task is still in the initial stage of diagnostic interpretation.” The study of criminal-victim relationship emphasizes the need to recognise the role and responsibility of the victim, who is not simply the cause and reason for initiation of criminal procedure and its operation but has a major part to play in search for an objective Criminal Justice and functional solution to the crime problem. Victimology also claims that the offender has responsibility for reparation of any harm, injury or any other disadvantage caused to him. The study of criminal-victim relationship, however, had always suffered from want of proper conceptualization, method and organisation. This subject was treated by early criminologist with merely vague and over simplified allusion, which has not shed any clear light upon the nature of criminal victim relationship. They, on the other hand, adverted to the problem of victim and his perception of the Criminal Justice System has not received proper attention and systematic study.

SCOPE AND DEFINITION OF VICTIMOLOGY

Scope of Victimology

The province of criminology has experienced a remarkable territorial expansion during the 20th century. Since the mid 18th century criminology has been concerned with criminal behaviour and, since the end of 19th century with the personality of criminal. Cesare Baccaria and the other 18th century classical

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authors on criminology emphasised the constitutionality and morality of penal law, criminal procedure and law enforcement. The 19th century positivist, such as Cesare Lonbroso concentrated their attention on the law breakers personality disorder, a flaw which was either hereditary or in the terms of psychoanalysis, due to traumatic experience suffered during the socialisation process in the early childhood. For classical writers and positivist alike, victims and offenders were mechanical, static concepts. Criminal behaviour and treatment of offenders are perennial issues of public concern, and have traditionally constituted the core of criminological inquiry. Intellectual and Government concern for victim of crime however are of recent vintage. The victim of crime did not become a subject of criminology research until after the end of 2nd world war.8

The credit for founding the study of victim, is usually given to ‘Benjamin Mendelson’ a Romanian attorney, whose first study on victim was published in a Belgium Criminology Journal in 1937. The study was based on the result of a survey that he made among the criminals, their families and their victims. The result convinced him that the personality of the victim was crucial in attracting the criminal. According to him, the victim of crime is no longer a passive object but becomes an active object in the process of criminalization and decriminalization. Victimology as a distinct field of study has only really emerged in recent years, although its parent discipline, criminology originated in 19th century. But over the last decades or so there has been growing community interest in the plight of victims and there is every indication that is gathering momentum.9

Definition of Victimology

The word ‘victimology’ was coined in 1947 by Benjamin Mendelson by deriving from Latin “victim” and the Greek “Logos”, meaning, science of victims. The primary objective of interest of Victimology, therefore, is the person of victim.

Marvin E.Wolfang defines: “Victimology is the scientific study of the victims and process of aetiology and consequences of victimization.”10

Victimology is also taken to mean the study of social process by which individuals or groups are maltreated in manner likely to give rise to social problems. Hence, Victimology means that branch of science which is concerned with all socially relevant categories of victims, individual or collective, with regard to different types of damages, the word damages in turn being used in a most comprehensive sense: physical, mental, social, economic etc.,.11

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8 Id. at p.24.
9 Id. at p.25.
10 Ibid.
11 Id. at p.26.
DEFINITIONS OF VICTIMS

The term ‘victim’ is often one of moral approbation lacking descriptive precision in respect to actual human behaviour. It implies more than the existence of an injured party, in that innocence or blamelessness is suggested as well as a moral claim to compassionate response from others.\textsuperscript{12}

According to Webster’s dictionary, “Victim is one that is acted upon and usually adversely affected by a force agent.”\textsuperscript{13}

According to oxford dictionary, “Victim is a person who is put to death or subjected to misfortune by another; one who suffers severally in body or property through cruel or oppressive treatment; one who is reduced or destined to suffer under some oppressive or destructive agency; one who perishes or suffer in health etc., from some enterprise or pursuit voluntarily undertaken.”.\textsuperscript{14}

“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.\textsuperscript{15}

“Victim is a person, who has suffered physical and mental injury or harm, material loss or damage, or other social disadvantages, as a result of conduct by an individual or group in violation of penal laws of the nation.”\textsuperscript{16}

To the word ‘victim’ may be attributed five fundamental factors, namely, nature, society, energy supply, motorization and criminality. Victims can be broadly divided into two categories, criminological and non criminological. The character that makes a person definable as a crime victim is the suffering of adversity due to contravention of Criminal Law by another person or entity. Therefore, victim deals with injury or damage resulting from criminal activity. The criminal activity may take the form of direct or indirect interaction between perpetrator and the victim. The victim suffers short term or long term damage of an economic, a social, a physical, mental or moral nature and damage which are almost totally overlooked by institutionalized social control, such as law, courts, public prosecutor and last but not the least by the system itself. The victim of crime is remarkably reluctant to openly put forward demand for his redress or relief for violation of his rights. The U.N. Congress on Prevention of Crime and Treatment of Offenders took upon the cause and has contributed substantially in drafting a declaration of victim’s rights and the General Assembly of United Nations adopted the “Declaration of Basic Principles of Justice for Victim of Crime and Abuse of Power”.\textsuperscript{17}

Therefore, a victim is a person who is murdered, assaulted, raped, robbed or whose house is burgled, or who is defamed or whose property is destroyed. Always little attention has been paid to the problems and

\textsuperscript{12} Id. at p.25.
\textsuperscript{13} Webster’s, New Dictionary of synonyms (G.U.C., Merriam, Springfield, Mass, 1968).
\textsuperscript{15} Section 2 (wa), the Indian Criminal Procedure Code, 1973.
\textsuperscript{16} Article 1 and 2 of The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985.
\textsuperscript{17} Bharat B. Das. Victims in the Criminal Justice System (New Delhi: APH Publishing Corporation, 1997) 31.
misers of the victim in our Criminal Justice System. The issues of victim suffering, reparation and rehabilitation are essentially Criminal Justice issues as well as social issues.

**HISTORICAL BACKGROUND OF VICTIMOLOGY**

“Crime and criminal has been recognised throughout the history of mankind. So also in the criminal victim relationship, the aspect which was recognised although was the harm, injury, or other damages caused by the criminal to his victim. Till the end of II World War there has been virtually no consideration of the victim’s participation in the wrong doing or victim’s perception of Criminal Justice System or compensation to the victim of crime by the Criminal Law or criminologist. But historically the victim once enjoyed the golden age during which his important role was recognised and also an emphasis was given for due consideration to compensation recognising his right to physical and economic well being in terms of human dignity.”

It is apparently clear that in early human civilization; ‘retribution’ was the only aspect of punishment to be taken into consideration. The law was designed to compensate the victim and not to punish the accused. The amount of redress and sometimes the mode of redress were left to the discretion of the victim in total disregard of the accused under arbitration of the state. Thus the thrust was on compensation to the victim, rather than the punishment to the accused. According to Sir Henry Maine, “the penal law of ancient communities was not the law of crimes; it was a law of wrongs.” However, in Ancient Hindu Law, punishment of crimes occupied a more important place than compensation for wrongs. The position of victims can be divided into four phases, (i) Primitive Societies, (ii) Ancient Period, (iii) Middle Ages and (iv) Contemporary Period.

**Primitive Societies**

In the Primitive Societies the responsibility of protecting oneself against crime and of punishing the offences rested with the individuals which reflect the ideas of retributive and restitutive justice. The basis of primitive law was the reparation by the offender or offender’s family to the victim for his loss or the injury. At that time there was no political institution to enforce law and punish the criminal, so the right to punish was vested with the victim or victim’s kin. The victim or victim’s family was allowed to punish a criminal directly or receive goods or money as compensation for a crime. In primitive societies criminal- victim relationship was the reflection of existence for survival and power struggle and it was not based on the idea of responsibility but on the theory of survival. When gradually the primitive groups were firmly established, the concept of social control came into force and an offence against an individual was considered as against his clan or tribe. Although the punishment to be exacted from the offender was neither codified nor always standardized by the type of offence, some form of restitution or compensation was invariably involved in the interrelation between the victim and the offender.

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18 Id. at p.35.
Ancient Period

“Reparation or compensation as a form of punishment is found to be recognised from ancient time in India. This was the position obtaining in the old Germanic Law, Code of Hamurabi, Law of Moses and the Ancient Hindu Law. Later the same ideas of restitution, along with the elements of retribution, were followed in Islamic Legal System. Besides restitution, the philosophy based on compensation was also believed to incorporate the concept of atonement and expiation on the one hand and that of punishment on the other. 21 In Ancient Hindu law, during Sutra Period, awarding of compensation was treated as royal right. The Law of Manu requires the offender to pay compensation and pay the expenses of cure in case of injuries to the sufferer, and satisfaction to the owner whose goods were damaged. In all cases of cutting of a limb, wounding or fetching blood, the assistant shall pay the expenses of a perfect cure, or in his failure, both full damages and fine of some amount.”22

Middle Ages

The dominate role of the victim originated from the Middle Ages and this is very evident from the system of “composition” (compensation). The victim enjoyed a golden age in the Middle Ages, restitution to the victim of crime was an ancient practice and it was inseparable from the system of punishment.23 However, it was only towards the end of Middle Ages that the concept of restitution was closely related to that of punishment and was temporarily included in penal law. Still, the victim’s role in the crime itself was not considered at all and his participation in criminal procedure served only to gain satisfaction for his injury.”24

“Towards the end of the Middle Ages, however the institution of compensation began to lose its force, due to the simultaneous growth of Royal and Ecclesiastical power which had a sharp distinction between torts and crimes. The concept of compensation is closely related to that of punishment and it was merged to some extent in the Penal Law, but at the same time, a number of offences like murder, robbery, rape are no longer regarded as torts which could be settled by compensation but were regarded as crimes against society and were punishable as such. Gradually, as the State monopolised the institutions of punishment, the rights of the injured were separated from the Penal Law and the obligations to pay damages or compensation became a part of the Civil Procedure.25

“The change from vengeful retaliation to composition was a part of a natural historical process. As tribes settled down, reaction to injury or loss became less severe. Compensation to victim mitigate blood feuds, which, as tribes became more or less stable communities, only caused endless trouble because in injury would start perpetual vendetta. Composition offered an alternative that was in many ways equally satisfactory to the victim. Composition combined punishment with damages. For this reason it could be

applied only to personal wrongs, not to public crimes. With this development, the ‘golden age’ of the victim came to an end. It had been an era when his possible participation in any wrongdoing was not taken into consideration. During that time, in fact, it seems inconceivable that the victim’s relationship with the criminal could have helped to develop or precipitate the crime.”

The criminal-victim relationship was strictly divided between the active role of the doer and the passive role of the sufferer. The criminal alone was responsible for the crime. The victim was merely the injured party; he was not thought to be involved in any psychological intricacies of crime causation, and pushed his every advantage as the object of a crime that was allegedly caused only by the criminal. It was indeed the golden age of the victim. Criminal Justice served only his private interests. No other aspects of crime could compete with this concept in this privately owned and privately administered Criminal Law.

DECLINE OF THE VICTIMOLOGY

After the Middle Age, restitution, as a concept separate from punishment, seems to have been on the wane. No other possible aspect of the victim’s role taken into consideration, and the victim became the “poor relation” of the Criminal Law. With the growth of Centralized Legal System, however, restitution was gradually phased out, Government took over; crimes were seen as act against the State, and the State assumed the role of the prosecutor, it was the State that devised what punishment the offender should undergo, and in a sense of return for taking upon itself the major task of dealing with the criminal offence, the State stood to gain from any penalties inflicted upon offenders which might carry with them monetary rewards; the fine payment to the State, took over from restitution—payment to the victim.

The fourth stage, as reflected in the contemporary world, was reached at the end of the Middle Age with the idea of crime as an act against the State taking firm roots along with the vesting of more powers in the political authority. Even if theoretically not unsound as such, in practice it gave rise to the unfortunate situation, already alluded to, in which the victim of the crime became an irrelevant factor in the administration of justice; the State being merely concerned with the punishment and to a lesser extent, reformation and rehabilitation of the offender.

In modern societies, the states have assumed the responsibility to protect its citizens from crime and have taken over the exclusive right, in the collective interest of the community, to punish offenders. However, the State accepts no responsibility for injury to the victim. Through retribution occupies a subordinate position in the present day administration of Criminal Justice, its importance is undesirable. The mention of retributive is even now the main spring of Criminal Law. Therefore, it is clear that the victim who was once central point of whole Criminal Justice System has now become a forgotten person. No special treatment is given to him rather he is looked down in society during whole legal process instead of ‘victim’ of unfortunate circumstances. There have been lot of reforms for accused and they have been considered as

patient who needs clinical treatment. But there is no victim restitution programmed ever proposed to look into the plight of victim of the crime. India is lagging far behind in implementing the United Nations Charter of 1985 which provides substantial rights to victim of crime and India has ratified this declaration. So India is bound to observe the principles underlined under this declaration.\(^\text{29}\)

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