



Criminal victimization & justice administration in India

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Abstract

This study has been undertaken to understand the concept of victimization in India. Here author trying to discuss the criminal victimization and its present position in India; author also discussed the administration of justice in India. Author mainly paid concerned towards the trends of crimes in India and its solutions.

Keywords: victimization, justice, India

Introduction

As we know that our country is second most populated country in the world with diverse population having different race, colour, sex, religion. Different people have different faiths and believes. Due to the diverse population several conflicts takes place. And the conflicts leads to the crimes. There are many problems in our human society which leads to the crimes. People in our society become victim of a crime which is committed by other and suffered by the victim and it's not their mistake. Crime affects the individual victims and their families. It may be case different losses to family. It may cause physical or mental losses or injuries.

Justice is the concept of moral rightness based on ethics, rationality, law, equality. The concept of justice differs in every culture. For some people it is equality, for some it is morality and for some it is fairness. Justice is the results of the fair and proper administration of law. The basic aim or the objective of criminal justice system is to provide safeguard against criminals and law breakers. *It is the fairness in the protection of rights and punishment of wrongs.* At the early stage there was no concept of justice. And at that time there were also a few conflicts among the peoples. They were living in the peaceful society. At that time the head of the state was everything. The conflicts were solved by the head of the state. Slowly as the population raised the conflicts were also raised. Finally this leads to the emergence of the concepts of justice.

"Justice consists not in being natural between right and wrong, but in finding out the right and upholding it, wherever found against the wrong [1]."

Concept of Victimization

Victimization is defined as causing someone to be treated unfairly or made to feel as if he is in a bad position. It is the process of being victimized or becoming a victim. The field that studies the process, rates, incidence, effects and prevalence of Victimization is called victimology [2].

"Oxford English Dictionary defines the victim "as a person harmed, injured or killed as a result of crime, accident, etc. [3]. The idea of Victim through international conventions is also wide in its amplitude and in this regards UN General

Assembly Deceleration may be quoted (Article 1 and 2) United Nations General Assembly. Deceleration of Basic Principles of Justice for Victim and Abuse of power adopted in November 1985 which gives an extensive definition of the phrase victim as a person who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights thought acts or omissions that are in violation of criminal laws operative within member states including those laws prescribing criminal abuse of power. Regarding the Indian Criminal Justice System, the *Code of Criminal Procedure 1973* has been deficient in defining 'Victim'. Even ideas of Victimization is also left to academician and nothing substantial is reflected other in the substantive law or procedural safeguards Section 2(a) of code of criminal Procedure (*Added by The Criminal Procedure Amendments Act 2008*) defines victim as person who suffered any loss and the expression victim includes his or her guardian or legal heir.

Criminal Victimization in India

The data on crime, arrests, and prosecutions, upon which we rely, come in large part from the Analytical Report on Crime, published by National Crime Records Bureau [4]. The Analytical Report on Crime is the most comprehensive compilation of statistical data on crime, police activity, and the Crime Rates in India. Although official crime statistics are not entirely accurate, they are the most reliable sources available and do provide an indication of crime trends.

According to the Criminal Code, offenses are classified into seven sub-categories: violent crimes, property crimes, forgeries, and crimes by government officials, crimes against public morals, crimes of negligence, and others. These, violent and property crimes consist of approximately four-fifths of all Criminal Code Offenses. The violent crime category is composed of criminal homicide, robbery, arson, rape, assault, aggravated assault, intimidation, kidnapping, and illegal confinement. Property crimes consist of larceny theft, stolen property, fraud, embezzlement, breach of trust, and destruction of property. Official Criminal data of National

Crime Records Bureau are used to determine the statistics of crime in India.

Trends of Crimes in India

This section presents an overall picture of crime trends in India. Indian society has experienced rapid industrialization and urbanization as well as a notable increase in population over the past 40 years. As a consequence, both the total number of crimes and the crime rate have increased.

Crime over Time

A report ^[5] published by the National Crime Records Bureau compared the crime rates of 1953 and 2006. The report noted that burglary declined over a period of 53 years by 79.84% (from 147,379, a rate of 39.3/100,000 in 1953 to 91,666, a rate of 7.9/100,000 in 2006), murder has increased by 7.39% (from 9,803, a rate of 2.61 in 1953 to 32,481, a rate of 2.81/100,000 in 2006).[xii] Kidnapping has increased by 47.80% (from 5,261, a rate of 1.40/100,000 in 1953 to 23,991, a rate of 2.07/100,000 in 2006), robbery has declined by 28.85% (from 8,407, rate of 2.24/100,000 in 1953 to 18,456, rate of 18,456 in 2006) and riots have declined by 10.58% (from 20,529, a rate of 5.47/100,000 in 1953 to 56,641, a rate of 4.90/100,000 in 2006).

In 2006, 5,102,460 cognizable crimes were committed including 1,878,293 Indian Penal Code (IPC) crimes and 3,224,167 Special & Local Laws (SLL) crimes, with an increase of 1.5% over 2005 (50,26,337). IPC crime rate in 2006 was 167.7 compared to 165.3 in 2005 showing an increase of 1.5% in 2006 over 2005 SLL crime rate in 2006 was 287.9 compared to 290.5 in 2005 showing a decline of 0.9% in 2006 over 2005.

Crime by Region

Region has a significant impact on crime in India. In 2006, the highest crime rate was reported in the region of Puducherry (447.7%) for crimes under Indian Penal Code which is 2.7 times the national crime rate of 167.7%. Kerala reported the highest crime rate at 312.5% among states. Kolkata (71.0%) and Madurai (206.2%) were the only two mega cities which reported less crime rate than their domain states West Bengal (79.0%) and Tamil Nadu (227.6%). Delhi, Mumbai and Bangalore have accounted for 16.2%, 9.5% and 8.1% crime rate (769.1%) among the mega cities in India followed by Bhopal (719.5%) and Jaipur (597.1%).

Jammu and Kashmir (33.7%), Manipur (33.0%), Assam (30.4%) and Daman and Diu and Puducherry (29.4%) reported higher violent crime rate compared to 18.4% at national level. Uttar Pradesh reported the highest incidence of violent crimes accounting for 12.1% of total violent crimes in India (24,851 out of 2,05,656) followed by Bihar with 11.8% (24,271 out of 20,56,556). Among 35 mega cities, Delhi reported 31.2% (533 out of 1,706) of total rape cases. Madhya Pradesh has reported the highest number of rape cases (2,900) accounting for 15.0% of total such cases reported in the country. Uttar Pradesh reported 10% (5,480 out of 32,481) of total murder cases in the country and 18.4% (4,997 out of 27,230) total attempts to murder cases. So crimes also depends upon the different regions.

Crime Rate over Past 4 Decades

Horrifyingly, there are various types of crimes that are prevalent in all the societies. Those crimes can be against human body or property. The National Crime Records Bureau has over the past 35 years (1973-2007) recorded 8 crimes that are most prevalent in India. They have made a survey of the total happening of each crime over 35 years. They are:

Crimes in India with reports

By looking at the statistics, it is crystal clear that murder rates have doubled from 1973 (17072) to 2007(32318). This shows the amount of violence that has crept into our society. It can be concluded that the penal law in India has not done much to prevent the society from such atrocities where a man takes away the life of another man. The 1973 statistics was stable in the beginning few years with thousand murders increasing or decreasing subsequently. A steep rise in the murder rates where witnessed from 1979. The rates never saw a downfall from then and the murder rates continued to rise in the subsequent years. The maximum that it reached was in the year 1992(40105). The statistics gives us the clear picture of the society that we live in. Though the statistics have seen a downfall onwards 1998 but the fall is not significant and proportionate to the legal awareness and stringent legal mechanisms that has been adopted to avoid us horrifying human act.

Rape statistics have surpassed all the boundaries in India. 2919 rapes were recorded in the year 1973, in the year 2007 the recorded number is 20737. The record shows that the rape rates have increased 6 times. The statistics have recorded every year a higher number than the previous year. This clear shows that rape laws have increased despite of all the laws.

Kidnapping too like rape and murder has shown an upward trend. 1973 recorded total of 10223 and 2007 recorded a total of 27561. The rates of kidnapping have doubled in 35 years. This again shows the failure of law as a mechanism to civilize people. Therefore, the statistics proves that crime against human body has increased significantly in the last 35 years.

Factors Responsible For Increase in Crime Rates in India

In the late 1950s, India took steps toward participatory democracy even though a lot of unstable political and social conditions continued to exist. It is interesting to note that increases in crime rates, show different patterns over the past four decades: a notable increase in the crime against human body; a decrease in crime against property. Along with the notable increase and decrease in crime, we need to understand it in a social context. Indian society experienced rapid structural changes brought on by industrialization and modernization after Independence. Major institutions like the family, schools, government, churches, and others were undergoing rapid transformation. An increasing number of Indians moved to urban areas, the society became increasingly heterogeneous.

Social changes always tend to produce social disorganization, some of which is crime. In India, the rapid growth in the urban population; the increase in the stress and strains of urban life; the higher standard of living; and, the changes in the existing

value systems and political system, were some of the factors contributing to the increase in the crime rate.

One of the main reasons for the sustained trend in the increase in the number of major criminal offenses may be attributed to a continued increase in the number of violations of legislation such as the 'Indian Penal Code'. The other reason may be due to revisions and improvements of the criminal justice system, laws and regulations. The improved regulations represent an attempt to exert more efficient control over India's increasingly complex society. This social phenomenon is manifested in the rapid expansion of the scope of activities engaged in by the public, together with the various ways in which these activities are pursued as Indian society progresses.

Administration of Justice

The personnel, activity and structure of the justice system - courts and police - in the detection, investigation, apprehension, interviewing and trial of persons suspected of crime. In *R v Sampson*,^[6] Justice Borins had before him an application to exclude evidence obtained pursuant to illegal wiretapping. Therefore, the defence alleged, to allow the tainted evidence would bring the administration of justice into disrepute.

"Administration of justice, with particular reference to the criminal law, is a compendious term that stands for all the complexes of activity that operate to bring the substantive law of crime to bear, or to keep it from coming to bear, on persons who are suspected of having committed crimes. It refers to the rules of law that govern the detection, investigation, apprehension, interviewing and trial of persons suspected of crime and those persons whose responsibility it is to work within these rules. The administration of justice is not confined to the courts; it encompasses officers of the law and others whose duties are necessary to ensure that the courts function effectively. The concern of the administration of justice is the fair, just and impartial upholding of rights, and punishment of wrongs, according to the rule of law."

Administration of Justice in India

Justice is the concept of moral rightness based on ethics, rationality, law, natural law, fairness, religion, and equality. In other words it is the strict application of law. Judicial process are involved in the legal ordering of facts. "According to Oxford Dictionary of Law, justice is a "moral ideal that the law seeks to uphold in the protection of Rights and punishment of wrongs". According to M.D.A. Freeman, "justice requires that essentially similar cases to be treated in the same way and that essentially different case be treated different".

The concept of criminal justice in India came into existence during the times of Manu. He described many forms of offences like murder, rape, breach of trust, theft, sedition, assault etc. Manu believe in "Divine theory" means king is the supreme and people are bound to follow his rules and regulations. King himself is an administrator of justice. He had power to decide matters relating criminal offence and give punishment on his own discretionary power. Thought time changes so as society, people started denying king's law and started making their own as per their convenience. Thus new

rule "Might is Right" started being followed. In the absence of a codified criminal law, anarchy was established in the society and people started demanding "eye for eye" as a form of justice. That is the time when many theories and principles came into justice administration like Divine theory, Social contract theory, Theory of natural justice etc. But in the modern time we have codified laws. Essential objects of these laws are to protect society from unwanted criminal objects who want to break out the peace. For this very same purpose law holds the threat of punishments to criminals and makes suffer offenders by the prescribed punishments for their crimes. Substantive criminal law defines the offences and punishments for the offences while procedural law administered the substantive law and provides the producer which leads to the justice in reality. In criminal administration in India we have two statues of laws 1.Cr.P.C. (Criminal Procedure Code 1973) as the procedural law and I.P.C. (Indian Penal Court 1860). IPC was drafted during 1860 on the recommendation of the first law commission of India established in 1834 under the charter act 1833 under the chairmanship of Lord Thomas Babington Macaulay and its elements or rules were inspired by Napoleonic Code.

The procedure for administration of criminal justice is defined under CrPC. The procedure divided into four steps 1.investigation 2.inquiry 3.trial and 4.punishment. There are two types of offences, one is cognizable and second is non-cognizable offences. This is defined in the code cognizable offence under section 2(c). "Cognizable offence" means an offence for which, a police officer may, in accordance with the First Schedule or under any other law for the time being in force, arrest without warrant^[7] and this case is known as cognizable case. Section 2(1) defines non-cognizable offence. "Non-cognizable offence" means an offence for which, and "non-cognizable case" means a case in which, a police officer has no authority to arrest without warrant^[8];

Investigation is defined under section (h). "Investigation" includes all the proceedings under this Code for the collection of evidence conducted by a police officer or by any person (other than a Magistrate) who is authorized by a Magistrate on his behalf^[9].

Investigation is the primary elements in procedure of law in justice after the recording of FIR (First Information Report) in police station and under section 154(4) police has power to investigate the complaint of cognizable cases without the order of the police.

Having this codified procedure and strict laws criminal justice system failed to performed its obligations according to National Crime Record Bureau (NCRB) data till 2013 the total number of convict prisoners was 1,29,608 and under trial prisoner was 2,78,503 in jailed of the country there were 12,406 Christian 11,666 Sikh, 57,936 Muslim and 1,92,202 Hindu^[10].

In case of *Bhim Singh vs. Union of India* ordered date 5/9/2014 court gave guide lines relating under trial prisoners. Has directed for effective implementation of section 346(A) of the code of Criminal Procedure by directing jurisdiction magistrate/chief judicial magistrate/session judge to hold one sitting in a week in each jails/prison for two months commencing from first October,2014 for the fulfillment of purpose of section 436(A)^[11].

Conclusion

As we all know that India is a democratic country and the independent of judiciary is it's one of the most important feature. It provides justice to all without any discrimination on the basis of race, colour, sex, creed, religion as it's the main aim of judiciary. But at present it fails to work properly because many cases in our country are still in pending and many vacancies are in Judiciary. And the most important is that it fails to provide justice at right time this leads to the Delay in Justice. We also know that in our country still there are many problems in the functioning of judiciary. The latest example is that four Justice of our country come forward and it is the first time in the history of India that finally four justice have come out and called a conference. From this we can say that there are some problems are there within the system of judiciary. And there are also many problems of delay in Justice. Due to the lack of judges and many reasons like corruption Indian criminal system failed to give justice. So finally I would like to say that the respective authority must work properly without any pressure and they should work for the betterment of the common people. I would like to conclude my essay with few suggestions which I think are important. Now a days Crimes are on a huge rates and there are many reasons are there as I have discussed above. To reduce this we the common people must be more careful. We should be a good person at first before finding others loopholes. It is the right time to come forward and to help the society and make it free from crimes and must be supportive and cooperative with the respective authorities.

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