

VICTIMCOMPENSATION AND CRIMINAL LAW

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ABSTRACT

The issue of Victim Compensation is a complex one. There are different aspects of victimization that legal systems across the world are not able to comprehend. This Paper brings at first introduces the concept of victimization in detail and the methods to tackle the problem. Through the Paper views are expressed keeping Indian legal system in Perspective. The aspects are the part of individual research of the author with lesser reliance of published sources.

In the introduction to this paper brief summary of the social and legislative scenario is provided which has been dealt in detail in the rest of the paper. The impact of victimization has aspects such as physical, social, financial, physiological as well there is secondary victimization which worsens the situation of the victim.

Victim means a person who has suffered any loss or injury caused by the 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. The Various Methods and approaches to victim Compensation involve crisis management and advisory services and other related aspects which have been dealt in detail.

At the end this paper brings out model provision that every law on victim compensation should provide and which are fundamental aspect of that law.

Keywords:Victimization, legal heir, victim, advisory services.

Introduction

Compensating victims of crime has been part of a wider social and legislative trend towards greater recognition of the importance of the interests of the victims of crime in the criminal process. Crime takes an enormous physical, financial and emotional toll on its victims.

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Victims of crime and frequently their families and others who aid them are unjustly subjected to loss, damage or injury and that they may, in addition, suffer hardship when assisting in the prosecution of offender. They 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.

The work of individuals, organizations, Governments and international bodies to restore victims to their rightful place and increase the quantity and quality of assistance available to victims has not been easy. Considering the situation in Indian context, it has often proven difficult to sensitize key representatives of the criminal justice system, policy makers, legislators and members of the community to the fact that change is needed.

According to **Pound**¹, 'Law is social engineering which means a balance between the competing interests in society' means that Man is a social animal and needs a society for his leaving, working and enjoying life. However, society itself caused the secondary victimization by the abuse of power. As we already know the victim of crime set the criminal proceeding into motion by giving information to police under section² 154 (2) thereafter his role in criminal proceeding get decreased as investigation is being part of police function no role of victim in it and after the investigation, trial process starts in the name of state as crime is considered as crime against society.

In the trial process itself the role of victim is not as much as, victim have substantial interest of participating in criminal proceeding he has no right to participate as dominant stakeholder, he has right to move the court for cancellation of bail but action thereon depends upon the stand taken by the prosecution as provided under section 439(2)³, even prosecution can seek withdrawal of trial at any time as provided under section 321(4)⁴.

Whereas as compared to accused participation in criminal proceeding number of rights and protective measures provided to them such as presumption of innocence, the right to legal assistance, right to fair trial, right of the accused to be informed of charges before trial, and right to present a defense, these are all been developed by the common law principles

however Criminal Procedure Code 1973 does not prohibit the victim to participate, act is salient upon it.

DEFINITION AND MEANING (VICTIM AND VICTIMAZATION UNDER CRIMINAL JUSTICE SYSTEM)

The term victim is defined in various subjects to understand the term victimization we need to know who are considered as victim, in what manner they are considered to be victim:-

As per dictionary meaning victim is:

1. A person who suffers from a destructive or injurious action or agency
 2. A person who is deceived or cheated, as by his or her own emotion or ignorance, by the dishonesty of other or by some impersonal agency
 3. A person or animal sacrificed or regarded as sacrificed
4. As per **Criminal Procedure Code 1973 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.

5. As per **United Nation⁵**General Assembly declaration of basic principles of justice for victim and abuse of power 1985:-

Article1 -define “victim” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within member states, including those laws prescribing criminal abuse of power.

Article 2 - who may be considered as victim

The term “victim” also includes, where appropriate, the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victim in distress or to prevent victimization. Whereas victimization is the process of being victimized or becoming a victim.

6. As per **dictionary meaning**- Victimization is defined as causing someone to be treated unfairly or made to feel as if he is in a bad position. When you treat someone poorly and make him feel adversity, this is an example of victimization.

There are several forms of victimization these forms are also called elements of victimization-

1. **Primary Victimization**:- The victimization which is caused by direct result of crime taken place between offender and victim during the commission of the offence and also with any after effect resulted from crime i.e. something which is of cause and effect relationship like offence is of cause and impact of offence upon victim is of effect. This impact is of any kind it may be physical effect, financial effect, and it may be psychological and emotional effects upon victim, all of which can adversely affect their quality of life.
2. **Secondary Victimization**:-It is also known as post crime victimization or double victimization. It is a form of victimization, which is not direct result of crime but through the victim’s reaction to the offence by change in self-perception or through the neglecting kind of response by the institutions and individuals. Secondary victimization through the process of criminal justice system may occur because of difficulties in balancing the rights of the victim against the right of the accused.

For example:-

1. Secondary victimization which is of outcome of procedure.
2. Secondary victimization which is outcome of justice from criminal justice process.

3. Secondary victimization from the denying effect of the society.
4. Secondary victimization by the unfair treatment of victims by the other institution.

Re-victimization:-victim who being victimized second time with the same offence are known as re-victimization. The cases of re-victimization may be by not giving adequate protection to them etc...These are some forms of victimization. Today as far as theory is concerned we categorized victim and victimization but in reality we are not concerned to take care about them as secondary victimization also caused by the society.

I. THE LEGISLATIVE STRUCTURE IN INDIA WITH RESPECT TO COMPENSATION OF VICTIM:

The legislative framework in India regarding compensation to victim of crime can be trace through two major legislations i.e. Code of Criminal Procedure, 1973 and Probations of Offenders Act and Constitution of India. Under the provisions of code of criminal Procedure the power to award compensation is vested under section 357. The plain reading of the section shows that sub-section (1) and (3) vests power on the trail court to award compensation and sub-section (4) gives power even to appellant or revision court to order for compensation. Sub section (1) empowers the courts to appropriate the whole or any portion of fine recovered for the purpose mentioned in the clauses to the sub section, under which Clause (b) is most important and of our use. It demands that claim of compensation must be accompanied by following conditions:

1. Loss or injury suffered
2. Loss or injury must be caused by the offence
3. Such person can recover the compensation in a civil court Sub section (3) empowers the court, in its discretion, to order the accuse to pay compensation even though fine does not form part of compensation and hence although inserted in 1973 added new positive dimension to Indian philosophy of compensation.

Probation of Offenders Act vide its section 5 empowers the trial court to order for compensation. The plain reading of this section clearly shows that the power in case of this Act vests only with the trial court. The whole discussion about legislative framework is incomplete until Section 431⁶ and 421⁷ of Cr.P.C. is read with above two substantive sections.

Probation of Offenders Act vide its section 5 empowers the trial court to order for compensation. The plain reading of this section clearly shows that the power in case of this Act vests only with the trial court. The whole discussion about legislative framework is incomplete until Section 431 and 421 of Cr.P.C. is read with above two substantive sections. Section 421 provides for means to recover the fine by attachment and sale of movable property of the offender and also from both movable and immovable as arrears of land revenue. Section 431 empowers the courts to recover any money (other than fine) payable by virtue of any order made under as if it were fine if method for its recovery is not expressly provided. As far as the Constitutional scheme is concern it is to be noted that it is out come of various decision of Supreme Court of India either by reading Part third rights (in some cases part four as well) with Art. 32, 136 and 142 of Constitution of India , which is to be given either by the state or accuse. Hence the whole gamete of legislative framework about compensation can be summarized in following way:

- Compensation from State, which is the outcome of Judicial Imposition or some times, even ex-gratia under Constitution of India.
- Compensation from an offender which is the out come either as a part of fine or allocation of specific sum to victim either under Cr.P.C. or Constitution of India.

(ii) Judicial Response: Their exist plethora of cases where the compensation has been awarded by the Supreme Court to the victims of the crime which not only present the heart full moments but also exposed the sorry state of affairs that has been prevalent in the lower courts even some times HighCourts.It is better to examine cases under two heads i.e. (i) under Cr.P.C. and P.O.A. and (ii) under Indian Constitution in order to appreciate the judicial standpoint on this issue.

Under Cr.P.C and P.O.A:

The first case in the line, which attracts the mind of the court came way back in 1952 where the Hon'ble Court connected general principle of sentencing i.e. while passing a sentence the court must bear in mind the proportionality between offence and penalty with granting of compensation and observed that while imposing the fine court must consider gravity of offence and the pecuniary condition of the offender. Then came the case of **Prabhu Prasad Sah v State of Bihar**⁸ where the Hon'ble Court not only upheld the conviction of 15 years old boy (actually at the time of commission of crime the accused was of 15 Years) but also observed that although requirements of social justice demands the imposition of heavy fine but taking in to consideration the condition of the accused awarded fine of Rs. 3000 to be paid by him to the children of the deceased.

Next in the land mark case of **Sarwan Sing v State of Punjab**⁹ where Supreme Court not only retreated it's previous stand point but also laid down, in exhaustive manner, that what all should be taken in to account while imposing fine or compensation. The Hon'ble Court Observed that:

The object of the section therefore, is to provide compensation payable to the persons who are entitled to recover damage from the person sentenced even though fine does not form part of the sentence. Though Section 545 enabled the court only to pay compensation out of the fine that would be imposed under the law, by Section 357(3) when a Court imposes a sentence, of which fine does not form a part, the Court may direct the accused to pay compensation. In awarding compensation, it is necessary for the court to decide whether the case is a fit one in which compensation has to be awarded. If it is found that compensation should be paid, then the capacity of the accused to pay compensation has to be determined. In directing compensation, the object is to collect the fine and pay it to the person who has suffered the loss. The purpose will not be served if the accused is not able to pay the fine or compensation for, imposing a default sentence for non-payment of fine would not achieve the object. If the accused is in position to pay the compensation to the injured or his dependents to which they are entitled to, there could be no reason for the court not directing such compensation. When a

person, who caused injury due to negligence or is made vicariously liable is bound to pay compensation it is only appropriate to direct payment by the accused who is guilty of causing an injury with the necessary Mens-rea to pay compensation for the person who has suffered injury. And also It is the duty of the court to take into account the nature of the crime, the injury suffered, the justness of the claim for compensation, the capacity of the accused to pay and other relevant circumstances in fixing the amount of fine or compensation. After consideration of all the facts of the case, we feel that in addition to the sentence of 5 years' rigorous imprisonment, a fine of Rs. 3500 on each of the accused under Section 304(1), I.P.C. should be imposed.

The Case of **Harikishan vSukhbir Singh**¹⁰ is the second most important case after Sarwan Singh where court repeated its firm understanding once again in following words: The payment by way of compensation must, however, be reasonable. What is reasonable, may depend upon the facts and circumstances of each case. The quantum of compensation may be determined by taking into account the nature of crime, the justness of claim by the victim and the ability of accused to pay. If there are more than one accused they may be asked to pay in equal terms unless their capacity to pay varies considerably. The payment may also vary depending upon the acts of each accused. Reasonable period for payment of compensation, if necessary by instalments, may also be given. The court may enforce the order by imposing sentence in default.

UNDER INDIAN CONSTITUTION:

The principle of payment of compensation to the victim of crime was evolved by Hon'ble S.C. on the ground that it is duty of the welfare state to protect the fundamental rights of the citizens not only against the actions of its agencies but is also responsible for hardships on the victims on the grounds of humanitarianism and obligation of social welfare, duty to protect it's subject, equitable Justice etc . It is to be noted that compensation by the State for the action of it's official was evolved by the Hon'ble Court against the doctrine of English law: "King can do no Wrong" and clearly stated in the case of **NilabatiBehra v State of Orissa**¹¹ that doctrine of sovereign immunity is only applicable in the case of tortuous act of government

servant and not where there is violation of fundamental rights and hence in a way stated that in criminal matters (of course if there is violation of fundamental rights) this doctrine is not applicable.

RudalSah v State of Bihar¹² is the most celebrated case where the Hon'ble S.C. directed the state to pay compensation of Rs 35,000 to RudalSah who was kept in jail for 14 years even after his acquittal on the ground of insanity and held that it is violation of Article 21 done by the State of Bihar. The case of Bhim Singh v State of J&K is another important case where Bhim Singh an MLA was arrested by the police only to prevent him to attend the Legislative Assembly, the Hon'ble Court not only entertained the writ petition of his wife but also awarded the compensation of Rs 50,000 to be paid by the state.

The case of **Meja Singh v SHO**¹³ Police Station Zira is another unfortunate case where this time High Court took the cause of victim and awarded the compensation of Rs. 25,000 for illegal detention of son of the petitioner.

This time it was High Court Bombay, which took the cause of the victim in the case of **RavikantPatil v DG Police, State of Maharashtra** where the petitioner was taken handcuffed to court in clear violation of Judgment of Hon'ble S.C., that is law, as decided in the case of **PremShanker Shukla v Delhi Administration**. Custodial Death is another burning issue where the courts have awarded compensation to the victims of crime and the most important case under this heading is of **Mrs. Cardino v UOI** where although the accuse was arrested on the charge of misappropriation of some plastic ware and hospital; utensils worth Rs1500 but tortured like hard core criminal and hence he succumbed to the torture. Here when the matter was brought before the Hon'ble High Court of Bombay which gave the compensation of Rs 2,00,000 to be paid by the state.

On the issue of brutal use of force and misuse of authority by the police out side the police station case of **Saheli v Commissioner of Police** is land mark where the son of KamleshKumari died due to ill treatment by a S.I. of Delhi Police, the Hon'ble S.C. directed the Delhi Adm. to pay the compensation of Rs 75,000. The next important case is of **Gudalure Cherian v UOI** where Hon'ble S.C. following an innovative approach first directed the whole

matter to be investigated by the CBI afresh and completion of investigation directed the Govt. of U.P. to first suspend the police officials and medical officers who tried to save the accuse but also directed the state to pay compensation of Rs 2,50,000 to the victim of rape and Rs 1,00,000 to victim of other crime.

The next in the line is the case of **Bodhi SattaGautam v Subhra Chakraborty**¹⁴ where the Hon'ble S.C. invented the concept of interim compensation and enforced the part third right against an individual by saying that: This decision recognizes the right of the victim for compensation by providing that it shall be awarded by the Court on conviction of the offender subject to the finalization of Scheme by the Central Government. If the Court trying an offence of rape has jurisdiction to award the compensation at the final stage, there is no reason to deny to the Court the right to award interim compensation, which should also be provided in the Scheme.

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On the basis of principles set out in the aforesaid decision in Delhi Domestic Working Women's Forum, the jurisdiction to pay interim compensation shall be treated to be part of the overall jurisdiction of the Courts trying the offences of rape which, as pointed out above is an offence against basic human rights as also the Fundamental Right of Personal Liberty and Life.

The court also stated that:

Having regard to the facts and circumstances of the present case in which there is a serious allegation that BodhisaltwaGautam had married Subhra Chakraborty before the God he worshipped by putting Vermilion on her forehead and accepting her as his wife and also having impregnated her twice resulting in abortion on both the occasions, we, on being prima facie satisfied, dispose of this matter by providing that BodhisattwaGautam shall pay in Subhra Chakraborty a sum of Rs. 1,000/-every month as interim compensation during the pendency of Criminal Case... in the Court of Judicial Magistrate, Ist Class, Kohima, Nagaland. He shall also be liable to pay arrears of compensation at the same rate from the date on which the complaint was filed, till this date. Therefore it can be observed that the

14. Bodhi Satta Gautam V. Subhra Chakraborty 1996 AIR 922

Hon'ble Courts have taken little softer view (with regard to monetary aspect) when question of the award of compensation come under Cr.P.C. as compare to when it come under Constitution.

III. Assessment of the Role of Legislative Frame work and Indian Courts:

There exist no doubt that Code of Criminal Procedure provided for the compensation to victim in the year 1898, when even the concept has not developed properly but now it submitted that the whole scheme under Cr.P.C. or P.O.A. needs renovation. The most important attack on the present legislative frame work lies on the desertion given to the courts i.e. it depends upon them to grant compensation and absence of recording any reason when they abstain them self from grating compensation. Another criticism of the present legislative framework lies in the absence of right of victim to claim compensation. Critics also argue for the absence of any institutional scheme under the present legislative framework that has now become the important part of victim- Crime relationship in countries of southern hemisphere such as USA, UK, New Zealand, France etc . The laxity on the part of Indian legislature is so much so that India has not made any legislation to give compensation to victim of crime when accused is acquitted despite of its obligation under various International Covenants.

In this regard even Hon'ble S.C. in the case of Delhi Domestic Working Forum v UOI has shown its concern in flowing words: It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board.....Compensation for victims shall be awarded by the court on conviction of the offender and by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The Board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result. So this in brief set out the major defaults in the present legislative framework due to which the whole concept of compensation has become akin to flop show in India. However it is to be noted that part of responsibility of being the concept flop show lies on Indian judiciary as well, especial the lower courts. In this regard the observation of Hon'ble S.C. in the case

of State of Gujarat v Hon'ble High Court of Gujarat is relevant where following was stated: Section 357 of the Criminal Procedure Code, 1973 provides some reliefs to the victims as the court is empowered to direct payment of compensation to any person for any loss or injury caused by the offence. But in practice the said provision has not proved to be of much effectiveness. Many persons who are sentenced to long term imprisonment do not pay the compensation and instead they choose to continue in jail in default thereof. It is only when fine alone is the sentence that the convicts invariably choose to remit the fine. But those are cases in which the harm inflicted on the victims would have been far less serious. Thus the restorative and reparative theories are not translated into real benefits to the victims.

IV. The impact of victimization

Impact of victimization is considerably diverse in nature and practically it may have its own dimension which may not be identified. However theoretically it can be reasonably classified as under:

1. The physical and financial impact of victimization:

Physical injuries resulting from victimization may not always be immediately apparent. This may be particularly true in cases of domestic violence where the injuries occur on parts of the body that are normally clothed.

Physical injuries may be a permanent effect of crime and there is evidence that this has a negative effect on long-term psychological recovery, since the physical scars serve as a constant reminder of the crime. Cultural, gender and occupational factors may affect the individual's reaction to permanent scarring or disability, as will the reaction of others. The effects of victimization strike particularly hard at the poor, the powerless, the disabled and the socially isolated.

Financial impact of crime i.e. victims may incur costs in the following ways which are not exhaustive by any means but still constitute the major categories:

- a) Accessing costly health and safety measures.
- b) Participating in the criminal justice process, for example, attending the trial which in most legal systems like Indian Legal System takes years to complete.
- c) Taking time off work or from other income-generating activities.
- d) In the long term, crime can adversely impact the victim's employment.
- e) Funeral or burial expenses in certain cases.

Further the marital and other relationships of crime victims are also likely to be affected and this may have a significant effect on the family's financial position.

2. Psychological injury and Social cost:

Victimization follows a period of reconstruction and acceptance, which leads to normalization or adjustment. The early stages of coming to terms with crime are often characterized by retrospective thinking, where victims long for everything to be as it was before and to turn the clock back. This crucial stage in recovery involves victims' accepting fully the reality of what has happened.

The extent to which individuals (victims, witnesses, family members, community members) may be affected by crime will vary enormously; at one extreme, people may shrug off serious crimes with no noticeable effects, while, at the other extreme, they become "stuck" at a particular stage and never move on.

3. Secondary victimization from the criminal justice system and society:

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim. Institutionalized secondary victimization is most apparent within the criminal justice system. At times it may amount to a complete denial of human rights to victims from particular cultural groups, classes or a particular gender, through a refusal to recognize their experience as criminal victimization. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel.

Secondary victimization through the process of criminal justice may occur because of difficulties in balancing the rights of the victim against the rights of the accused or the offender. Even agencies set up to help the victims of crime, such as victim services, victim compensation systems, refugee services and mental health institutions may have some policies and procedures that lead to secondary victimization. The attitude of individuals is also important. Some people with whom the victim has contact (e.g. family, friends and colleagues) may wish to distance themselves from the distress of the crime by blaming the victim for what has occurred. They may view the victim's behavior as having contributed to, or even caused, the victimization. They may deny the impact of the crime on the victim by urging him or her to forget about the crime and continue with his or her life. Families can be a particularly powerful influence in this respect.

V. Victim Assistance: Concept, Objectives and Methods

The goal of victim assistance is to assist victims in dealing with emotional trauma, participating in the criminal justice process, obtaining reparation and coping with problems associated with the victimization.

The objectives of Victim Assistance are to lay ground and promote 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 the victimization upon the victim in all criminal justice systems and international tribunals;
- (d) To increase coordination and networking of all appropriate agencies, organizations,
- (e) 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;
- (f) To improve the quality of reaction mechanism to victims in need and their treatment;

Suggestions :The Various Methods and approaches to victim Compensation may be categorized as under:

Use of Audio Video for Confession/Statement

In section 164 of the principal Act, in sub-section (1), for the proviso, the following provisos shall be substituted, namely: - “Provided that any confession or statement made under this sub-section may also be recorded by audio-video electronic means in the presence of the advocate of the person accused of an offence: Provided further that no confession shall be recorded by a police officer on whom any power of a Magistrate has been conferred under any law for the time being in force.

Investigations of Child Sex Abuse to be done in time bound

In section 173 of the principal Act,-

(a) After sub-section (1), the following sub-section shall be inserted, namely:-

“(1A) The investigation in relation to rape of a child may be completed within three months from the date on which the information was recorded by the officer in charge of the police station.”

b) in sub-section (2), after clause (g), the following clause shall be inserted, namely:-

“(h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376B, 376C or 376D of the Indian Penal Code.”

Witness Can Be Done By Using Electronic Means

In section 275 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:-“Provided that evidence of a witness under this sub-section may also be recorded by

audio-video electronic means in the presence of the advocate of the person accused of the offence.”

Camera Trials and identity protection

In section 327 of the principle Act,-

(a) in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

“Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.”

(b) in sub-section (3), the following proviso shall be inserted, namely:- “Provided that the ban on printing or publication of trial proceedings in relation to an offence of rape may be lifted, subject to maintaining confidentiality of name and address of the parties.”

Crisis intervention:

It includes:

- a) *Emotional support*: crisis intervention counselling;
- b) *Direct assistance*: emergency referrals or direct assistance with medical care, shelter, food, dependent care, property repair, and substance abuse treatment;
- c) *Information*: information and referrals to meet immediate needs and concerns relating to victims’ rights.

Counselling:

There should be supportive individual and group counseling coupled with assistance with the replacement of stolen, damaged or otherwise lost documents, and arrangements for the repair or replacement of stolen, damaged or otherwise lost property. Information on and referrals for legal redress outside the criminal justice system, including ombudsmen, human rights associations and regional and/or international means of recourse.

Advocacy:

General advocacy services for the provision of assistance in making applications for victim compensation or private insurance, intervention to ensure the continuity of the victim's credit, housing or employment, assistance with protection through protection orders and relocation or shelter for victims when needed in order to ensure access to the criminal justice system or other tribunals.

Support during the investigation and Prosecution of the crime:

Accompaniment to occasions for the identification of the accused and to other criminal justice interviews, accompaniment to evidentiary examinations and accompaniment of victims for the identification of bodies, the crime scene and evidence; assistance with the prompt return of property, victim compensation, restitution, protection orders and shelters or safe places available for victims are some of the support during the investigation.

Further information on the progress of the investigation, information on the criminal justice process, and information on the rights of the victim at the scene of the crime; later in the criminal process, information on detention of the suspect, bail and bond, measures to assure reparation, the protection of evidence for forensic examination, information on medical assistance at the forensic examination and information on the prevention of further victimization. Information on victim rights, the responsibilities of criminal justice personnel and the relevant sanctions if these responsibilities are not met; information on the progress of the prosecution and trial, including any proposals for plea agreements, diversion methods or restorative community justice processes; information on what is expected of victims in the criminal justice process at each stage of the criminal justice proceedings.

Public education services:

In addition, victim support methods should seek, where possible, to work with the media to promote widespread public awareness of victim issues. They should also develop and

disseminate standards of acceptable practice (a code of ethics) to protect victims from sensationalism and publicity, which are likely to compound their victimization.

Prevention services:

Victim assistance methods should seek to integrate crime prevention as part of victim assistance strategies to prevent re-victimization. In addition, victim support should seek, where possible, to establish a victimization prevention committee with public and private agencies and informal organizations to coordinate a comprehensive strategy of victimization prevention (both on the individual and the institutional level) and to integrate victimization prevention information into media campaigns and curricula at all educational levels. Data gathered from victims and about the circumstances should be used to tailor crime prevention measures more accurately.

Establishing standards of good practice and codes of ethics

In order to maintain a high level of service in the victim support system, written standards should be developed for individuals working with victims, as well as for individuals in their work with colleagues and allied professionals. Uniformity of standards is particularly important when providing services in international settings where persons and organizations from different countries come together as a single team cooperating within the same code of ethics.

VI. Important Aspects on Model Law on Victim Compensation:

The need to have a model law on Victim compensation has been felt through all Legal systems across the world. A Model law on victim Compensation shall comprise of certain important aspects which have been enumerated herein under:

- *Crime Victims Fund* for promoting and safeguarding interest of the victims.
- *Crime victim compensation* scheme with certain specific eligibly criteria to avoid misuse
- Crime victim assistance scheme which includes

- a. Child abuse prevention and treatment grants*
- b. Compensation and assistance to victims of terrorism or mass violence*
- c. Compensation to victims of international terrorism*
- d. Crime victims legal assistance grants*

- *Administrative provisions* appointing authorities and officials for proper distribution and management of compensation to victims.
- *Establishment of Office for Victims of Crime* to provide quick assistance at the time of need.
- *Other Services to victims* such Closed circuit televised court proceedings for victims of crime

The basic eligibility requirements for Victims' Compensation benefits:

- The victim must be a resident of a particular state resident who is victimized while in that state, a state resident victimized in another state or country that does not have a crime victim compensation fund, or certain other individuals.
- The crime must be reported to the appropriate state or local public safety/law enforcement agency within a reasonable period of time.
- The victim or claimant must cooperate with law enforcement officials in the investigation and prosecution of the case.

Eligibility for Crime Victims' Compensation benefits under the law:

- Victims of violent crime who suffer physical or mental harm as a direct result of the crime.
- A victim's dependents, family or household members who qualify as claimants under the law.
- Someone authorized by the victim to act on his or her behalf.

Non Eligibility for Crime Victims Compensation benefits under the law:

- The offender, an accomplice of the offender or any person engaged in illegal activity at the time of the crime.
- Anyone injured as a result of a motor vehicle accident, except under certain circumstances provided by law.
- Anyone incarcerated when the crime occurred.
- Any victim or claimant who knowingly or intentionally submits, or causes to be submitted, false or forged information to the Crime Victims' Compensation Program.

Expenses may be covered with Crime Victims' Compensation for:

- Reasonable and necessary medical and funeral expenses.
- Travel upto certain distance or places or one way for participation and attendance at funeral services, medical appointments and criminal justice appointment.
- Medical Assistance for loss of earnings as a result of the disability of the victim.
- Loss of support to dependents of victim's, as a result of the victim's death or if the victim was supporting them at the time of the crime.
- Psychiatric care/counseling.
- Counseling for the victim and eligible claimants.
- Crime scene clean-up.
- Replacement of property seized as evidence or rendered unusable by the investigation.

- New expenses for child or adult dependent care as a result of the crime.
- One time rent and relocation expenses for victims of family violence or victims of sexual assault who were assaulted in their home.
- Reasonable attorney fees for assistance in filing the Crime Victims' Compensation Program application.

Expenses are not covered by Crime Victims' Compensation under the Model law :

- Damage, repair or loss to property or vehicle.
- Pain, suffering or emotional distress damages.
- Any expense which is not the direct result of the crime.

The Payer of last resort Provision:

- All other available third party resources (for example, Medicare, Medicaid, personal health insurance, workers' compensation and settlements) must meet their legal obligations to pay crime-related expenses.
- The Crime Victims' Compensation must be notified before a civil lawsuit is filed in relation to the crime, if restitution is ordered by the criminal court, or if any party receives the proceeds of a settlement.
- Crime Victims' Compensation is considered the payer of last resort.

Payment for Cost of Medical Forensic Sexual Assault Examinations

- Crime Victims' Compensation does reimburse law enforcement agencies directly for the costs incurred for such exams. A victim of sexual assault is not required to submit a Crime Victims' Compensation application for reimbursement of the cost of a medical forensic sexual assault

examination. Crime Victims' Compensation does not directly reimburse victims for the cost of medical forensic sexual assault examinations.

- If a victim of sexual assault reports the alleged crime to a law enforcement agency, the law enforcement agency may request a forensic sexual assault examination and pay all costs of the examination. If the victim of sexual assault has reported the assault to law enforcement and requires medical treatment the victim should submit this application to Crime Victims' Compensation for reimbursement of such costs.

CONCLUSION

The establishment of victim services requires resources which might consequently not be available for other purposes. Various procedural rights, such as the right to confidentiality and protection, must be balanced against the rights of the defendant, such as the right to confront the accuser and to prepare his or her defense. A new framework of restorative justice, which involves the offender, the victim and the community in creating a balanced approach to justice, is becoming increasingly popular. Assistance to victims counters deleterious effects, reaffirms social solidarity and thus also benefits the community at large. Restorative approaches, such as victim-offender mediation and reconciliation, can also have a preventive effect. Ensuring that the victim has means of recourse and redress, in accordance with the legal system in force, helps to ensure that justice will be done and is clearly in the interests of society.

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