CHAPTER -II

CONCEPT OF VICTIMOLOGY

(I) Term "Victimology" -

The Term Victimology was coined in the year 1947 by Benjamin Mendelson by deriving from the Latin term "victim" and the Greek term "logos" meaning science of victims. The term "Victimology," therefore, relates to the term "victim." The term "victim" dates back to ancient cultures and civilizations. Its original meaning was rooted in the exercise of sacrifice i.e. taking of life of a person or animal to satisfy a duty. Over the time, the word victim came to have additional meanings so as to include any person, who has suffered injury, loss or hardship due to any act committed by a person.

(II) The term "victim" -

The term "victim" in a legal sense can be defined as a person, who has suffered direct or indirect loss either physical mental, emotional loss due to the act of another person called the "offender." The term "victim" was introduced in Cr.P.C 1973, by C.r.P.C (amendment) Act 2008 by introducing section 2(wa), which reads as under -

(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.
The Punjab and Haryana High Court in the case of Ram Kaur @ Jaswinder Kaur Vs Jagbir Singh @ Jabi held that the word “victim” means not only a person, who has suffered any loss or injury caused by reason of the act or omission of the offender and victim also includes his or her guardian or legal heir. The High Court perhaps used the same terminology as used in section 2(wa) Cr.P.C, which incorporated the term “victim” in Cr.P.C.1973.

(III) Types of victims-

Traditionally the term “victim” has been interpreted in a general sense as “victim of crime.” They were not associated with any particular type of crime by the name or its nature. But in the present times, the term “victim” is often recognized with the various types of crimes by the name of such crime such as the following –

(i) Child Victims of sexual abuse.
(ii) Victims of human trafficking.
(iii) Victims of drug trafficking.
(iv) Victims of mass violence.
(v) Victims of economic offences.

(IV) History and growth Victimology-

Before we understand Victimology, we need to appreciate that it is a new sub-field or area of specialization within criminology. Criminology is a rather

1 2010 (3) RCR (Crl) 391
broad field of study which encompasses, within itself the study of law making law, hearing and society reacting to law breaking. Victimology much like criminal justice falls into this subfield referred hereinbefore. Victimology, however, does not have its own subfield. Though, there are some theories regarding Victimology, mentioned hereinafter. The scientific study of Victimology can be traced back to the 1940’s and 1950’s. Until then, primary focus of research and academic analysis in field of criminology, was on criminal perpetrations and criminal acts rather than on victims of crime.

The fathers of Victimology are two criminologist Benjamin Mendelson and Von Hentig. Benjamin Mendelson was a Romanian attorney, whose first study on victims was published in Belgium Criminology journal in the year 1937. This study was based on the result of such way that he made amongst the criminals, their families and their victims. The result of the survey convinced him that the personality of the victim was crucial in attracting the criminal.

Hans Von Hentig took a similar approach in his article “remark on the Interaction of perpetrations and victim” in which he wrote that possession of money has to do with robbery. He advanced a dynamic conception of the genesis of crime viewed from the perspective of criminology. He initially devoted much of his energy to
the study of how the victims contribute knowingly or unknowingly to their own victimization and the potential ways, by which they may share responsibility with offender’s for specific crimes. But the negative effects of “victim blaming” led as a crusade of the fight for rights of the victims.

Diverse views exist on the focus and place of discipline of Victimology. While some believe that Victimology should function as an independent area of enquiry, others view it as a subfield of Criminology. A second issue concerns the breadth of victim related issues to be covered in the field of Victimology. Some scholars advocate that Victimology should limit itself to the study of victim-offender interaction. Others argue that the needs of crime victims, functioning of the organizations and institutions which respond to their needs, and their emerging roles and responsibility for crime victims, are important areas of inquiry for Victimology.

A third issue is the breadth of the definition of the term ‘victim’. One approach is to limit the concept to victims of traditional crimes such as murder, rape, robbery, burglary etc. However, it has also been proposed to include a broader definition of the concept by covering groups such as prisoners, immigrants, subjects of medical experimentation, and persons charged with crime but not proved guilty.
Victim-offender study was the central focus of early pioneers in the field of Victimology, like Hans von Hentig. Hentig explained the concepts of ‘victim vulnerability’ and ‘victim culpability’ and gave a typology of victims. ‘Victim vulnerability’ refers to susceptibility of certain groups of people to victimization, through no fault of their own, but based on certain demographic or other characteristics (e.g. children, elders, women) as these people are more vulnerable to becoming victims. ‘Victim culpability’ refers to actions on the part of victims that may either invite or precipitate victimization. Deriving from the concept of victim culpability, Hentig proposed the concept of ‘Victim Precipitation’, and in his classic study of homicide victims in Philadelphia, he found that in 26% of homicides, victim precipitation occurred. Although some behaviour of victims may be partially responsible for their victimization, Victimologists are also talking of the danger of ‘victim blaming.’

Besides Penal or Criminal Victimology, where only the crime victims were included, Beniamin Mendelsohn proposed a new approach called ‘General Victimology’, to include a wide variety of victims, as he felt that human beings suffer from many causal factors and focusing on the criminal victimization alone under Victimology is too narrow a perspective.
According to Mendelsohn just as medicine treats all patients and all diseases, criminology concerns itself with all criminals and all forms of crime. So Victimology must concern itself with all victims and all aspects of Victimology in which, society takes an interest.

Victimology institutionalized by the World Society of Victimology, could be defined as “the scientific study of the extent, nature and causes of criminal victimization, its consequences for the persons involved and the reactions thereto by society, in particular, the police and the criminal justice system as well as voluntary workers and professional helpers.”

Broadly speaking victimology encompasses the study of:-
(1) Victimization
(2) Victims offender relationship
(3) Victims and society.
(4) Victims and their restitution.

However, one important aspect has come to light particularly in the Indian perspective is the raising of victim’s rights in India by the print and electronic media.

(a) Theories in Victimology-

Victimology does not have many theories exclusively from the perspective of victims. However, some of the theoretical explanations from Criminology of crime causation are borrowed by Victimologists to understand
crime victimization. One such theory is the Routine Activities Theory (Cohen & Felson 1979)

(i) *The Routine Activities Theory*-
This theory says that crime occurs whenever three conditions come together:
(i) suitable targets;
(ii) motivated offenders; and
(iii) absence of guardians.

(ii) *Psycho-social Coping Theory*-
Psycho-social coping is a general theoretical model from which, any form of victimological phenomena can be explained. The model uses behavioural versus legal concepts Phenomenology, Control Theory, Stress Theory, Symbolic Interactions and Behaviourism are the primary roots of this theoretical model. Most part of the literature on coping has evolved from psychology, dealing with just cognitive responses to various forms of stress.

According to Pearlin and Schooler, coping refers to "things that people do to avoid being harmed by life-strains." To understand how and why some victims are able to overcome life's problems and some others not, a psycho-social coping model was developed in order to comprehensively deal with psychic, social and physical effects of a crime on a victim. A psycho-social coping model is an attempt to explain the dynamics of how people deal with problems of the victims.
(b) UN declaration of Basic Principles of justice for Victims of Crime and abuse of Power

The concept of Victimology, had been described in various ways. However, the comprehensive of the concept of the Victimology was evolved by the UN declaration, which besides defining victims stressed upon the need for restitution, compensation and assistance for the victims. The declaration paved a new ways for the concept of Victimology, which read as follows:-

(A) Victims of crime.

(1) Victim means, 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 acts operative within member States including those laws prescribing criminal abuse of power.

(2) A person may be considered a victim under this declaration regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familiar relationship between the perpetrator and the 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 victims in distress or to prevent victimization.

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2 UN declaration of Basic Principles of justice for Victims of Crime and Abuse of Power dated 29.11.1985
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.

Access of justice and fair treatment.

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress as provided for by national legislation for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedure that are expeditious, fair, inexpensive, and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative process to the needs of victims should be facilitated by:

   a. informing victims of their role and the scope timing and the proceedings and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information.

   b. allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings, where the personal interest are affected and without prejudice consistent with the relevant national criminal justice system.

   c. Providing proper assistance to victims throughout the legal process.
d. taking measures to minimize inconvenience of victims, protect their privacy, when necessary and ensure their safety as well as that of their families and witnesses on their behalf from intimidation and retaliation.

e. Avoiding unnecessary delay in the deposition of cases and the execution orders or decrees of renting awards to victims.

7. Informal mechanisms for the restoration of disputes including mediation, arbitration and customary justice or indigenous practice should be utilized where appropriate to facilitate conciliation and redress for victims restitution.

8. Offenders or third parties responsible for their behavior should where appropriate make fair restitution to victims their familiar or dependents. Such restitution, should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization the provision of services and to restoration of rights.

9. Governments should review their practices regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment restitution if ordered should include as far as possible restoration of the environment, reconstruction of the infrastructure replacement of community facilities and reimbursement of the expenses of relocation wherever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity, have violated
criminal laws the victims should receive restitution from the State where officials or agents were responsible for the harm inflicted. In cases where the government under whose authority the Victimology act or omission occurred is no longer in existence the State of government successor in title should provide restitution of the victims compensation.

12. When compensation is not fully available from the offenders or other sources, stats should endeavor to provide financial compensation to –

a. Victims, who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes.

b. The family in particular dependents of persons, who have died or become physically or mentally impacted as result of such victimization.

13. The establishment strengthening and expansion of national funds for compensation to victims should be encouraged where appropriate other funds may also be established for the purpose, including those cases where the State of which the victim is a national is not in a position to compensate victim for the harm.

14. Victims, should receive the necessary material, psychological and social assistance, through governmental, voluntary, community based and indigenous means.

15. Victims should be informed of the unavailability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police justice health social service and other personal concerned should receive training to
sensitize them to the needs of victims and guidelines to ensure proper and prompt and

17. Improvising service and assistance to victims, attention should be given to more, who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned to paragraph 3 above.

(c) Statute of the Council of Europe

Article 15B of the Statute of Council of Europe, which was also referred by the Law Commission of India in its 154th report 1996, also highlights the ideology of Victimology. The committee of ministers of the council of Europe adopted a recommendation on crime victims in the framework of criminal laws and procedure in accordance with this article.

The preamble of the Statue of Council of Europe highlights the principles of Victimology as laid down below.

Considering that the objectives of the criminal Justice system have traditionally been expressed in terms which primarily concern the relationship between the State and the offender;

Considering that consequently the operation of this system has sometimes tended to add to rather than to diminish the problems of the victim;

Considering that it must be a fundamental function of criminal Justice to meet the needs and to safeguard the interest of the victim;

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3 Statute of the council of Europe dated 5.5.1949
Considering that it is also important to enhance the confidence of the victim in criminal Justice and to encourage his co-operation, especially in his capacity as a witness;

Considering that, to this end, it is necessary to have more regard in the criminal Justice system to the physical, psychological, material and social harm suffered by the victims and to consider what steps are desirable to satisfy his needs in these respects;

Considering that measures to this end need not necessarily conflict with other objectives of criminal Law and procedure, such as the reinforcement of social norms and the rehabilitation of offenders, but May in fact assist in their achievement and in an eventual reconciliation between the victim and the offender;

Considering that the needs and interest of the victim should be taken into account to a greater degree, throughout all stages of the criminal Justice process;

The recommendation cover action at the police level and the State, police officer should be trained to deal with victims in a sympathetic constructive and reassuring manner;

The police should inform the victim about the possibilities of obtaining assistance, practical and legal advice, compensation from the offender and State compensation;

The victim should be able to obtain information on the outcome of the police investigation;

In any report of the prosecuting authorities, the police should give as clear and complete a Statement as possible on the injuries and losses suffered by the victim;
In respect of prosecution:

A discretionary decision whether to prosecute the offender should not be taken without due consideration of the question of compensation of the victim, including any serious effort made to that end by the offender;

The victim should be informed of the final decision concerning prosecution, unless he indicates that he does not want this information;

The victim should have the right to ask for review by a competent authority of a decision not to prosecute, or the right to institute private proceedings;

Questioning of the victim:

At all stages of the procedure, the victim should be questioned in a manner giving due consideration to his personal situation, his rights and his dignity. Whenever possible and appropriate, children and the mentally ill or handicapped should be questioned in the presence of their parents or guardians or other persons qualified to assist them.

(d) Victimology in a more wider context-

John P. J. Dussich 4 in his article Victimology – past, present and future presented at 131st International Senior Seminar as Visiting Experts’ Papers, described the following key concepts of Victimology in a wider context as follows-.

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1. "Victim" has its roots in the early religious notions of suffering, sacrifice and death. This concept of "victim" was well known in the ancient civilizations, especially in Babylonia, Palestine, Greece, and Rome. In each of these civilizations the law mandated that the victim should be recognized as a person, who deserved to be made whole again by the offender.

2. "Crime victim" is a person who has been physically, financially or emotionally injured and/or had their property taken or damaged by someone committing a crime.

3. "Victimogenesis" refers to the origin or cause of a victimization, the constellation of variables which, caused a victimization to occur.

4. "Victim Precipitation" a victimization where the victim causes, in part or totally, their own victimization.

5. "Vulnerability" is a physical, psychological, social, material or financial condition whereby a person or an object has a weakness which could render them a victim if another person or persons would recognize these weaknesses and take advantage of them.

6. "General Victim" is a person who has been physically, financially or emotionally injured and/or had their property taken or damaged by someone, an event, an organization or a natural phenomenon.

7. "Victimization" refers to an event where persons, communities and institutions are damaged or injured in a significant way. Those persons who are impacted by persons or events suffer a violation of rights or significant disruption of their well-being.
8. "Victimology" is an academic scientific discipline which studies data that describes phenomena and causal relationships related to victimizations. 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.

9. "Abuse of Power" is the violation of a national or international standard in the use of organized powerful forces such that persons are injured physically, mentally, emotionally, economically, or in their rights, as a direct and intentional result of the misapplication of these forces.

10. "Victim Assistance, Support or Services" are those activities which are applied in response to victimizations with the intention of relieving suffering and facilitating recovery. This includes offering information, assessments, individual interventions, case advocacy, system advocacy, public policy and programme development.

11. "Victim Recovery" is the resumption of the same or better level of functionality as was enjoyed prior to victimization. Persons who have been victimized vary in their level of mental health and wellbeing prior to their victimization. Consequently, victimization affects each person in a different way and causes differing degrees of injury or trauma. In their recovery it is necessary for victims to first try to regain their previous level of functioning plus learn from their misfortune and hopefully exceed their previous level of functionality. To be recovered suggests that a person has at least regained their prior level of well-being and at best, has exceeded it. This State may be measured by identifying their
previous mental condition and determining if they have at least regained that prior status using the criteria of trust in others, autonomy of self, individual initiative, competency in daily activities, self-identity, interpersonal intimacy, control over personal situations, successful relationships, safety in daily activities, acknowledgment of memory, trauma symptoms have become manageable, self-esteem is restored, resourcefulness is achieved, and there is an improved ability towards off potential threats.

12. "Child Abuse" is the intentional application of sexual, physical, emotional or psychological injury to a child to include neglect at the hands of her or his parents or care-provider within the confines of their family or place of care.

13. "Victim Offender Mediation" (VOM) is a formal process for face-to-face meetings in the presence of a trained mediator between a victim of a crime and his/her offender who committed that crime. This is also called victim-offender dialogue, victim-offender conferencing, victim-offender reconciliation, or restorative justice. Often the victim and the offender are joined by their respective families and community members or other persons related to the crime event. In these meetings, the offender and the victim talk to each other about the victimization, the effects it had on their lives and their feelings about it. The aim is to create a mutually agreeable plan to repair any damage or injury that occurred as a result of the crime in the hopes of permanently eliminating the conflict that caused the crime in the first place.

14. "Restorative Justice" is a systematic formal legal response to crime victimization that emphasizes healing the injuries that resulted from the crime and affected the victims, offenders and
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communities. This process is a departure from the traditional retributive form of dealing with criminals and victims which traditionally have generally perpetuated the conflict which resulted in the original crime.

15. “Victim Trauma” includes emotional and physical experiences that produce pain and injuries. Emotional injury is a normal response to an extremely abnormal event. It results from the pairing of a painful or frightening emotional experience with a specific memory which emerge and have a long lasting effect on the life of a person. The more direct the exposure to the traumatic event, the higher is the risk for emotional harm and prolonged effects.

16. “Crisis Intervention” is the provision of emergency psychological care to traumatized victims so as to help them return to an adaptive level of functioning and to prevent or mitigate the negative impact of psychological and emotional trauma.

17. “Compensation” is a formal administrative procedure provided by law which provides only money to victims for “out of pocket” real expenses, directly resulting from the victimization to be paid by the State after the victim is found to qualify according to specific criteria determined by respective State or federal law.

18. “Restitution” is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.
19. “Victim Survey” is a periodic data collection and analysis process conducted usually by a government entity within the general population to study information about crime victims regardless whether they reported their victimization to the police or not. It typically uses a face-to-face or telephone interview (or sent questionnaire) and covers demographics, attitudes about crime and details about the victimizations experienced over the previous six months.

20. “Victim Rights” are privileges and procedures required by written law which guarantee victims specific considerations and treatment by the criminal justice system, the government and the community at large.

(e) Judicial interpretation of “Victimology”

A Division Bench of Gujarat High Court in the case of Aamad @ Kalu Abdullah Majothi Vs State of Gujarat 5 defined Victimology as follows-

Victimology is a science of sufferings and resultant compensation. The doctrine of victimology, has various aspects. Victimology means the relationship between the sufferers of the crime and the author’s of the crime, in which the victims have not contributed anything for the emergence of crime.

(V) Victimology in India-

Victimology had been alien to the Indian Criminal Justice System till the recent past as the same is based upon the British model. Victims traditionally had no right under the Indian Criminal Justice System. Though

5 1999 Cr.I.J 2923 (Guj)
no separate law for the victims exists even on date, the silver lining is that victims are no more the forgotten man of the Indian Criminal justice system. Many National level Commissions and Committees have strongly advocated victim’s rights and reiterated the need for a law concerning the rights of the victims, which have been refereed hereinafter in the later chapter..

In the year 1984, for the first time in India, an exclusive three day summit on Victimology was organized involving researchers, academics and law practitioners. It was organized by department of criminology of the department of law and criminology of the Madras University. After 1990, the department began to offer Victimology, as one of the courses for master’s degree in criminology.

The growth of Victimology in India got another backing with the foundation of Indian Society of Victimology, to discuss the problems of victims to disseminate knowledge etc to be discussed in detail in the later chapter’s.