CHAPTER - I
INTRODUCTION

For too long, the law has centered its attention more on the rights of the
criminal than on the victim of the crime. It is high time we reverse this trend and put
the highest priority on the victims and the potential victims.¹

Crime victims are the “forgotten persons” of the criminal justice system,
valued only for their capacity to report crimes and to appear in court as witnesses.
They are expected to support a criminal justice system that has “treated them with less
respect that it has treated the offender.” Similarly, Siegal² characterized this inequity
in the following manner: “vulnerable, angry, insecure, selfless, the victim who
survives observes a criminal who is fed, housed, given legal, medical, psychological,
and psychiatric aid – even education and vocational training. The victim…..suffers
alone”³

The victim of crime has been the ‘forgotten man’ of the criminal justice
system. This lack of knowledge about victim is astonishing, given that the criminal
justice system as we know it today would collapse if their co-operation was not
forthcoming. The victims experiences with the professionals of the system- police,
lawyers, court officials and other those running compensation agencies – are rarely
considered, but will affect their attitudes to that system. If victims come to regard
their treatment as too stressful, demeaning, unfair, distorting of reality, too remote or
too little concerned with their own rights, feelings and interests or if decisions are
made which are felt to be unsatisfactory, it is possible that this ‘secondary
victimization’ by the system may lead to disenchantment, disinterest and future non –
operation, not only by the victim, but also by his friends and relatives.⁴

¹ Ford R. Gerald: Message to congress, June 1975 quoted in Criminal Justice and the Victim by
² Seigal, M.(1983), Crime and Violence in America: The Victims, American Psychologist, 38,
1267-1273 quoted in Lurigio J. Arthur ., Skogan G. Wesley and Davis C. Robert Editors
Victims of Crime , Problems, Policies, and Programs, Sage Publications 1990 , First Printing,
Chapter I Criminal Victimization pg. 9
³ Lurigio J. Arthur ., Skogan G. Wesley and Davis C. Robert Editors Victims of Crime ,
Problems, Policies, and Programs- , Sage Publications 1990 , First Printing , Chapter I
Criminal Victimization pg. 9
⁴ Shapeland Joanna, Willmore Jon, Duff Peter, Victims in the Criminal Justice system, Gower
Publishing Company Limited, England, 1985 P 1
The Criminal Justice System is almost exclusively focused on the offender. When an offence is reported to the law enforcing agencies by the victim, they look for an offender and arrest an offender or a suspected offender. The law enforcing agencies associate the victim only as a means of finding the offender and securing criminal prosecution against him. The offender is held for court action and brought to trial. The victim is witness for the State against the offender. The convicted offender may be sentenced to fine or imprisonment or placed on probation of good conduct, or he may be pardoned by the State. And in the whole episode, the victim is kept aside and left at his own fortune without proper remedies.

The administration of criminal justice all over the world seems to be guided by one cherished principle viz, the protection of rights of accused. In a criminal trial there are at least two active participants viz, the offender for whose sake the entire machinery of justice always remains vigilant, and the victim of crime-the forgotten man of criminal justice system. Criminal Justice Delivery System at present demonstrates its deep concern for the accused by conferring a set of rights and privileges on him, prior to as well as during the trial. It resorts to every possible measure with in its control to “treat”, “reform” and re-socialize the accused. It does not unfortunately exhibit similar “sensitivity” and “concern” for “victims” of crime and abuse of power by State agencies. Such a Criminal Justice System obviously turns out not only to be ‘accused-offender oriented’, but also to be unfair, unjust and inequitable criminal justice system conveniently assumes that punishing the perpetrator also satisfies the claims of victim of crime. The second partner of what Mendelson calls the penal couple. Criminal administration at present has nothing more to do in favour of crime victims that they actually deserve.

Broadly speaking in India four agencies are concerned with the administration of criminal justice. These are Legislature, Police and Prosecution, Courts and Correctional agencies. The legislature provides for the broad framework of legislation with in which all other agencies operate. The police are concerned with the maintenance of law and order. The courts are concerned with administration of justice through various procedures and correctional services work through several

6 Siddique, Ahmad—Criminology : Problems and Perspectives (Eastern Book Company) 2005 p.545
institutional and non-institutional programs. Emphasis of correctional services has shifted from deterrence to reformation and stress is on reformation of offenders by giving them more humane treatment in prisons. The attention of all these agencies is focused on the criminal who holds the central stage all the time. Services of victims are required only as a witness for identification of the offender and successfully prosecuting the offender.

When a crime is reported to police, search is made for the criminal. They maintain statistics on the arrest, conviction, imprisonment and release of criminals or suspected criminals. The police are required by law to respect concrete and specific rights of offenders but it turns a blind eye towards the plight of victims and victims are left to the mercy of police from which they have no escape. During the course of trial accused is treated as a privileged person and is provided all possible aid and services including a defense counsel, if necessary at the cost of state. Courts interpret the law and administer justice by adjudicating on the basis of evidence placed before them whether offender is guilty or not and on conviction award sentence, proportionate to the nature of crime. In this set up rights of accused are keenly protected but victim is launched on a career of social injustices, of callous post-crime victimization by the police, the courts and the legal profession. Society is sensitive to the issue of social justice for the offender, spends millions of rupees on programs for offender-oriented reform and rehabilitation. On the other hand, society fails to protect crime victims and refuses them aid. The sufferings of victims often immeasurable are entirely over-looked in the zeal to over-protect the criminal. One can therefore, understand the sarcasm in words spoken by the Belgian delegate at the Paris prison congress in 1896 which are pertinent even today: - “the guilty man, lodged, fed, clothed, warmed, lightened, entertained at the expense of state in a model cell, issued from it with a sum of money lawfully earned, has paid his debt to society and the victim instead of being looked after is contributing towards the care of prisoners during their stay in prison. In fact it is a short-coming of our criminal jurisprudence that the victims of crime do not attract due attention.”

Michael Fooner an eminent criminologist in an article entitled “Victim Induced Criminality” observed: - the history of crime and punishment in the whole

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civilized world reveals a steadily increasing concern with the treatment of criminal
and a virtual blackout of attention to the situations of the victim. For more than
thousand years prior to the mid-twentieth century, the victim of crime in our society
and in the administration of justice has been ignored".8

Justice Krishna Iyer writing on ‘The Criminal Process and Legal Aid’
observed, “Tears shed for the accused are traditional and ‘trendy’ but what the law
has done for the victim of crime, the unknown martyr?9

The above cited observation of a former Judge of Supreme Court of India
makes it clear that the criminal law in India is not victim oriented rather it is offender
oriented. The sufferings of victim, often immeasurable, are entirely overlooked in
misplaced sympathy for the criminal. The modern criminal law, which is supposed to
represent the social ambitions and norms, is designed to punish as well as to reform
the criminal, but it overlooks an important by-product of crime, the victim10.

During the last century, there have been far reaching changes in criminal
justice system concerning the rights of the accused during the investigation of the
offenders, prosecution of offenders and the punishment to be imposed in the event of
conviction. Statistics of the offenders, details of arrests by the police, administration
and release of the criminals from the penal institutions are all kept but collection of
various aspects of information relating to the victims remain neglected and
unchanged. The whole spectrum of criminal jurisprudence is ordained to perceive and
permeate the interests of the accused of crime and to neglect the victim as a
ponderous necessarian. Thus unmindful and untoward trendy threat towards the
accused has left the complainant the ‘unknown martyr’ of crime.11

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 not to
punish the accused but to compensate the victim. The amount and mode of redress
was left to the discretion of the victim. The accused was totally discarded under the
arbitration of the state.

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8 Published in ‘Science’ Vol.153 no.3740 September 2,1966
9 Iyer, V.R .Krishna Justice: The Criminal Process And Legal Aid, Indian Journal Of
Criminology,p.10
10 Makkar,S,P,Singh and Friday Paul : Global Perspectives in Victimology (An endeavor to
define Victimology);
11 See Articles 20, 21, and 22 of the Constitution of India
According to Henry Maine\textsuperscript{12}, the penal law of ancient communities was not the law of crime but the law of wrongs. But in the modern times, though the State has assumed the responsibility to protect the citizens from crime, but the entire thrust of the state is toward the accused, right from the commission of crime till the final conclusion of trial, an accused is provided special care.

Even the courts have ignored the interests of the victim while they have been busy protecting the interests of offender. Not only the courts but the entire criminal justice establishment, including legal scholars and criminologists, has largely ignored the victim. Compare, e.g., the attention that has been given to the offender with that given to the victim. There is enormous literature on the offender; his rights; the role he plays in criminal process; his perceptions of that process; the influence which that process has and the damage that it can do to his life’s prospects by labeling him a criminal; his racial, social economic, marital, psychological, physical and behavioral characteristics; and even the effects of his incarceration on his family. Not only is the literature vast but the expenditure of money and concern for the accused has also been enormous. Elaborate and costly physical structure has been built to house criminals and promote their behavioral improvement. The promoters of correctional reform have been revered as pioneers in criminology. A bigger chunk of finances on research has been devoted to determining what happens when the criminal justice system touches the lives of individuals who become accused. In comparison, virtually nothing has been done on what happens to that other group of citizens touched by the criminal justice systems, namely, the victim. There are no schools of Victimology and almost non-existent legal literature on how victims are treated by Criminal Justice system. The victim has not even been given a room in the courthouse where he can wait comfortably and securely for the hearing to begin. He is left to work in the halls or some drab room to which the accused whom he is accused has free access. He is threatened by the accused within inches of police, prosecutors and judges, and nothing happens\textsuperscript{13}. He or she must recount to the prosecutor - sometimes intimate, degrading and upsetting details of unspeakable crimes- while standing in a crowded, noisy hallway with strangers milling around and listening in\textsuperscript{14}. If a criminal viciously kills

\textsuperscript{12} Main Henry : Main’s Ancient Law, 10th Edition, 1961 p.370.
\textsuperscript{14} ibid
someone and later is not found guilty by reason of insanity, society will spend thousands of rupees supplying him with psychiatric treatment, special facilities, correctional counseling, job pertaining, and legal aid. But the family of victim which may have been shattered by the crime will be left to fend for itself.\textsuperscript{15} If this is the position of victim of crime in developed country like U.S.A, the position of victim can be well imagined by any person where police is corrupt and infrastructure inadequate.

Criminal Justice Delivery System, traditionally perceives a victim of crime as merely a source of information and evidence. It assumes that the claims of a crime victim are sufficiently satisfied by conviction of the crime perpetrator. This traditionally accepted assumption, though seems to be right, just and convincing in the light of prominent functions of criminal law and his (victim’s) faith in Criminal Justice System, in the light of current penological thinking, however, seems to be unjust, unfair and inequitable when society and state are resorting to every possible ‘measure’ to ‘reform’ and ‘rehabilitate’ an offender and not displaying their equal concern for compensating victims of crime.\textsuperscript{16}

However modern victimologists, feel that the traditionally accepted assumption is less persuasive and ostensibly ‘unjust’ unfair and inequitable’ to victims of crime in the contemporary ‘offender-oriented’ Criminal Justice System. A crime victim is an unfortunate recipient of ‘harm’, ‘loss’ or injury. Victim is a real sufferer for no fault of his. The prime responsibility of a State is to protect limb, life and property of its subjects and a crime victim suffers because of the State’s failure in protecting his limb, life and property, as the case may be. Therefore, the State must be equally ‘fair’ and ‘just’ to a crime victim by designing a comprehensive scheme for rendering justice to him.

In most of the cases a victim of crime is considered as an informer of the commission of a crime. It set the criminal law process in gear by reporting it to the State machinery, i.e. the police, who in turn after inquiry and investigation approaches

\begin{itemize}
\item \textsuperscript{15} McDonald, F. William, Editor, Criminal Justice and the Victim; Sage Publications, Beverly Hills, London, 1976
\end{itemize}
a competent criminal court. However, the police, the first state agency with whom a victim of crime comes in contact, in cases either show their indifferent attitude to him or professional insincerity and apathy to register his complaint. Unfortunately in majority of the cases police treat him as an accused and start harassing him under the guise of collecting adequate information from him for setting directions of their investigations. A victim/informant has no role to play in it unless the Investigation Officer concerned considers it necessary. Further, if he is required to participate in the criminal justice process as a material source of evidence i.e. prosecution witness, he puts himself in a position of some vulnerability. He is at the mercy of questioning by prosecution and defence lawyer alike. He has to identify the ‘suspects’ of the crime. He has also taken the risk of being intimidated by the accused directly or through his friends or well wishers indirectly to dissuade and deter him from deposing the truth. Frequent adjournments and the consequential inordinate delays in disposal of cases coupled with marginal or non-participation in the criminal proceedings and sentencing add further to his miseries and frustrate All these circumstances in which a victim/complainant/witness is placed make her/him feel not only dejected and humiliated but also he/she becomes a victim of ‘secondary victimization’ by the criminal justice system.18

In ultimate analysis justice to victims of crime requires, making the utmost endeavor and sincere attempts to ensure that they as a matter of right, have an access to, and support from, the criminal justice process. Such a Criminal Justice System not only warrants compensation to him for the ‘loss’ suffered and physical, mental or emotional ‘injury’ sustained by him but also expects his effective participation in the criminal justice process.19

Recently, the Committee on Reforms of Criminal Justice System, constituted under the chairmanship of Justice Dr. V.S. Malimath, by the Ministry of Home Affairs, Government of India in its report submitted to the Government of India in

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19 For further detail see Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power
March 2003, inter alia perceived that ‘justice to victims’ is one of the inseparable imperatives of the criminal justice system in India. It recommends for a holistic ‘Justice’ to victims of crime by allowing them to participate in criminal proceedings as a matter of right as well as to seek compensation for the loss or injury.20

The Definition of Certain Terms

Victim

The research work will focus on the victims of crime particularly women and children. The legal term ‘the complainant’ is used in the Criminal Procedure Code. Before the Code of Criminal Procedure (Amendment) Act, 2008, the word ‘victim’ was not defined in the Code. By this amendment Section 2(wa)21 has been inserted in the Code of Criminal Procedure and under this section the term “Victim” has been defined.22 It is discussed in detail in Chapter II of the research work.

Penal Justice System

The Penal Justice System is part of a larger entity known as the Criminal Justice System, a term covering all those institutions which respond officially to the commission of offences, notably the police, prosecution authorities and courts. It is often misleading or unsatisfactory to examine the penal justice system in the isolation from the larger criminal justice system.

The term Penal Justice System used in the research work includes/covers not only the Penal Justice System (which provides punishment for the offence committed) but also the whole Criminal Justice System however the focus of study is on Criminal Procedure Code, 1973, Probation of offenders Act,1958, Juvenile Justice ( Care and Protection of Children) Act, 2000 and Protection of Women from Domestic Violence Act, 2005.

20 For further detail see Recommendations of Malimath Committee on Reforms of Criminal Justice System
21 Section 2(wa) of Criminal Procedure Code,1973, “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.
22 This amendment came into force on 31st December 2009.
Classification of Victims

**Women Victims:** Although women may be victims of any of the general crimes such as ‘Murder’, ‘Robbery’, ‘Cheating’, etc, only the crimes which are directed specifically against women are characterised as ‘Crimes Against Women’. Various new legislations have been brought and amendments have been made in existing laws with a view to handle these crimes effectively. These are broadly classified under two categories namely crimes under the Indian Penal Code (IPC) like Rape (Sec. 376 IPC), Kidnapping & Abduction for specified purposes (Sec. 363 - 373 IPC), Homicide for Dowry, Dowry Deaths or their attempts (Sec.302/304-B IPC), Torture - both mental and physical (Sec. 498-A IPC), Molestation (Sec. 354 IPC) Sexual Harassment (Sec. 509 IPC), Importation of girls (up to 21 years of age) (Sec. 366-B IPC) and crimes under the Special and Local Laws (SLL) like Immoral Traffic (Prevention) Act, 1956, Dowry Prohibition Act, 1961, The Prohibition of child Marriage Act,2006, Indecent Representation of Women (Prohibition) Act, 1986, and Commission of Sati (Prevention) Act, 1987.

There are too many situations in which women are victimized by their vulnerability and dependence on the very persons to whom they look for respect, protection, and support, both in family and business relationships. According to National Crime Record Bureau Report, 2010 offenders were known to the victims in 94.9% of rape cases during 2009. In many instances, women are victimized because they are women, and have been socialized to play a role established and perpetuated by a society which appears to condone this victimization through a refusal to acknowledge the existence and severity of the victimization women experience in many areas of their day-to-day life.

**Child Victims:** Children are easy victims. They are weak, frail and extremely vulnerable. Under certain age, they are incapable of defending themselves, retaliating or even complaining and constitute, therefore, ideal targets for victimization. Victimization of children is as old as mankind itself. Throughout history and until the present day children have been subjected to a wide variety of abuses, neglect and maltreatments. The victimization of children is a universal phenomenon. Child abuse typically (though not exclusively) takes place within the home and is perpetrated by
those who are responsible for the care and welfare of the child. This is clear from the Crime in India Report published by National Crime Record Bureau that offenders were known to the victims in 94.9% of rape cases and there is 7.6% increase in incidence of crime against children in 2009 over 2008. Cases of child rape went up by 6.9% during 2007 over 2006 but decreased by 1.4% during 2007 over 2006.\textsuperscript{23} Child abuse may be divided into three broad categories: physical, mental and sexual with each type divided, in turn, into several sub-types.

Abuse may be classified, according to the social context in which it takes place, into family abuse and institutional abuse. Family abuse, usually perpetrated by natural, step or foster-parents, by parent substitutes, or by guardians, occurs mainly in the home and is contextually different from institutional abuse directed against children placed in institutional care ( orphanages, institutions for mentally defective or retarded children, training schools, correctional institutions for juveniles, etc.)

Family abuse includes pushing women and children into Prostitution, Bonded Labour, Honour Killing, Female Foeticide, Infanticide, Sati, Immoral Trafficking, etc. Institutional abuse may occur in Nari Niketan, Juvenile Homes, Police Custody, Jails, Mental Asylums, Hospitals and Sexual Harassment of working women at the place of their work. Some of these areas of concern are discussed here in brief.

\textbf{Domestic Violence}

The universal phenomenon of domestic violence has seriously attracted the global attention during the past few decades. Violence against women exists in almost every society irrespective of caste, colour, sex, creed, status, religion, education etc. In India the phenomenon is viewed as an outcome of patriarchial society and may take various forms like wife battering, torture for dowry, sexual perversion, use of abusive language, humiliation etc. Most often it takes place in secrecy, committed within the four walls of the matrimonial homes and went unreported. The poor victims of domestic violence suffer in silence, considering as their fate accompil. Often they fear social stigma, involvement of family prestige, apprehension of possible relation, financial dependency, future of children, attachment of religious sentiments etc.

\textsuperscript{23} Crime in India Report,2009 published in Dec.2010 site www.ncrb.nic.in visited on 8th April 2011 at 9:30PM
because of which they prefer to remain silent, then to make such acts known to public.24 In spite of special enactment i.e the Protection of Women from Domestic Violence Act, 2005, cases of domestic violence in the country have increased by 10.1% in 2009 over the previous year.25

**Female Foeticide**

A life cycle approach reflects the situation from conception and birth to adolescence to womanhood. Female Foeticide means killing of foetus, after knowing the sex of the foetus. Every year about 15 million girls are born in India and despite being biologically stronger than boys, almost one quarter of this number do not see their 15th birthday due to female foeticide.26 In 2009, 123 cases of foeticide were reported in the country as compared to 73 in the year 2008, increased of 68.5% in these cases.27

**-Female Infanticide**

Infanticide was probably one of the earliest crimes. It is the ultimate victimization; the annihilation of a helpless, unaware and unsuspecting victim. This horrible, primitive crime has not yet disappeared and probably never will. It is still practiced in some communities. In India’s rural as well as urban areas, the family of the bride owes the family of the groom a substantial dowry in the form of money, jewelry, and the household possessions. From childhood, the young girl is neglected bodily and emotionally because she causes considerable dowry expenses to the family. Many families even kill their female infants because they are unable to provide a suitable dowry or do not want to.28 The most inhuman, uncivilized, barbaric and tragic event is still taking place silently in India especially in the States of Tamil

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28 Walsh, Antony and Hemmens, Craig : Introduction to Criminology, Sage Publications, New Delhi, 2008, Chapter 14 Titled Victimology : Exploring the Experience of Victimization p.550 paper on Victimological Developments in the World During the Past Three Decades (1) by Hans Jouchim Schneider
Nadu, Bihar, Gujarat, Rajasthan, Haryana, Punjab and Utter Pradesh. A total of 63 infanticide cases were reported in the country during 2009.

Incest

Incest is one of the most ghastly crimes but it remains most secret and subsists commonly than imagined. Incest is defined as sexual intercourse between close relatives within prohibited degrees of relationship. It is not an offence in India unless it falls under offence of rape or adultery.

Rape

Rape is forcible ravishment of a woman. It means sexual intercourse with a woman without her consent by force, fear, or fraud. In other words, rape is a violence of the private person of a woman. It is an outrage by all canons. A rapist not only violates the victim’s personal integrity but leaves indelible marks on the very soul of the helpless female. Rape is defined under Section 375 of Indian Penal Code 1860. Punishment for rape is given under section 376 of IPC. After the landmark judgment of Supreme Court in Mathura Rape Case, a number of substantial changes were introduced in the year 1983. The legal provisions of both the substantive and the procedural laws were amended to provide proper justice to the woman victim. Despite stringent provisions of law against offence of rape, it goes on increasing as it is evident from the table below, showing crime trends that Dacoity and House breaking have shown declining trend over a period of 57 years, whereas Rape has increased by 760.4% (from 2,487 in 1971 to 21,397 in 2009) and Kidnapping and Abduction by 543.6% (from 5,261 in 1953 to 33,860 in 2009).

33 For details see Section 375 of IPC, 1860.
34 Tukaram Vs. State of Maharashtra AIR 1979 SC 185
35 Crime in India Report,2009 published in 2010 Site www.ncrb.nic.in visited on 8th April 2011 at 9:30PM
12
Trend of some major crime heads over the year 1953-2009

<table>
<thead>
<tr>
<th>Year &amp; Incidence</th>
<th>Murder</th>
<th>Rape</th>
<th>Kidnapping &amp; Abduction</th>
<th>Dacoity</th>
<th>Robbery</th>
<th>House Breaking</th>
<th>Riots</th>
</tr>
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<tbody>
<tr>
<td>1953 6,01,964</td>
<td>9802</td>
<td>2487</td>
<td>5261</td>
<td>5579</td>
<td>8404</td>
<td>147379</td>
<td>20529</td>
</tr>
<tr>
<td>2009 21,21,345</td>
<td>32,369</td>
<td>21397</td>
<td>33860</td>
<td>4586</td>
<td>22409</td>
<td>92070</td>
<td>62945</td>
</tr>
<tr>
<td>% Change in 2007 over 1953 230.5%</td>
<td>230.2</td>
<td>760.4</td>
<td>543.6</td>
<td>-17.8</td>
<td>166.6</td>
<td>-37.5</td>
<td>206.6</td>
</tr>
</tbody>
</table>

Dowry and Dowry Deaths

In India, most of the marital violence is clubbed under the problem of dowry. Dowry is one of the major factors responsible for domestic violence. In spite of amendments in Criminal Law and Dowry Prohibition Act, 1961, women continue to get burnt in their homes for dowry. These cases have increased by 2.6% over the previous year.36

Sati

Sati is yet another phenomenon peculiar to an illiterate conservative and traditional bound of society of India. Sati means burning of a widow on the pyre of her husband. The Commission of Sati (Prevention) Act, 1987, provides for punishment of death sentence for abettors of Sati, irrespective of whether it is murder or suicide. The practice of Sati is on the wane in modern times. No case was reported across the country during the year 2009 against 1 case reported from Chhatisgarh in 2008.37

Molestation and Sexual Harassment

Modesty is to women, what fragrance is to flower. Any person using any word, or picture, or gesture or act of sound with intention to insult the modesty of any women can be punished with imprisonment up to one year. This is popularly known as sexual harassment. Similarly, any person using criminal force on a woman with intention to outrage her modesty is liable for that offence punishable with

36 ibid
37 ibid
imprisonment up to two years. This is popularly known as molestation. Both the
defence of molestation and sexual harassment are cognizable and police is empowered
to investigate the cases without any permission from the Magistrate. By an epoch
making judgment the Supreme Court has laid down the guidelines and norms of
effective enforcement of the basic human right of gender equality and guarantee
against sexual harassment at work places. According to Apex Court “Sexual
Harassment” includes such unwelcome behaviour (whether directly or by implication)
as physical contact or advances, a demand or request for sexual favours, sexually
coloured remarks, showing pornography and any other unwelcome physical, verbal or
non-verbal conduct of sexual nature.38 In 2009 incidents of molestation and sexual
harassment have decreased 4.2% and 9.9% respectively over the previous year.39 The
Union Cabinet has approved the Protection of Women against Sexual Harassment at
Workplace Bill, 2010. The bill intends to provide a legal protection for women
against sexual harassment at the workplace, both in public and private sectors.
Women workers can breath easy because their right to lead a dignified life has a legal
stamp now.40

**Abduction and Kidnapping**

Women and children becomes the victim of kidnapping and abduction for a
variety of reasons in the family and society. The motive behind kidnapping of
unmarried girls or abducting married women are mainly procurement of sexual
relation, marriage, selling and prostitution for which the punishment is imprisonment,
which may extend from seven years to life.41 Over the years cases of Kidnapping and
Abduction have been increased from 5261 in 1953 to 33860 in 2009.42

**Prostitution and Trafficking of Women**

Prostitution itself is not recognized as an offence under any law in India.
However to prevent sexual exploitation for commercial purposes; the act of
procurement, inducing and taking away of any woman, with intention to exploit for
the purpose of prostitution is recognized as an offence under the Immoral Traffic

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38 Vishaka V. State of Rajasthan, 1997(6) SCC241
40 For details see www.ncw.nic.in/pdffiles/sexualharassmentatworkplace, 22nd Feb.2011,The
Indian Express, News Paper
41 Sections 363-373 IPC,1860
42 Crime in India Report,2009 published in 2010 Site www.nrcb.nic.in visited on 8th April 2011 at 9:30PM

14
(Prevention), Act, 1956. An adult living in the earnings of prostitution may also be liable for committing that offence. In Gaurav Jain v. Union of India, the Supreme Court has given comprehensive instructions to the government for rescue and rehabilitation of children of the prostitutes in the country.\textsuperscript{43} Cases under the Immoral Traffic (Prevention), Act, 1956 have registered a decline of 6.9% in the year 2009 as compared to the previous year.\textsuperscript{44}

**Honour Killings**

Honour Killing is the most grotesque and barbarous manifestation of gender discrimination in the male-dominated society. In such an ethos, woman is the commodity possessed by the male and the family’s honour is associated with her. If she deviates from social mores, she is supposed to bring dishonour to the family whose prestige is restored by killing her.\textsuperscript{45} An honour killing is the murder of a family or clan member by one or more fellow family members, when the victim has brought dishonour upon the family, clan or community. The phenomenon of honour killing is worldwide and it is not new. In India also the phenomenon of honour killing is centuries old. The practice of honour killing is prevalent in a feudal set up with tribal hangover – Haryana, Delhi rural area, Western Uttar Pradesh and Punjab and some areas in Rajasthan near Delhi and in Islamic countries. About 300 women are killed every year in Pakistan and the corresponding figure in Bangladesh is more than 200. Yemen, a small country, had about 400 cases of honour killing in 1997. According to one estimate, about 10 per cent of murders in Punjab and Haryana falls in the category of honour killing.\textsuperscript{46} Recently in the State of Haryana many couples who married against the wishes of their parents or who married within their gotras are killed by their family members or by the members of khaps.

**Object of the Research**

The object of this research is to explore the extent to which the present justice system provides the various facilities and scopes to the victims of crimes. The issues arising out of Victimology are not just legal but also social, economic and ethical. The

\textsuperscript{43} JT 1997(6) SC305
\textsuperscript{44} Crime in India Report, 2009 published in 2010 Site www.ncrb.nic.in visited on 8\textsuperscript{th} April 2011 at 9:30PM
\textsuperscript{45} Bringing Khaps to Justice – Article Published in The Sunday Tribune, Chandigarh, April 11, 2010, A Tribune Special, written by member of Haryana Administrative Reforms Commission, Chandigarh
\textsuperscript{46} ibid
area of study would be to explore the problems and their solutions to victims specially in the case of women and children. The vastness of the subject would necessitate putting restrictions on the scope of study. It is proposed to restrict the scope of study to legal issues as far as they come under the traditional ambit of Criminal Justice System. The main objects of the study are:

1. To study the conceptual contours of Victimology.
2. To study the international criminal policy on Victims.
3. To study the statutory settings of the concept of Victimology.
4. To study the functional aspect of Victimology specially relating to women and children.
5. To evaluate the response of present laws in India to compensate and restore the victims of crime through the present criminal justice system.

**Hypothesis**

The hypothesis underlying the research is that, the present legal framework on Victimology is not adequately equipped to deal with the problems and their solutions to victims. To leave the situation as it stands today would clearly worsen the present legal system, which will have grave consequences in the coming years. It is imperative that the law in respect of Victimology be adequately formulated and reviewed so as to reflect a consistent and socially acceptable solutions and one which will go a long way in promoting individual dignity and rights of victims, for the development of the society.

**Research Methodology**

Considering the close inter-relation, the research issue has with various disciplines like Sociology, Criminology, Psychology, Psychiatry, Law, Politics, Education, Public Administration, History and present Jurisprudence etc. The methodology adopted for the present research would be a combination of doctrinal and non-doctrinal analysis. In case of doctrinal analysis - emphasis will be on black letter. The researcher proposes to collect the required material from a variety of sources including Criminal Jurisprudence in India, International Conventions, Journals and pronouncements of the courts in India and abroad. Doctrinal analysis will be used to study the present legal frame work on Victimology. Non Doctrinal
analysis will be collected on the basis of an interview schedule. Sample technique will be used. The area of study for the present research work is from State of Haryana, (particularly Panchkula, Gurgaon, Jind, Kaithal and Panchkula) covering the urban and rural area of the State. Researcher has interviewed certain persons for the purpose of research work and conclusions were drawn from this case study and researcher has carved out certain suggestions which are discussed in chapter VII of the research work.

**Plan of Study**

Chapter I provides the introductory part viz our criminal justice delivery system shows deep concern for the accused but unfortunately victim of crime is always a weeping beggar at its door. Classification of victims is given in this chapter. Some terms are also defined in this chapter.

Chapter II describes the Conceptual Contours of Victimology which includes meaning, definitions, historical background of victimology, types of victimology, concept of victim, types of victims in the eyes of victimologists. Further this chapter explains the relationship between Victimology and Society. The last part of this chapter is Victimology and Penal Justice System. In this part what was the law in primitive societies, development of criminal law in England, criminal law in ancient India, the emergence of community law, strengthening of state law and the revival of victimology and the victim movement have been discussed.

Chapter III traces the International Criminal Policy and International developments in the field of victimology viz International Standards on Human Rights of Victims, Protection and Redress, efforts of UN i.e. various UN Congresses focusing on victims of crime namely 5th, 7th, 10th and 11th, role of the United Nations in victim policy, drafting and adoption of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Further it talks about victim protection under the Statute of International Criminal Court, Council of Europe and European Union’s call for state compensation for victims of justice in western countries like U.S.A., U.K. and other European countries and important events in the history of victimology.

Chapter IV analysis the national provisions on victimology focusing on Constitutional and Legislative framework. Constitutional framework deals about the existing
provisions related to the victims of crime which were incorporated by the framers of
our Constitution keeping in view the needs of victims and providing for their
restoration and further enlargement of the scope of these provisions by applying the
rules of liberal interpretation and beneficial construction. This part of the Chapter
comprehensively brings to fore the compensation aspect as awarded by Hon’ble
Supreme Court under Article 14 and under the widest possible amplitude of Article 21
and further under its writ jurisdiction, public interest litigations under Articles 32 by
Supreme Court and 226,227 by High Courts. Further it deals with the role of National
Human Rights Commission in providing justice to the victims of crime, role of
National Commission for Women in securing justice for women victims of crime, role
of National Commission for the Protection of Children, role of Law Commission of
India in providing Justice to the victims of crime. Legislative framework touches
upon the existing provisions providing monetary compensation to the victims of crime
firstly under the Code of Criminal Procedure, 1973 Ss.357, 357-A, 358, 359, 237,250
along with latest judicial approach. Further this part of chapter IV includes latest
significant amendments in the direction of victimology namely the concept of plea-
bargaining and the passing of Protection of Women from Domestic Violence Act,
2005. It also deals with the recommendations of Malimath Committee on reforms of
criminal justice system concerning victims of crime. Civil law and Administrative
measures are also discussed in this chapter.

Chapter V describes the rights and protection available to victims of crime specially
women and children under the criminal justice system.

Chapter VI describes the meaning of restitution, difference between restitution and
restorative justice. Definitions of restorative justice, its historical background, benefits
of restorative justice, its techniques namely victim-offender mediation, Family group
conferencing, Community participation, restitution which includes compensation,
victim assistance programmes, victim compensation programmes. Then it carves upon
the compensation aspect in detail viz meaning of compensation, compensation and
restitution, eligibility for compensation, compensation for victims of crime.

Chapter VII talks about concluding remarks about the whole research work and some
valuable suggestions for the purpose of incorporation in our criminal justice system to
make it more expeditious and victim-friendly.