CHAPTER-II
VICTIMOLOGY : CONCEPTUAL CONTOURS

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 potential victims.

Gerald R. Ford
Massage to congress, June 1975

Generally the whole attention is paid by the crime investigators and the courts on the criminals. They are concerned with the victim of the crime only for detection of the crime and to substantiate or falsify the prosecution story. The suspect is arrested, brought before the court, the victim assists the prosecution as a witness of the crime. The sentence or acquittal as the case may be depends on the evidence. The concept of criminal amelioration has widened the area of criminal reforms e.g. release of the offenders on probation or parole and other reformative methods are being applied to the criminals to make them fit to live in the society. Criminology is mainly concerned with the criminals their social backgrounds, the causes of criminality, methods of punishment and crime prevention etc. Little attention has been made on the victim either as instigator of crime or as deserving protection of administration and society for rehabilitation in an honourable and dignified way.

Conceptual Contours of Victimology

Victimology as an academic term contains two elements: One is the Latin word “Victima” which translates into “victim” and the other is the Greek word “logos” which means a system of knowledge, the direction of something abstract, the direction of teaching, science, and a discipline. Although writings about the victim appeared in many early works by such criminologists as Beccaria (1764), Lombroso (1876), Ferri (1892), Garófalo (1885), Sutherland (1924), Hentig (1948), Nagel (1949), Ellenberger (1955), Wolfgang (1958) and Schafer (1968), the concept of a science to study victims and the word “victimology” had its origin with the early writings of Benjamin Mendelsohn (1937; 1940), these leading to his seminal work

where he actually proposed the term “victimology” in his article “A New Branch of Bio-Psycho-Social Science, Victimology” (1956). It was in this article that he suggested the establishment of an international society of victimology which has come to fruition with the creation of the World Society of Victimology, the establishment of a number of victimological institutes (including the creation in Japan of the Tokiwa International Victimology Institute); and, the establishment of international journals which are now also a part of this institute.3

Victimology, is a fairly new subfield or area of specialization within criminology. Criminology is a rather broad field of study that encompasses the study of law making, law breaking, and societal reactions to law breaking. Victimology, much like criminal justice, falls into the third of these areas. Victimology doesn't have any subfields within itself; in fact, there are few theories, and little or no schools of thought. Going back to criminology, there are four subfields: penology (and the sociology of law); delinquency (sometimes referred to as psychological criminology); comparative (and historical) criminology; and victimology.4

Andrew Karmen,5 who wrote a text on victimology entitled Crime Victims: An Introduction to Victimology in 1990, broadly defined victimology:

"The scientific study of victimization, including the relationships between victims and offenders, the interactions between victims and the criminal justice system -- that is, the police and courts, and corrections officials -- and the connections between victims and other societal groups and institutions, such as the media, businesses, and social movements."

In contract to the definition of victimology given by Andrew Karman, Roberson has given victimology a different shade. He opines, since victimology originated from the study of crime, some would say that victimology is the study of crime (not victimization) from the perspective of the victim.6 In a narrow sense, Victimology is the empirical, factual study of victims of crime and as such is closely

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3 Dussich, John P.J. Victimology-Past, Present and Future – site www.unafei.or.ip visited on 14th May 2008 Time 1:27A.M
4 http://faculty.ncwc.edu/toconnor/300 visited on 2nd Feb. 2009 at 9:10 PM
related to criminology and thus may be regarded as a part of the general problem of crimes. In a broader sense, Victimology is the entire body of knowledge regarding victims, victimization and the efforts of society to preserve the rights of the victim. Hence, it is composed of knowledge drawn from such fields of criminology, law, medicine, psychology, psychiatry, social work, politics, education and public administration. Victimology in its most simple form is the study of the victim or victims of a particular offender. It is defined as “the thorough study and analysis of victim characteristics” and may also be called “victim profiling.”

While explaining the scope of victimology, John Dussich has widened the scope of study in relation to victimology. He observes, “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.

In a very compact manner Anthony Walsh and Craig Hemmens have described that victimology is the study of the risk factors for and consequences of victimization and criminal justice approaches dealing with victims and victimization. The risk factors for victimization are basically the same as the risk factors for victimizing in terms of gender, race, age, sex, personal characteristics, and neighborhood.

Echoing similar sentiments the World Society of Victimology has described victimology 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.

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8 Dussich, John P.J. Victimology-Past, Present and Future – site www.unafei.or.jp visited on 14th May 2008 Time 1:27A.M
From these definitions, one can see that victimology encompasses the study of:

- victimization
- victim-offender relationships
- victim-criminal justice system relationships
- victims and the media
- victims and the costs of crime
- victims and social movements

Taking into account all these parameters it can be concluded that victimology is the scientific study of the social science of (man-made) victims, victimizations by Human Rights violations including crime and the (existing and desirable) reactions towards both. As a social science victimology assembles and generates knowledge in what could be described as a circular process. It is symbolized by a sequence of distinct steps conceptualizing the process of studying victimology as a cycle of foci. It enables one to start at any point. One step leads to the next. Some studies go the whole circle, some go only a part of it. Some research may go through it over and over again. Practically, one can start the cycle at any point. This victimological journey leads from asking previously unasked (or unanswered) questions to definitions and from there to a knowledge base of what one know already about the problem. From here steps take one to measurement problems and operationalization and description, to the collection of data and information, and to the analyses of data. The end of the circle leads to the interpretation of patterns, regularities, associative relationships and probabilities, offering guides to the establishment of hypotheses either derived from existing theories or cautiously formulated from the interpretation of the patterns observed in data. These hypotheses might be further explored. This cannot be done without the statement of theoretical attempts from which further hypotheses or expectations can be derived. From these, expectations on possible data

11 Kirchhoff, Gerd Ferdinand - Perspectives on Victimology – The Science, the Historical Context, the Present www.restorativejustice.org/articles visited on 2nd Jan.2009 at 4:00PM
can be formulated, expectations and predictions that lead researchers to new stations in the circle.\textsuperscript{12}

With the pace of development the concept of justice has acquired new meaning. It is no more confined to criminal and punishment as its core elements. Victim too has become an integral part of the criminal justice system. In the twenty first century, Victimology no longer can mainly rest on speculation – it has matured to a social science and, it is therefore primarily interested in reality as it is open to people’s experience. Victimologists are not philosophers or normative thinkers any longer. Interdisciplinary sciences like victimology can best be symbolized by a ring of intersecting circles. The single circles represent the contributions of other fields to victimology. They intersect with their neighbors and with other contributors of the ring. The area which these contributors share with the inner circle symbolize the contributions of this science to victimology. The figure demonstrates that there is a free area which is not determined by contributors of some sorts. A typical field of independent victimology must be defined. Victimology as a separate science will establish itself as an own field when and insofar it has its own area as well, and own a unique area which is not fully determined by its contributors.

Many “home faculties” have contributed to this new science. For a while, topics like “The Contribution of the Victim to the Genesis of Crime” or “The Victim in the Criminal Justice System” were discussed. Scholars with a legal background defined these as the center of the new field, as the essence of victimology they occupied the new field immediately as their territory. They tried to prescribe what victimology should be – a part of (their) criminology. They tried to prescribe what questions it should ask. This domination ended when victimologists realized that there is the large field of victim assistance, and there are other activity oriented applications of knowledge about victims and their needs. These areas need to be included, fields of knowledge in which the legal orientation does not really help.\textsuperscript{13}

\textsuperscript{12} ibid
\textsuperscript{13} ibid
Victimology compasses within its scope study of other areas of social concern. It is in fact interdisciplinary subject which is more akin to branch of criminology. The figure given below is indicative of the close relationship between many faculties of social science. 

In spite of the fact that victimology embraces many other social sciences for its study still it enjoys its own specific field of study. So it can be said that victimology becomes a separate science when and insofar it has its own area which is exclusively not determined by its contributor fields. A victimologist know more than the contribution of the own “home faculty” to the science. A victimologists is a social scientist in an interdisciplinary science.

**Historical Development of Concept of Victimology**

Early victimological notions were not developed by criminologists or sociologists, but rather by poets, writers, and novelists. Thomas de Quincey, Khalil Gibran, Aldous Huxley, the Marquis de Sade, Franz Werfel, are only a few of those writers who can be described as literary victimologists.\(^\text{14}\)

The scientific study of victimology can be traced back to the 1940s and 1950s. Until then, the primary focus of research and academic analysis in the field of criminology was on criminal perpetrators and criminal acts, rather than on victims. Two Criminologists, Mendelsohn and Von Hentig, began to study the other half of the offender/victim dyad: the victim. They are now considered the "fathers of the study of victimology." But the term victimology was coined in 1949 by an American psychiatrist, Frederick Wertham, who used it for the first time in his book ‘The Show of Violence’, in which he stressed the need for a science of Victimology. In their efforts to understand crime, these new "victimologists" began to study the behaviors and vulnerabilities of victims, such as the resistance of rape victims and characteristics of the types of people who were victims of crime, especially murder victims.17

In 1941 Von Hentig published an article with the title “Remarks on the Interaction between Perpetrator and victim”. Later he published “The Criminal and his Victim”, a criminological text book in which he devoted a chapter to the victim. He treated the victim as one of the participants in a crime. Victims were classified according to the nature of their involvement in the criminal act. It was thought that a study of the victim’s role might result in a better prevention of crime.18

Von Hentig studied crime and victims in the 1940s, and Steven Shaffer later published ‘The Criminal and His Victim’. Their analysis of murder focused on types of people who were most likely to be victims of homicide. The most likely type of victim Von Hentig identified is the "depressive type" who was seen as an easy target, careless and unsuspecting. The "greedy type" was seen as easily duped because his or her motivation for easy gain lowers his or her natural tendency to be suspicious. The "wanton type" is particularly vulnerable to stresses that occur at a given period of time in the life cycle, such as juvenile victims. Von Hentig’s last type was the "tormentor," the victim of attack from the target of his abuse, such as the battered woman. Von

15 Theoretical Perspectives of Victimology and Critical Research site www.ojp.usdoj.gov/ovc/assist/nvaa visited on 5th April 2009 at 11:15 AM
16 Zedner,Lucia Victims chapter 13 p.420 in The Oxford Handbook of Criminology edited by Mike Maguire,Rod Morgan and Robert Reiner 3rd edition oxford University Press Delhi, 1st published in 2002. See also Victimology Past, Present And Future- Ezzat A. Fattah,
17 Theoretical Perspectives of Victimology and Critical Research site www.ojp.usdoj.gov/ovc/assist/nvaa visited on 5th April 2009 at 11:15 AM
18 Dijk Jan J.M.Van- Introducing Victimology site rechten.uvt.nl/victimology visited on 20th August 2007 at 9:40PM
Hentig's work provided the foundation for analysis of victim-proneness that is still evident in the literature today. Wolfgang's research followed this lead and later theorized that "many victim-precipitated homicides were, in fact, caused by the unconscious desire of the victims to commit suicide." Viewed from the perspective of criminology, victimology initially devoted much of its energy to the study of the how victims contribute -- knowingly or unknowingly -- to their own victimization, and potential ways they may share responsibility with offenders for specific crimes.19

The first systematic treatment of victims of crime appeared in 1948 in Hans Von Hentig's book *The Criminal and His Victim.* In the fourth part of the book, under the provocative title 'The Victim's Contribution to the Genesis of the Crime,' Von Hentig criticized the static unidimensional study of the offender that had dominated criminology until then. In its place he suggested a new dynamic and dyadic approach that pays equal attention to the criminal and the victim. Von Hentig had treated the topic earlier in a paper published in the *Journal of Criminal Law and Criminology* in 1940/41.20

In 1947, Mendelsohn presented a paper in French at a congress in Bucharest in which he coined the term victimology. Like Von Hentig he drew attention to the part played by victims in precipitating crimes of violence, for example through provocation. For Mendelsohn, a defense counsel, victim precipitation was a mitigating circumstance in meting out punishment for the offender.21 In the course of his legal practice, Mendelsohn interviewed his clients to obtain information about the crime and the victim. He viewed the victim as one factor among many in the criminal case. His analysis of information about victims led him to theorize that victims had an "unconscious aptitude for being victimized."22

Of great significance to the development of victimology as a field of research in its own right was a book by S. Schafer published in 1968, entitled "The Victim and his Criminal; a study into functional responsibility". As the title, which paraphrases

19 TheoreticalPerspectives of Victimology and Critical Research site www.ojp.usdoj.gov/oveassist/nvaa visited on 5th April 2009 at 11:15 AM
21 Dijk, Jan J.M. Van Introducing Victimology- site rechten.uvt.nl/victimology visited on 20th August 2007 at 9:40 PM
22 TheoreticalPerspectives of Victimology and Critical Research site www.ojp.usdoj.gov/oveassist/nvaa visited on 5th April 2009 at 11:15 AM
the title of Von Hentig’s classical textbook, indicates, the victim is at the heart of this monography. Schafer presents victimology as the independent study of the relationships and interactions between offender and victim before, during and after the crime. In addition to victim precipitation in the events resulting in the criminal act, the obligation of the offender to make good by compensating his victim is now also seen as part of the subject matter. This view was shared by the Dutch criminologist Nagel in his publications on the “victimological notion” in criminology. Like the other pioneers, Nagel argued for an interactionist victimology. He was particularly interested in the relationship between offender and victim after the commission of the crime. In his opinion the criminal justice system should aim to satisfy the offender’s need for atonement, the victims need for retribution and their joint need for reconciliation. Fattah, a Canadian criminologist who published a book entitled: *La victime: est-elle coupable?* (“Is the victim to blame?”) in 1971 - and one of the speakers at the Amsterdam symposium - can also be regarded as belonging to the first generation of penal victimologists. These pioneering authors were all criminal lawyers and/or criminologists. Their field of interest was the victim as key figure in the social processes resulting to and following from criminal acts. The attempts at studying the role of the victim as co-precipitator of the crime continued in the empirical studies of Wolfgang (1958), and later in those of Amir on rape (1971). The key notion here is “victim precipitation” as a neutral, non-legal concept which can help to explain the occurrence of criminal acts.  

Usually, textbooks of Victimology refer to Hans von Hentig and to Benjamin Mendelsohn as the first victimologists, the “Founding Fathers” of Victimology. Hans von Hentig is the famous author of early pioneering scientific contributions. Usually reference is given to Benjamin Mendelsohn, especially to his presentation in 1947 in Rumania as the first occasion that the word Victimology was used and a new science, victimology, was designed. It appears that the history of Victimology starts with these two authors in the fifth decade of the 20th century. 

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23 Theoretical Perspectives of Victimology and Critical Research site www.ojp.usdoj.gov/ovc/assist/nvaa visited on 5th April 2009 at 11:15 AM
24 Kirchhoff, Gerd Ferdinand - Perspectives on Victimology – The Science, the Historical Context, the Present www.restorativejustice.org/articles visited on 2nd Jan.2009 at 4:00PM

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Dr. Hans Von Hentig, a lawyer, and Dr. Henry Ellenbager, a psychiatrist, happen to be the two pioneers in the area of victimology which the former called ‘victimogenesis’. These two treated victimology as a part of criminology since it relates to causation and prevention of crime while Mendelsohn thought it to be a separate discipline having regard to its aim and structure. A majority of the persons involved in the subject hold that victimology ought to be treated as a part of criminology which cannot be regarded as a discipline confined to criminals easily.\textsuperscript{25}

**Pioneers in Victimology**

The issues of victim-offender relationships are not new, but for a long time it was a neglected problem. But the pioneering work of certain authors had generated immense interest among the public and in the administration of justice regarding the field of Victimology. The pioneers of victimological studies are mainly three scholars from different parts of Europe.

**Hans Von Hentig**

For Hentig, Victimology is a part of criminology. He holds that mutual relationship between offender and victim reflects oneness of Criminology and Victimology. He sees the mutual connection between victim and victimiser. The main contribution of the understanding of the victim’s role in crime is to lead the way toward the study of crime in its totality, and particularly where victim-risks and victim-precipitation are concerned.\textsuperscript{26}

**Beniamin Mendelsohn**

Mendelsohn considers Victimology as a social science. For him it is a science of “victims and victimity”. So Victimology can take into account all phenomena which cause victims. According to Mendelsohn, the victim can be anyone, physical or moral person who suffers either as a result of ruthless design or accident. Hence, there are victims of crime and victims of accident and calamities. Therefore, for Mendelsohn, Victimology is a separate and autonomous social science. He coined the term Victimology. He sees “victimal” as the opposite of “criminal” and “victimity” as the opposite of “criminality”

\textsuperscript{25} Siddique, Ahmad ,Criminology- Problems and Perspectives ,S.M.A. Quadri 5th Edition 2005 Eastern Book Co.Lucknow
\textsuperscript{26} For details see Hentig Von,The Criminal and his Victim, 1948

28
Stephen Schafer

Schafer considers that victim-offender relationship stresses the necessity to acknowledge the role and responsibility of the victim. As the victim is not simply the cause of and reason for the victimization, but has an important part to play in the search for an objective criminal justice and a solution to the victimization problem.

Classification of Victimology

In the backdrop of above discussion victimology can broadly classified in two main categories, Penal Victimology and General Victimology.27

Penal Victimology28

The interests of first victimologists Hentig, Mendelsohn and Wolfgang continue to be one of the main streams within victimology today. This stream has been called penal victimology as contrasted to general victimology. For the adherents of penal victimology the scope of the field is defined by the criminal law: victimology studies the victims of incidents defined as criminal by law. The research agenda of this victimological stream combines issues concerning the causation of crimes and those concerning the victim’s role in the criminal proceedings. Penal victimology looks at the dynamic interplay between victim and offender. An appropriate, alternative name for this stream would be interactionist victimology.

The most important political criticism leveled against this type of victimology is that it provides arguments for blaming victims for their fate. From a historical perspective, it cannot be denied that Mendelsohn in his early publications draw the attention to the victim’s involvement with the intention to disculpate the offender and shift part of the blame upon the victim. In later victimological publications by Mendelsohn and others the involvement of the victim in the commission of the crime is analyzed to explain the dynamics of criminal behavior without any intent to inculcate the victim. It cannot be denied, however, that the victimological notion of victim-precipitation can be exploited by others for the purpose of victim blaming.

27 For details see Schafer Stephen, Compensation of Victims of Criminal offences, revue international de driot penal
This criticism against victimology was voiced most clearly by feminist researchers, for example in reviews of Amir’s study of victim precipitation in rapes. In relation to violence against women, the issue of victim-precipitation is particularly sensitive. The notion that victims by their provoking behavior triggered their victimization by male victimizers - and in fact deserved to be victimized- is part of the patriarchal mindset which is at the root of many of such crimes. By focusing on the victim’s involvement attention is diverted from the structural causes of violence against women.

Researchers who study the role played by the victim in the dynamics resulting in the crime as well as in the ensuing legal conflict will typically hold discriminate opinions on the punishment of the offender. In some cases the victim might indeed have to share part of the blame. In other cases the victim has an interest in being reconciled with the offender. In penal victimology there is an intrinsic interest in non-punitive solutions to criminal incidents (such as mediation) which, at least in theory, empower both victims and offenders. For the pioneers in victimology, offenders and victims are equally deserving of humanitarian concerns. Since concern for the offenders does not conflict with concern for the victim there is every reason to preserve this tradition. This even-handedness is perhaps less justified, though, with regard to crimes committed in the context of structural power inequalities. Researchers who come to victimology from a gender-equality perspective have made main stream victimologists more sensitive to gender issues and to power inequalities generally.

In one important respect the new generation of victimologists focusing on gender-issues, seems to be in full agreement with the pioneers of penal victimology. According to both, victims must not be studied in purely medical terms. Criminal victimization is not a clinical phenomenon. The key to a better understanding of the problems of crime victims is that they have been wronged by another human being and that their shattered sense of justice must be repaired. Victims must not only be given therapeutic help. They must also be rendered justice.

General Victimology

The second main stream of victimology is usually called general victimology.
Like penal victimology, this stream was also first explicitly described by the aforementioned Mendelsohn. In one of his later post-war publications (1956), Mendelsohn advocated a general study of what he now called “victimity”, with a view to reducing it by prevention and victim assistance. In later papers he called for the establishment of victims’ clinics. The assistance for victims should be based on a specific personal, social and cultural rehabilitation theory. Mendelsohn’s interest no longer lay with crime and its prevention, but with the prevention and alleviation of “victimity” in a wide sense. The subjects of study should not only include victims of crime and abuse of power but should also include victims of accidents, natural disasters and others acts of God. He advocated the development of general victimology as a discipline in its own right, independent of criminology or criminal law, which would assist governments in minimizing human suffering. This new definition of victimology must of course be understood against the background of the human rights abuses during the second world war of which Mendelsohn himself was a victim.

**Concept of Victim of Crime**

The concept of *victim* dates back to ancient cultures and civilizations, such as the ancient Hebrews. The topic “victim” is much older – Schafer (1975) even constructs a “Golden Age of the Victim” which he located in ancient Mesopotamia, from where the influential Code of Hammurabi came to people. This Golden Age is seen as era when the victim alone determined what happened to the offender. The topic “victims” can be found on the scientific agenda predating these Founding Fathers.29

The word “victim” has its roots in many ancient languages that covered a great distance from northwestern Europe to the southern tip of Asia and yet had a similar linguistic pattern: victima in Latin; vih, wéoh, wigin Old European; wih, wíhiin Old High German; véin Old Norse; weih in Gothic; and, vinak tiin Sanskrit.30 Its original meaning was rooted in the idea of sacrifice or scapegoat -- the execution or casting

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29 Kirchhoff, Gerd Ferdinand- Perspectives on Victimology – The Science, the Historical context, the Present Site www.restorativejustice.org/articles visited on 2nd Jan.2009 at 4:00PM

out of a person or animal to satisfy a deity or hierarchy. Over the centuries, the word "victim" came to have additional meanings. During the founding of victimology in the 1940s, victimologists such as Mendelsohn, Von Hentig, and Wolfgang tended to use textbook or dictionary definitions of victims as hapless dupes who instigated their own victimizations. This notion of "victim precipitation" was vigorously attacked by feminists in the 1980s, and was replaced by the notion of victims as anyone caught up in an asymmetric relationship or situation. "Asymmetry" means anything unbalanced, exploitative, parasitical, oppressive, destructive, alienating, or having inherent suffering. In this view, victimology is all about power differentials.

Today, the concept of victim includes any person who experiences injury, loss, or hardship due to any cause. Also today, the word "victim" is used rather indiscriminately; e.g., cancer victims, holocaust victims, accident victims, victims of injustice, hurricane victims, crime victims, and others. The thing that all these usages have in common is an image of someone who has suffered injury and harm by forces beyond his or her control. The frequent and diverse use of the term "victim" -- both in conversation and in print -- has changed the way people think of victims today. The current connotations of the word extend well beyond the historical meaning.  

A review of the definitions of "victim," listed in the American Heritage Dictionary, illustrates the breadth of the accepted meaning of the term "victim":

1) Someone who is put to death or subjected to torture or suffering by another.
2) A living creature slain and offered as sacrifice to a deity or as part of a religious sacrifice.
3) Anyone who is harmed by or made to suffer from an act, circumstance, circumstance agency or condition: victims of war.
4) A person who suffers injury, loss, or death as a result of a voluntary undertaking: a victim of his own scheming.
5) A person who is tricked, swindled, or taken advantage of; a dupe.

Thus, a victim may be an innocent, led to slaughter, a dupe, or someone whose suffering is caused by his or her own scheming or ineptitude. It is no wonder that

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society has become confused about how positively or negatively to regard some victims. Similarly the term "crime victim" has been used to include a person, groups or people, or entities who have suffered injury or loss due to illegal activity. The harm can be physical, psychological, or economic. By definition, this includes victims of fraud or financial schemes, businesses, or even the government. In tax or fraud cases, the victim is the government, and the loss of revenue is ultimately felt by honest citizens who dutifully fulfill their responsibilities. Accordingly the term "crime victim" generally refers to any person, group, or entity who has suffered injury or loss due to illegal activity. The harm can be physical, psychological, or economic. The legal definition of "victim" typically includes the following: A person who has suffered direct, or threatened, physical, emotional or pecuniary harm as a result of the commission of a crime; or in the case of a victim being an institutional entity, any of the same harms by an individual or authorized representative of another entity. Group harms are normally covered under civil and constitutional law, with "hate crime" being an emerging criminal law development, although criminal law tends to treat all cases as individualized.32

Besides "primary crime victims", there are also "secondary crime victims" who experience the harm second hand, such as intimate partners or significant others of rape victims or children of a battered woman. It may also make sense to talk about "tertiary crime victims" who experience the harm vicariously, such as through media accounts or from watching television.33 One of the first books entirely devoted to victims of crime was The Crime Victims Book, which addressed the issue of "who is the victim?" Bard and Sangrey34 attempted to paint a picture of crime victims, stating that: "Every victim of personal crime is confronted with a brutal reality: the deliberate violation of one human being by another. The crime may be a murder or a rape, a robbery or a burglary, the theft of an automobile, a pocket picking, or a purse snatching -- but the essential internal injury is the same. Victims have been assaulted - - emotionally and sometimes physically -- by a predator who has shaken the world to its foundations."

32 Victimology Theory site http://faculty.ncwc.edu/toconnor/300 visited on 2nd Feb.2009 at 9:10 PM
33 ibid
The United Nations General Assembly’s 1985 Declaration on the Basic Principles of Justice for Victims and Crime and Abuse of Power has been accepted by the World Society of Victimology as a frame of reference. The subject matter of victimology can be defined in the terms of the UN declaration: Victims 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, including those proscribing abuse of power. This definition of the victim is relatively open. The scope of the subject matter of victimology will become wider if, what seem likely, more forms of violence and abuse of power are covered by national or international criminal legislation and/or jurisprudence.

Black’s Law Dictionary has given a very compact description of victim in the following words; “the person who is the object of a crime or tort, as the victim of a robbery is the person robbed.”

For the first time in Indian Criminal Justice System the definition of the term victim is given in the Criminal Procedure Code by Criminal Procedure Code (Amendment) Act, 2008.\(^\text{35}\) New sub-section (wa) is inserted to Section 2 of the Criminal Procedure Code. According to 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.\(^\text{36}\)

**Position of Victim in Criminal Proceedings**

The development of organized society, according to the idealized view, is regarded as a continuous development of order out of chaos. According to this view, primitive man could rely only on himself for defence and vengeance. Society brought with it rules of conduct, enforced when necessary by some figure of authority. In particular, certain forms of conduct (such as taking property belonging to another, causing another person bodily injury) were condemned, and various forms of punishment awaited the offender. This mechanism of criminal justice was seen to deter crime, thus providing potential victims with the best form of protection. If, despite this deterrence, an offence did take place, it was no longer up to the victim to

\(^\text{35}\) Section 2(wa) came into force on 31st December, 2009

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see that the offender was “brought to justice” he was to turn to the agents of the central authority, who would perform this service for the victim.36

Indeed, some commentators have argued that the position of the victim may have retrograded during the most recent period of development.37 The development of the position of the victim is unavoidably tied to the over-all development of the criminal justice system, and of society in general. One of the predominant trends in this has been differentiation, specialization and stratification, a development from a “Gemeinschaft” society to a “Gesellschaft” society. In the process of social control, this entails a shift from a system where every person had an equal potential for exercising social control (subject, of course, to such factors as strength and mental abilities) to a concentration of control functions in the hands of agencies and individuals specifically entrusted with this task38.

According to this view, the role of the victim weakens along with the development of the criminal justice system. The application of law becomes more and more complex, and consequently it is considered a matter that should be left to specialists and experts. Conflict situations are no longer left in the hands of the persons immediately involved, and are instead turned over to agencies and individuals who have been trained for the task. Such experts, in turn, are in a position to use law and their expertise as a tool of social control. The interest of the victim in obtaining satisfaction for the offence is not necessarily the primary consideration of the criminal justice system. This view therefore provides a more pessimistic view of the development of the role of the victim. The increase in state control not only limits the freedom of the individual: it also weakens the possibilities that victims have of directly obtaining redress. Both of the above views of the development of criminal law and of the position of the victim can be described in terms of a development from community law to state law. In this, community law is understood as a system in which the aggrieved victim is the central actor. It is he who bears both the responsibility for seeking satisfaction and the right to do so. In modern procedural terms, he retains control of the prosecution. Extrajudicial settlements are preferred to

36 “There is perhaps no other branch of law in the history of which the progressive development of the social state and public authority, and the reconstruction of society, are so heavily traceable, as in criminal law.” Von Bar, A History of Continental Criminal Law, South Hackensack, New Jersey 1968 p.119
37 See Christie Conflicts as Property, British Journal of Criminology 1978 and 1981
38 See Joutsen, Matti: The role of the victim of crime in the criminal justice system of Europe, Helsinki, 1986
formal court action, and compensation rather than discipline is the optimum conclusion. In state law, on the other hand, an offence is considered to imply the notion of insult to the public. When this is the case, the state is seen to have a vested interest in the case, which leads to state control of prosecution, court action and sanctions.  

This view of development in effect draws two stereotypes, and suggests that one has replaced the other. According to the stereotype of community law, the victim or perhaps the immediate circle of the victim decides on what measures to undertake on the basis of an offence. This might include ignoring the offence entirely (for example when the offender is obviously more powerful), exacting private or collective vengeance, or entering into informal negotiations on a possible settlement. According to the stereotype of state law, which is seen to have replaced community law, once an offence occurs, it is an official matter. The offence is investigated, the alleged offender is prosecuted, and a adjudicating person or body applies various legal norms to determine what formal action, if any, is called for. The formal action has often taken the form of punishment rather than of a call for compensation to the victim.

**Victims and the Positive School**

In the history of the “victim”, the Italian School of Positivism became very important. This school represented the “modern” way of constructing the criminal and criminal justice. Three Italian scientists are the famous representatives of this school, Cesare Lombroso, the socialist physician who introduced the positivist method into criminology and the somewhat younger scholars Enrico Ferri and Rafaele

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41 See Joutsen, Matti: The role of the victim of crime in the criminal justice system of Europe, 1986 Helsinki

42 ibid

43 Kirchhoff, Gerd Ferdinand: Perspectives on Victimology – The Science, the Historical context, the Present site www.restorativejustice.org/articles visited on 2nd Jan. 2009 at 4:00PM
Garofalo. In 1884 Enrico Ferri, 1856–1929, Italian lawyer and, disciple of Lombroso, publishes in 1884 his “Sociologia criminale”. He opposes the classical school, and its unproven reliance on free will and retribution of guilt. The retributive action of the past must be substituted by crime prevention and by “positive” reactions, argued Ferri. Ferri very clearly postulates that one important new goal of justice must be: to indemnify the victim. Indemnification takes two routes: one is the indemnification by the offender (that is what we nowadays in Victimology call restitution). The other is the indemnification by the state (that is called nowadays “compensation”). Enrico Ferri understood the reason for civil law reparation of damage. He understood why classical lawyers maintained that criminal punishment must be an additional burden for the offender - in addition to the civil law consequences. But in the view of the empirical reality, the classical way of thinking is a joke, and not taken seriously even by the judges themselves. It was lip service without consequence. In Ferri’s essay of 1895 one can read: “The fundamental principle of the positive system of social defense against crime is that of indemnification for damage, on which the positive school has always dwelt, in combination with radical, theoretical, and practical reforms. Reparation of damage suffered by the victims of crime may be regarded from three different points of view: 1) As an obligation of the criminal to the injured party; (2) as an alternative for imprisonment for slight offences committed by occasional criminals; and (3) as a social function of the State on behalf of the injured person, but also in the indirect and not less important interest of social defense.” In another chapter he wrote: “The Positivists believe: if the individual ought to be always responsible for the crimes which he commits, he ought also to be always indemnified for the crimes of which he is the victim. The State must indemnify individuals for the damage caused by crimes which it has not been able to prevent.” Italy at that time had already a public fund financed by fines. This fund was used to compensate for wrongfully sentenced offenders who had become victims of the justice system. Ferri proposes to widen its scope: Compensation for victims of crime is a social function of the state, compensation is part of social law. It was recompense for the violation of the social contract. These ideas are voiced worldwide: In the meantime, the International Criminalistic Association is founded, international cooperation in different branches of the criminal justice system is getting more and more popular: In 1890, its General Assembly discussed in Christiania, Denmark victim related topics.
In the final decisions of this congress they state: In cases of simple assault, the accused should not be sentenced if he restituted the victim. This was exactly in line with Enrico Ferri’s postulates.

In the same line, the International Prison Conference in 1885 demanded in Paris: since it is the task of the state to protect the victim of crime effectively, the state has to compensate the victim. Compensation, a public function of the state, should be financed by a fund from all fines. Edwin Sutherland, the nestor of American criminology, quoted the works of Garofalo and Ferri in the chapter on “The Victims of Crime” which deals with the losses caused by crime but does not even mention restitution or compensation. That is consequent because his topic is criminology which had in its focus the offender, not the victim.

Victims of Crime – An Assessment by the Victimologists

Different victimologists have tried to classify the victims as per their research field of victimology. They have given different typologies in this concern. Two Main victimologists have given a clear cut and point wise classification of victims. B. Mendelsohn’s Classification (1976), for him, victims are classified primarily in accordance to the degree of contribution made by them towards any crime. They can be of following types:

1. Completely innocent victim
   Children or unconscious persons
2. Victim with Minor guilt & Ignorant Victim
   Women who agree to miscarriage & pay with their life
3. Voluntary victim (as guilty as the offenders)
   Victims committing suicide or asking for Euthanasia
4. Victim more guilty than offenders
   Victim who provokes or induces criminals
5. Most guilty victim
   Who is guilty alone i.e. kills the offender in self-defence

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44 Quoted from Devasia ,VV and Leelamma,Crimonology, Victimology and Corrections (APH),1992
H.V. Henting’s Classification of Victims:

Henting gave wider typology on victim based on the psychological, sociological and the biological factors towards victimization. He differentiate between society made victims and born victims, thus gave a bulky classification of 12 headings.

<table>
<thead>
<tr>
<th>FEMALE VICTIM</th>
<th>Symbol of weakness</th>
</tr>
</thead>
<tbody>
<tr>
<td>OLD VICTIM</td>
<td>Physically and mentally weak</td>
</tr>
<tr>
<td>YOUNG VICTIM</td>
<td>Physically underdeveloped &amp; psychologically immature</td>
</tr>
<tr>
<td>MENTALLY DEFECTIVE &amp; MENTALLY DERANGED</td>
<td>Commonly potential &amp; actual victim of crime due to intoxication or mental abnormality</td>
</tr>
<tr>
<td>IMMIGRANT</td>
<td>Innumerable difficulty n adjusting to new society</td>
</tr>
<tr>
<td>MINORITY</td>
<td>Racial, linguistic, caste &amp; religious prejudices</td>
</tr>
<tr>
<td>DULL NORMALS</td>
<td>Born victims like idiots</td>
</tr>
<tr>
<td>DEPRESSED</td>
<td>Suffer due to feeling of pessimism, apathy &amp; inadequacy of feelings</td>
</tr>
<tr>
<td>ACQUISITIVE</td>
<td>Whose desires leads him towards victimization</td>
</tr>
<tr>
<td>WANTON</td>
<td>Sexually lawless &amp; unrestrained, who fall victim to strong criminal</td>
</tr>
<tr>
<td>LONESOME &amp; HEART BROKEN</td>
<td>Persons having desires for friendship and happiness</td>
</tr>
<tr>
<td>TORMENTOR</td>
<td>Who torture others &amp; ultimately himself became victim</td>
</tr>
<tr>
<td>BLOCKED &amp; FIGHTING VICTIMS</td>
<td>Who are awake to save themselves fall prey to crime. Over-cautious.</td>
</tr>
</tbody>
</table>

Thus it can be concluded that the victims can come from various groups and classes in the society, and many a times, society itself, in its entirety is the victim of crime. The researcher has attempted to classify victims in the various classes.

Victimology : Review of the Latest Literature

In the 1970s individual studies of the victims of specific crimes, popular in the early stages of victimology, were overshadowed by large scale victimization surveys...
which transformed the micro approach into a macro approach. The primary purpose of these surveys was to determine the volume of victimization, to identify the victim population, and to establish the socio-demographic characteristics of crime victims. While this macro approach proved to be quite useful to the study of trends and patterns in victimization, and to the analysis of the social and spatial distribution of some types of crime, it revealed very little about the social and personal settings in which these crimes took place. It was of limited value in understanding the psycho- and sociodynamics of criminal behaviour, the process of victim selection, victim-offender interactions, the victim's dynamic role in various crimes, and so forth.45

In the last twenty-five years, victimology has undergone a major transformation. Early victimology was mainly theoretical, concerned almost exclusively with causal explanations of crime and the victim's role in those explanations. It focused mainly on characteristics of victims, their relationships and interactions with their victimizers, and the analysis of victim behaviour as a situational variable, as a triggering, actualizing or precipitating factor. This theoretical framework, proposed by Von Hentig, guided the pioneering research carried out by Ellenberger, Wolfgang, Amir, Normandeau, Curtis, Silverman, and Fattah among others. Concern for the plight of crime victims could be found primarily in the modest state compensation programs to victims of crime that were set up in some countries such as New Zealand, England, Canada and the US. The rediscovery of crime victims, spearheaded by the feminist movement, a movement that championed the cause of victims of rape, sexual assault and domestic violence, generated a great deal of empathy and sympathy for a largely disenfranchised group.46

Theoretical victimology became the object of unwarranted attacks and unfounded ideological criticism. It was portrayed by some as the 'art of blaming the victim'. A new focus for victimology was taking shape: helping and assisting crime victims, alleviating their plight and affirming their rights. A political movement was born and victimology became increasingly defined and recognized through its applied component. Victimology meetings mirrored the transformation of victimology from

an academic discipline into a humanistic movement, the shift from scholarly research to political activism. These meetings were often turned into platforms for advocacy on behalf of victims. One of the primary tasks of theoretical victimology is to collect empirical data on crime victims. The main instrument used at present to collect this information is victimization surveys, conducted at a local, regional, national and international level. Worthy of notice among these surveys are the ones carried out on a regular basis, at regular intervals, in England and the U.S.: the British Crime Survey, and the National Crime Survey (the United States). Each of these surveys yields a wealth of information on crime victims. Both of them allow for a thorough analysis of the temporal and spatial patterns and trends in various types of victimization. The original goal of these surveys, namely counting victimization, has been largely expanded. Several new questions have been added to the instrument in recent years, in order to explore previously uncovered areas such as the levels of fear of crime, the levels of satisfaction with police action, the reasons for not reporting an incident to the police, the consequences of victimization, etc. The surveys further examine the measures taken by the respondents to prevent certain types of offences, or to minimize the chances of future victimization.47

An important step on the road to comparative victimology was reached with International Crime Surveys. The titles 'crime survey' and 'victimization survey' continue to be used interchangeably and the last international survey was called the International Crime Victim Survey.48

Theoretical Models

The wealth of data collected mainly through victimization surveys has led to various theoretical formulations. Models have been developed to offer plausible explanations for the variations in victimization risks, and for the clustering of victimization in certain areas and certain groups. They have also helped to unravel the intriguing phenomenon of repeat victimization. The different models are presented

and summarized by Ezzat A. Fattah in his book, Understanding Criminal Victimization.49

Life Style Model

One of the first and most important models explaining the differential risks of victimization is the life style model developed by Hindelang, Gottfredson, and Garofalo. This model posits that the likelihood an individual will suffer a personal victimization depends heavily on lifestyle. Using lifestyle to explain variations in risk is neither a novel nor a unique approach. It has been known for a long time that the probability of accidental death or injury is in many respects related to people's lifestyle and the kind of activities in which they are involved. Physicians have repeatedly stressed the close link between lifestyle and routine activities and the risk of suffering certain diseases such as lung and skin cancer, high blood pressure and cardiovascular ailments, liver cirrhosis, AIDS, etc. As a matter of fact, the lifestyle concept permeates the explanations given for higher or lower susceptibility to a wide variety of diseases. The belief that lifestyle can influence the probability of victimization by increasing or decreasing people's chances of becoming victims of certain crimes may be seen as a logical extension of this concept to the social sphere.50

Routine Activity Approach

Another explanatory model is the routine activity approach developed by Cohen and Felson. The focus in Cohen and Felson's approach is on "direct-contact predatory violations," which are those "involving direct physical contact between at least one offender and at least one person or object which that offender attempts to take or damage". They argue that the occurrence of this type of victimization is the outcome of the convergence in space and time of three minimal elements: motivated offenders, suitable targets, and absence of capable guardians. The central factors

underlying the routine activity approach are opportunity, proximity/exposure, and facilitating factors.51

The "lifestyle" and "routine activities" models are by no means the only ones. There is also the opportunity model and the Dutch model. The opportunity model incorporates elements from the previous two and posits that the risk of criminal victimization depends largely on people's lifestyle and routine activities that bring them and/or their property into direct contact with potential offenders in the absence of capable guardians. The Dutch model was developed by Van Dijk and Steinmetz and suggests three main factors: proximity, attractiveness, and exposure as the most important determinants of differential victimization risks.52 In an attempt to integrate the various models into a comprehensive schema Ezzat A. Fattah53 grouped all the seemingly relevant factors into ten different categories. These are:

1. Opportunities, which are closely linked to the characteristics of potential targets (persons, households, businesses) and to the activities and behaviour of these targets.

2. Risk factors, particularly those related to sociodemographic characteristics such as age and gender, area of residence, absence of guardianship, presence of alcohol and so forth.

3. Motivated offenders: Offenders, even non-professional ones, do not choose their victim/targets at random but select their victims/targets according to specific criteria.

4. Exposure: Exposure to potential offenders and to high-risk situations and environments enhances the risk of criminal victimization.

5. Associations: The homogeneity of the victim and offender populations suggests that differential association is as important to criminal victimization as it is to crime and delinquency. Thus individuals who are in close personal,

social, or professional contact with potential delinquents and criminals run a 
greater risk of being victimized than those who are not.

6. Dangerous times and dangerous places: The risks of criminal victimization are 
not evenly distributed in time or space -- there are dangerous times such as 
evening, late night hours and weekends. There are also dangerous places such 
as places of public entertainment where the risks of becoming a victim are 
higher than at work or at home.

7. Dangerous behaviours: Certain behaviours such as provocation increase the 
risk of violent victimization while other behaviors such as negligence and 
carelessness enhance the chances of property victimization. There are other 
dangerous behaviours that place those engaging in them in dangerous 
situations where their ability to defend and protect themselves against attacks 
is greatly reduced. A good example of this is hitchhiking.

8. High-risk activities also increase the potential for victimization. Among such 
activities is the pursuit of fun, which may include deviant and illegal activities. 
It is also well known that certain occupations such as prostitution carry with 
them a higher than average potential for criminal victimization.

9. Defensive/avoidance behaviors: Since many risks of criminal victimization 
could be easily avoided, people's attitudes to these risks may influence their 
chances of being victimized. It goes without saying that risk-takers are bound 
to be victimized more often than risk-avoiders. This also means that fear of 
crime is an important factor in reducing victimization since those who are 
fee, for example the elderly, take more precautions against crime, even 
curtailing their day and night time activities thus reducing their exposure and 
vulnerability to victimization.

10. Structural/cultural proneness: There is a positive correlation between 
powerlessness, deprivation and the frequency of criminal victimization. 
Cultural stigmatization and marginalization also enhance the risks of criminal 
victimization by designating certain groups as 'fair game' or as culturally 
legitimate victims.
Victimology Today

Victimology today is very different from victimology in the 1950s or the 1960s. Scientific disciplines undergo constant evolution, though the pace of change may vary from one discipline to another. Victimology has undergone not only a rapid but also a rather fundamental evolution in the last two decades. The decades of the 1980s and 1990s could easily be described as a period of consolidation, data gathering and theorization, with new legislation, victim compensation, redress and mediation, and assistance and support to enable victims to recover from the negative effects of victimization.54

In the last few years the discipline of victimology has firmly become established on the academic scene. There has been a substantial increase in the number of universities and colleges offering courses in victimology and related subjects. Numerous books and articles have been published in different languages, and, in addition to several periodicals published in local languages, an International Review of Victimology, in English, was put out by AB Academic Publishers in Britain. A number of national and regional societies of victimology have been established. Japan has been a leader in this respect, thanks to the tireless efforts of the world-renowned victimologist, Professor Koichi Miyazawa, and a dynamic group of his students and followers. The World Society of Victimology continues to hold its international symposia once every three years. The last one, the 13th in the series, was held in Tokiwa University, Mito, Ibaraki, Japan on 23-28 August, 200955 and drew a record number of participants. All in all, victimology is no longer a subject of bewilderment or idle curiosity, but is slowly becoming a household word. This is being facilitated by the extensive coverage crime news and victim issues are receiving in the mass media, by the wide publicity victims' programs are getting and by the proliferation of victim services and victim assistance programs in many countries. The last twenty years have seen the creation and extremely rapid expansion of victim services. Victim assistance programs, totally non-existent a couple of decades ago,

55 http://www.isv2009.com visited on 24th Oct.2010 at 3:00 PM
have mushroomed all over the globe from Australia to Europe, from South America to Asia, and from the large Islands of Japan to the relatively small Canary Islands.56

One of the most important developments in the field of victimology in the last twenty five years has been the formal approval by the General Assembly of the United Nations on November 11, 1985 of the "UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power". In adopting it, the General Assembly stated that it was "Cognizant that millions of people throughout the world suffer harm as a result of crime and abuse of power and that the rights of these victims have not been adequately recognized." Following the adoption of the UN Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power, there has been a flurry of victim legislation in recent years in a large number of countries. Such as Victims' Charter of Rights or Victims' Bills of Rights were passed by legislative bodies in various societies.

In the United States there was an unsuccessful attempt by the victim lobby to bring about a change to the Sixth Amendment of the U.S. Constitution which would have provided a legal basis for protecting the rights of crime victims.57 However, as Karmen58 reports, since 1980 in almost every American state, legislatures passed various statutes acknowledging basic rights for victims. Among those is the right to be notified about and to participate in judicial proceedings, to promptly get back stolen property that was recovered, to be protected from intimidation and harassment, and to receive restitution or compensation. Similar legislation was passed in Canada, Australia, Britain and other European countries. In Europe, victims received a considerable boost from a number of important initiatives in the mid- 1980s, including a Convention and two important Recommendations by the Council of Europe in 1983, 1985, and 1987 on, respectively, state compensation, the position of the victim in the criminal justice system, and assistance to victims.59

The Future of Victimology

It seems axiomatic that the future of victimology will influence, and be influenced by, developments in the justice system. Because of this, the future of victimology will largely depend on the extent to which the paradigm of "restorative justice" is accepted and implemented.60

Societies undergo perpetual change. Today's society is undergoing rapid and radical transformation. Justice paradigms have to change with social evolution in order to remain in harmony with prevailing belief systems and to take stock of whatever advances and discoveries are achieved in the fields of criminology and penology. The archaic goals of expiation and atonement will not be in harmony with the realities and beliefs of the secular, post-industrial society of the 21st century. In modern secular societies the notion of risk and harm are gradually replacing those of evil, wickedness, malice, and are bound to become central concepts in the social and criminal policies of the future. Future policies of crime control will be largely based on risk assessment, risk management, risk coverage, risk reduction, and risk prevention. The measurement of harm: physical, material, and mental, will likely become the central component of social reaction to crime. The primary aims of such a response will be redress, reparation and compensation. All harmful actions will generate an obligation to redress coupled with endeavors to prevent their future occurrence. This will be the era of restorative justice.

Such a paradigm shift will have a profound impact on victimology of the future. In the past two decades, attempts to exploit the cause of crime victims for political gain, and conservatives' efforts to sell the policies of law and order under the pretext of doing justice to those victimized by crime often required the portrayal of victims as vengeful, vindictive, even bloodthirsty. Those claiming to represent and to speak on behalf of victims propagated the erroneous view that concern for crime victims invariably requires harsh, punitive justice policies. While the distress of some victims may be so overwhelming that they will demand the harshest possible penalty for their victimizer, this could hardly be said of the majority of victims of crime. Healing, recovery, redress and prevention of future victimization are the primary

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60 Fattah, Ezzat A. Victimology Past, Present And Future- site
objectives of most crime victims. And if the primary purpose of social intervention is to restore peace, redress harm, heal injury, and prevent repetition of the offense, then it is easy to foresee application of the restorative justice paradigm, with its constructive elements: mediation, reconciliation, restitution and compensation, as the way of the future.

It is thus to be expected that the policies advocated by victimologists in the future, as well as victimological practice and action, will be very different from those of yesteryear and of today. If there is a safe prediction to be made about victimology of the future, it is that it will become a truly scientific discipline and a truly humanistic practice. Victimology led to the opening of new research perspectives. It gave the prospect of more reliable measures of crime, and new insights into factors contributing to crime. The results of the research (for example victimization surveys, victim precipitation studies, studies of the effects of victimization, studies of mediation and conciliation) were then marshaled by the victim movement and criminal justice practitioners as arguments for reforming the operation of the criminal justice system.

VICTIMOLOGY AND SOCIETY

Crime takes an enormous physical, financial and emotional toll on its victims. Being a crime victim may have profound psychological repercussions. The emotional concomitants of serious crime can be more disruptive than the loss of property or physical injury, which are commonly regarded as the most unsettling aspects of criminal victimization. The crime of rape is particularly traumatic. The shock, anger, and depression that typically afflict a rape victim, is known as rape trauma syndrome.

How people are treated after a traumatic event may well affect how they recover. After a traumatic event, victims are typically in great need of support. They are likely to be extremely sensitive to how others react to them and how they describe or make attributions about the event and the role the victim played. If these ascribed meanings are perceived as negative or blaming, the victims’ aversive responses to re-experiencing the trauma may be intensified, leading to increased

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Attempts at avoidance. The extent to which victims' experiences are consensually validated or invalidated by their families or their societal milieu may have an important effect on their individual psychological adaptation to the traumatic stressor.

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 them to forget about the crime and get on with their lives. Families can be a particularly powerful influence in this respect.

Contribution of Family, Friends and Neighbours

When someone is victimized, they may have a variety of needs, ranging from serious and immediate issues such as healing injuries sustained in the commission of a violent crime to lesser issues such as needing someone to watch the kids while the victim goes down to the police station or courthouse. Meeting many victim needs takes specialized knowledge; providing civil legal assistance to help a domestic violence victim file for divorce or helping a victim fill out an application for monetary compensation from the state, for these kinds of needs, victims turn to social service programs. But for a variety of other needs, ranging from borrowing money to getting a broken door fixed to just needing someone to talk to, victims most frequently turn to family, friend and neighbors.

Research studies have shown that victims need many different forms of assistance. Some needs, can only be met by service programs: Victims filing claims for state compensation or domestic violence victims needing to gain child custody or alter the terms of visitation need help from trained professionals. But many needs are mundane. Victims may need a ride to the doctor, someone to watch the kids while

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64 U.N. Handbook on Justice for Victims site www.unhcr.org visited on 6th June 2008 at 2:40PM


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they go to court or just a sympathetic ear to listen to their story. For these kinds of needs, family, friends, neighbors, and even strangers are often the closest source of assistance. In fact, virtually all victims report, receiving some form of assistance from others. Victims are most likely to receive emotional support and practical assistance from friends, family and other members of their social networks. But neighbors— even those not well known to victims— often are the ones who stay with the victim or watch their home and neighbors as well as landlords frequently lend financial assistance to victims.66

The limited research on person who lent support suggests that the effects of crime do not end with the victim, but are transmitted to others with whom the victim comes in contact. The close the relationship between victim and supporter, the more likely supporters are to experience an increase in fear of crime and to take precautions themselves. Nonetheless, the overwhelming feeling among persons who lend a hand is that they feel good about doing so and are happy that they had the chance to be of assistance.

Victim service programs and individuals have complementary roles to play in helping victims to recover from the effects of crime. Family, friends, and neighbors are important resources that help victims with a variety of immediate and simple needs. Government should recognize the significance of social networks in the recovery process and work to enhance the effectiveness of this important resource. For example, government could train persons in understanding and responding to the needs of victims. Through an effective partnership of public and private efforts, victims can get the help they need to reassert control over their lives.

**Social support**

A considerable body of research has demonstrated a link between social support and adaptation to adverse life events, such as illness, depression, victimization and bereavement. For example, some studies have shown that positive social support following life stressors can maintain and enhance self-esteem. Evidence also suggest that the support of family and friends is vital to the adjustment of crime victims. Bard and Sangrey67 (1980) underscore the importance of providing crime victims with

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66 ibid
67 Bard, M. and Sangrey, D.1980 Things fall apart: Victims in Crisis quoted in Healing the Psychological wounds of criminal victimization Predicting Postcrime Distress and Recovery

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tolerance, sensitivity and reassurance during the initial stages following the victimization. Friedman et al. \(^6^8\) (1982) reported that crime victims were more likely to recover from the trauma of the episode with the support of family and friends. \(^6^9\)

In Indian context when a person becomes the victim of a crime, people hesitate to help the victim as they do not want to involve themselves in unnecessary questioning of police. Police call them again and again for interrogation. After that police produced them in the court as a prosecution witness. They are harassed by the offenders as in India there is no law for the protection of witnesses. In all these proceedings they waste their precious time, money and sometimes their life. Because of patriarchial system of society or because of gender discrimination, in offences against the women, most of the time people blame the woman victim for the victimization. That is why woman victims afraid to lodge a complaint against the offenders. Blameworthy attitude of the society increases the traumatic stress of the woman victim of the crime.

**VICTIMOLOGY AND PENAL JUSTICE SYSTEM**

"The degree of civilization in a society can be judged by entering its prisons. A civilization can also be judged by how it treats victims of crime." \(^7^0\)

**Law in Primitive Society**

The inspection of ancient codes shows that the law which they exhibit in unusual quantities is not true criminal law. All civilized systems agree in drawing a distinction between offences against the state or community and offences against the individual, and the two classes of injuries, thus kept apart, call Crimes and Wrongs, criminal and delicta. The penal law of ancient communities is not the law of crimes; it is the law of wrongs, or, to use the English technical work, of Torts. The person


injured proceeds against the wrongdoer by an ordinary civil action and recovers compensation in the shape of money-damages if he succeeds. If the commentaries of Gaius be opened at the place where the writer treats of the penal jurisprudence founded on the Twelve Tables, it will be seen that at the head of the civil wrongs recognized by the Roman Law stood Furtum or Theft. Offences which people are accustomed to regard exclusively as crimes are exclusively treated as torts, and not theft only, but assault and violent robbery are associated by the jurisconsult with trespass, libel and slander. All alike gave rise to an Obligation or vinculum juris, and were all required by a payment of money. This peculiarity, however is most strongly brought out in the consolidated laws of the Germanic tribes. Without an exception, they describe an immense system of money compensation for homicide and with few exception as large a scheme of compensations for minor injuries. ‘Under Anglo-Saxon law’ writes Mr. Kemble ‘a sum was placed on the life of every free man, according to his rank and a corresponding sum on every wound that could be inflicted on his person, for nearly every injury that could be done to his civil rights, honour or peace; the sum being aggravated according to adventitious circumstances.’ These composition are evidently regarded as a valuable source of income; highly complex rules regulate the title to them and the responsibility for them; and, they often follow a very peculiar line of devolution, if they have not been acquitted at the decease of the person to whom they belong. If therefore the criterion of a delict, wrong or tort be that the person who suffers it, and not the state, is conceived to be wronged, it may be asserted that in the infancy of jurisprudence the citizen depends for protection against violence or fraud not on the Law of Crime but on the Law of Tort.71

The conception of offence against God produced the first class of ordinances; the conception of offence against one’s neighbour produced the second; but the idea of offence against the state or aggregate community did not at first produce a true criminal jurisprudence. Yet it is not to be supposed that a conception so simple and elementary as that of wrong done to the state was wanting in any primitive society. In the Homeric trial-scene, the dispute, as if expressly intended to bring out the characteristics of primitive society, is not about property but about the composition for a homicide. The State did not take from the defendant a composition for any wrong

71 Maine, Sir Henry Sumner: Ancient Law, London Oxford, University Press 1959 1st Published in 1861
supposed to be done to itself, but claimed a share in the compensation awarded to the plaintiff simply as the fair price of its time and trouble. Mr. Kemble expressly assigns this character to the Anglo-Saxon bannum or fredum. Ancient law furnishes other proofs that the earliest administrators of justice simulated the probable acts of persons engaged in a private quarrel. In settling the damages to be awarded, they took as their guide the measure of vengeance likely to be exacted by an aggrieved person under the circumstances of the case. This is the true explanation of the very different penalties imposed by ancient law on offenders caught in the act or soon after it and on offenders detected after considerable delay.  

In the inception of societies family life consisted initially of sons and daughters, brothers and sisters under the suzerainty of the eldest member. Many joint families made up the society. The head of the family was, the king of the family, its lawgiver, judge and priest. This is known as the patriarchal system, the first form of government known to history. The power of the father in these families was absolute; he could even put to death any of his children. It was *Patria Potestas* as known to the Twelve Tables. The above account shows that from individual to family and from family to state is the evolution of ancient society. In these two stages of the development of society there was little appreciation of criminal responsibility, because the sole anxiety of the individual was self-preservation and in the second stage the sole anxiety of the family was to protect it against foreign attacks as a necessary means for its preservation. Of course, in the family stage of the society, some sort of a discipline was enforced amongst the members of the family by the *Patria Potestas*. If there was some quarrel between them it was referred to the arbitrament of the head of the family, and he would redress the wrong of the aggrieved member of the family. But the head of one family had no jurisdiction beyond his family. Therefore, it became necessary to evolve some device for bringing several families together; this was done by the development of the clans. With the development of clan, the dawn of law appeared though in a very crude form; and thus the societies developed. Sir Henry Maine in his celebrated book *Ancient law* has stated that “the penal law of ancient communities is not the law of crimes, it is the law of wrong; or to use the English technical word, of Tort. The person injured proceeds

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72 ibid

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against the wrongdoer by an ordinary civil action, and recovers compensation in the shape of pecuniary damages, if he succeeds."73

In support of the view, the ancient practice of compounding murder by payment of ‘blood money’ to the heirs of the person killed is cited by Alfred in his book on Criminal Law of England. Thus :-

If the great toe be struck off, let 20sh be paid as bot.
If it be the second toe let 15sh be paid as bot.
    "    middle most toe 9sh    "    "    
    "    4th toe 6sh     "    "    "
    "    little toe 5sh    "    "    "

Wer was a price set upon a man according to his rank in life. In such a person was killed, the wer was to be paid to his relations.

Bot was the compensation paid to a person who was merely injured.

Wite was the fine paid to the king or other lords in respect of an offence.

In countries where Mohammedan law is strictly followed; even now a homicide may be purged by payment of ‘blood money’ to the relations of the deceased, provided they agree. The idea that all crimes are wrongs against the state or aggregate community, and that it is the proper function of the state to pursue without reference to the persons wronged, is a conception of comparatively modern growth.

The Mohammedan criminal law classified all offences as incurring of one of these classes of punishments namely:

(1)  *Kisas* or retaliation including *diyut-* the price of blood homicide;

(2)  Hud-Specific penalties-theft, robbery etc;

(3)  *Tazeer* or discretionary punishment 74

The study of development of the administration of criminal justice shows that in the primitive society the damages to be awarded to the victim of a crime were determined on the basis of vengeance.

The history of primitive criminal law may be said to have passed through four stages. In the *initial stage*, it involved the idea of injury to the state or collective

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73 Nigam, R.C, Principles of Criminal Law chapter 1, History of Criminal Law
injury, but the state allowed the wronged to avenge himself on the wrongdoer. Then in the second stage, when crimes are multiplied the state is compelled to delegate its powers to particular commissions and not individual persons wronged, not only to investigate the crime committed but also to punish the particular offender if he is proved to be guilty. In the third stage, a further development is made. Here the legislature did not wait for the commission of a crime in order to appoint a commission to investigate and punish the criminal. It appointed a permanent commission to try certain classes of crimes in the expectation that they would be perpetrated. The fourth stage is reached when these commissions instead of being periodical or occasional, are constituted into permanent benches, their judges being appointed according to definite rules and their jurisdiction defined and the specific offences and the penalties imposed therefore also definitely laid down.75

No account of the history of criminal law in the primitive stage will be complete unless one also trace the development of the law of homicide. In the earliest stages homicide as a wrongful act made its appearance in religion before it appeared in the criminal law. Homicide for a very long time remained in many respects a civil wrong. A citizen might initiate a prosecution or homicide. Such proceedings were known as civil actions and not prosecutions. The accused was not arrested pending the trial but also forbidden to enter the sacred place. Even after the trial began, he could escape the death sentence by voluntary exile. Intentional homicide was punished by death and confiscation of goods; while involuntary homicide was punished by banishment for a limited period. In certain cases, the next of kin of the victim could forgive him and the accused could return before the expiration of the period of exile. In the Hebrew Code the capital punishment was provided for homicide. It enjoyed “he that smiteth a man, and he dies, shall surely die.” However, in actual practice in extenuating circumstances “blood money” could be paid. As noticed above, homicide was both a religious as well as a legal wrong. Although the penalty for homicide was laid down in the earlier code, the wrong still remained a civil injury for which a pecuniary compensation could be got. If the slayer was not to be traced the compensation money could be got from his relatives. But it was not a universal rule.

75 Nigam, R.C, Principles of Criminal Law chapter 1, History of Criminal Law
The Hittite Code contained a law rendering the nearest inhabitants pecuniarily liable to the relatives of the slain, i.e. the victim.\(^{76}\)

The next development in the Criminal law is the Roman Criminal law, namely in the days of Justinian. The Roman lawyers in their times gave criminal law a scientific basis and precision. They divided crimes into three classes i.e. (i) Public Judicia, (ii) Extra-ordinaria Crimina, and (iii) Privata Delicta.

**Public Judicia.** These related to crimes which were specifically forbidden by particular laws under defined penalties like death or exile. These offences were treason or felony. They were tried by judges who were representatives of the old permanent commission.

**Extra ordinaria Crimina.** Extra ordinaria Crimina were offences for which no special *Quaestio* and no special punishment were provided. In such offences punishments were left to the discretion of the judge. They may be compared to what are known to common law as offences of misdemeanour.

**Privata Delicta.** Privata Delicta were offences for which a special action was set apart involving a definite result for the injured party such as *action furti* or *action injuriarum*.

**Criminal Law in Ancient India : Hindu Period**

In ancient Hindu civilization, victim was considered more seriously than the accused. *Arthasatra, Manu Smriti* and *Yajnavalkya Smriti* are the three leading law codes of ancient India. The germ of criminal jurisprudence came into existence in India at the time of Manu.\(^{77}\) He gave a comprehensive code which contains not only the ordinances relating to law, but is a complete digest of the then prevailing religion, philosophy and customs practiced by the people.\(^{78}\)

During this period, there was no clear distinction between private and public wrongs. Murders and other homicides were regarded as private wrongs. The right to claim compensation was the rule of the day. A distinction was, however, drawn...

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\(^{76}\) ibid


\(^{78}\) Sengupta *Evolution of Ancient Indian law* (TLL, 1950), p.3. In primitive society in ancient India the administration of justice was the concern of the common people in their various associations, such as *Kula, Sreni, Guilds* etc. The King was not involved in the administration of justice. It was *Dharma Sutras* that mentioned for the first time administration of justice as the function of the king.
between casual offenders and hardened criminals.\textsuperscript{79} Again, he made provisions for exemption from criminal liability, where the act was done without any criminal intention or by mistake of fact or by consent or was the result of accident much on the lines provided in Chapter IV of the Indian Penal Code. The right of private defence was fully developed.

The Code of Manu,\textsuperscript{80} which marks an epoch in the legal history of India and contains not only the ordinances relating to law but also is a complete digest of the then prevailing religion, philosophy, customs and usages observed by the people. Chapter VII concerns the duties of the kings and Chapter VIII relates to secular law and lays down rule according to which the king should administer justice in the courts, "preserving a dignified demeanour, together with Brahmans and with experienced councilors."\textsuperscript{81} If he "does not personally investigate the suits, then let him appoint a learned Brahmana to try them."\textsuperscript{82}

The main offences according to Manu were (1) assault and battery; (2) defamation; (3) theft and robbery and other violence; (4) adultery; and (5) gambling. Later on in the same chapter, he develops them into ten, adding cheating, trespass or transgressions and fornication. He elaborates these crimes and brings out fine distinctions between one another just like any jurist of the modern times. The punishment prescribed for the offences were based on scientific principles. They were (1) censure (2) rebuke (3) fine (4) forfeiture of property and (5) corporal punishment which included imprisonment, banishment, mutilation and death.

In an age when vast swathe of Europe was still emerging from the primitive age and the 'civilised' Roman Empire rapidly disintegrating Kautilya's Arthashashtra provides a valuable insight into the legal system in ancient India. There was, therefore a highly developed concept of monetary fines that were frequently imposed as an alternative to physical punishments. Kautilya's Arthashashtra mentions an exhaustive list of offences and the fines charged for committing them. The amount varied based upon the gravity of the offence, the person who was affected, and the nature of the

\textsuperscript{79} Ibid., pp. 129, 130. Manu says: First, let him punish be gentle admonition; afterwards, by harsh reproof; thirdly by deprivation of property; after that, by corporal pain. But, when even by corporal punishment he cannot restrain such offenders, let him apply to them all the four modes with vigour. Quoted from 4BI Comm 5, 9.
\textsuperscript{80} Its date according to Sir William Jones is 880 B.C., while others place it at about 150 B.C. quoted in Principles of Criminal Law by Nigam
\textsuperscript{81} Manu, Chapter VIII, Verse 1 quoted in Principles of Criminal Law by Nigam
\textsuperscript{82} Ibid., Verse 9.

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accused. “Arthashastra” record that when a citizen suffers at the hand of the predator, both the community and the ruler was supposed to take a rally to help the victim. Necessary funds were to be raised by collecting punitive fines or from the public exchequer, to compensate those, who have suffered harm owing to the violation of law. In the early era of history, emphasis was on compensation, restitution or the spiritual, psychological and material satisfaction of the victim, rather than the punishment. In early India, it is conceived that the king was under a duty to indemnify the individuals, who had suffered due to crime. The case of restitution to the victim of crime started primarily on two obligations, first of the criminal, who inflicted the harm against the person or property of victim and secondly of the state, who failed to protect the victim.

Development of Criminal Law in England

In the earliest English Criminal law the punishments for offences like plotting against the king’s life, of himself or by harboring of exiles or of his men; fighting in a church or breaking the king’s peace and protection and offences against public justice like perjury; offences against religion and morals; offences like unchastity, adultery, incest and simple formation; offences against the persons of individuals like homicide, different kinds of wounds, rape and indecent assaults were either fines or corporal. The corporal punishment was either death, mutilation or flogging. Imprisonment as a punishment was not known. The fines were called *wer, hot and wite*. These fines are discussed earlier in this chapter. It may be observed that all crimes on a first conviction were punishable by *wer, bot and wite*. Suppose a man was murdered and compensation had to be paid to his relations, it was to be measured on the price set upon the deceased namely, the relations were paid the *wer* by the accused on the first conviction. After a previous conviction, *bot* might no longer be paid. The punishment upon a second conviction was either death or mutilation. From the eighteenth century onwards many reforms were introduced in the system of criminal trials which now came to be regarded as a litigation between the king as the plaintiff and the accused as a defendant in a civil case. The presumption of innocence as an advantage secured to the accused in the latter part of the eighteenth century. This presumption was very strictly applied and the prosecutor was required to prove the

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83 Criminal Justice in India: Primitivism to Post-Modernism - Article by A. Lakshminath Published in Journal of the Indian Law Institute vol. (48) 2006
case against the accused beyond all reasonable doubts. Most of the principles of
criminal law were enacted in 1861 by the criminal law consolidation Act.84

**The Emergence of Community Law**

At the earliest stage of development, the definition of wrongdoing was left to
the individual and to the family. There were no figures of authority to establish rules
and command obedience. It is understandable that any subjective threat to one’s own
needs is viewed as wrongdoing. Above all, threats to one’s physiological or security
needs would therefore lead to a reaction. The involvement of the family in the
definition would be due to the importance of the preservation of family members, one
of the chief functions of the family. A threat to one member can easily be seen to be a
threat to the survival of the family as a whole.85

The reaction of the family to perceive wrongdoing presumably did not always
take the same form of violent retribution. The family would have at least two other
alternatives: moving away from the area of interaction, or choosing to redefine the
matter as less serious.86

Once surplus wealth exists, however, yet another method of solving disputes
exists. The wrongdoer or his kin may offer something of value to the victim or his kin
as atonement, as “composition.”87 Composition is a preferable alternative to blood
vengeance when the family values the life of the offending Kinsman and has good
reason to fear the power of the other family to retaliate with violence, either against
this kinsman or another family member. Composition has one further significant
advantage in the settlement of disputes: the size of the composition can be altered in
accordance with a variety of factors. Violent retaliation on the one hand, and ignoring
the wrongdoing on the other, were extreme responses. Composition provided a middle
road. However, a variety of factors clearly came to affect the determination of the size
and type of the composition. These factors included not only the nature of the offence
but also, for example, the relative power position of the wrongdoer and the victim, the
solidarity and behaviour of the kinship groups involved, and the geographical position
of the kinship groups.88

84 Nigam : Principles of Criminal Law
85 Schafer,Stephen: (1986, p. 9) refers to the concept of collective responsibility
86 MacCormack,Geoffrey:Revenge and Compensation in Early Law, American Journal of
87 Hoebel, E.Adason: The Law of Primitive Man. A study in Comparative Legal
Dynamics,Cambridge 1954 pp. 310
88 Schafer, Victimology :The Victim and his Criminal, Reston, Virginia 1977 pp. 11-15

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The Strengthening of State Law

Even in early composition the settlement of the matter was largely in the hands of the two kinship groups immediately involved. However, subject to the consent of these families, it was possible that a third party might be accepted as a mediator. This involved some formalization of community interest in the outcome of the process.\(^8^9\)

Both the formalization of community interest and the rise of the concept of crime were related to the strengthening of state law. What was essentially involved was that an offence was gradually seen as an act directed not only against the victims but also against the community, or against the symbol of the community, its authoritative head. It was becoming a crime and no longer (solely) the subject of a private dispute.

It is not an insignificant point that by taking over the processing of cases and by requiring adjudicated offenders or their kin to provide composition, a channel arose for the exacting of property to the benefit of the central authority.\(^9^0\) At an early stage a distinction was made between payment to the injured party (“bot” or private fine), to the kin of a slayed person (“wer”) and to the third party involved in the determination of the compensation (“wite” or public fine). The present assessment is that the wite was originally intended as compensation to the third party for the trouble involved in bringing about a reconciliation. Quite soon, however, it took on the nature of a fine, payable to the central authority.\(^9^1\)

At the same time it was certainly in the interests of the central power to assert its authority and intervene in disputes in order to secure a monopoly over the use of force. Finally, the increased state involvement can be seen parallel to the loosening of local control. Previously, most of the population generally lived their entire life within the confines of a small area. Under such circumstances, informal social control could remain effective. The growth of cities, the increase in internal migration and the increase in stranger-to-stranger contacts led to a situation where the prosecution of

\(^9^0\) Lenman and Parker: The State, the Community and the Criminal Law in Early Modern Europe (p. 20)
crime could no longer remain purely a local affair, as crime itself became less localized.92

The growing role of the state as well as the diminishing role of the victim was evident in two intertwined developments. The first was the change in the nature and goal of the proceedings. The second was the change in the method by which the proceedings were begun. Throughout much of Europe both developments can be said to have led to the dominance of the central authority over the individual victims by the 1500s. The development in the nature and goal of the proceedings has already been dealt with to the extent that violent retaliation has been replaced by informal composition proceedings, which in turn have been replaced by more formal proceedings leading to both composition (bot or wer) and a sanction (wite). The next step was formal proceedings leading to a punitive measure, with composition (restitution) considered at the most as an ancillary issue.93

The gradual increase in the role of the central authority led to an increased emphasis on state-ordered punishment and to a lessened focus on composition in the proceedings. This development was clearest in the common law countries, where a distinction arose between torts and crimes.94 In these countries composition (restitution) was taken out of criminal law entirely and absorbed by the law of torts. The development of two fields of law brought with it differences in adjudication: the common law now requires that crimes, as offences against the state, be proved "beyond a reasonable doubt", while the corresponding tort only requires proof on a "preponderance of the evidence". Certain offences were considered so heinous that they were "bot-less". No private settlement on compensation was permitted for these. At common law the role of the court was similarly strengthened by making it a misdemeanour for the victim and the offender to reach a private settlement on certain offences.95

The state had gradually replaced the individual victim as the prosecutorial force. The period from the 700s to the 1500s saw a general increase in the importance

93 Joutsen, Matti: The role of the victim of crime in the criminal justice system of Europe, Helsinki, 1986
95 Joutsen, Matti: The role of the victim in the Criminal Justice Systems of Europe, Helsinki, 1986
of the central authority in proceedings and a growth in the official nature of criminal justice. This state take-over of the proceedings thus deprived the victim to a large extent of his ability to determine the course of the proceedings. The initiation of the proceedings was more and more considered a public matter, to be left to a representative of the central authority. The goal of the proceedings also changed. The replacement of composition by the fine often even deprived the victim in practice of the possibility of obtaining restitution. Weisser has noted, "By the sixteenth century, criminal law had completely emerged from its personalized, medieval format. Its functioning no longer rested upon familiarity and its aim was no longer to adjudicate private disputes between particular individuals. With the appearance of the state as the sole source of prosecutorial energy, the criminal act could no longer be viewed as an attack by one person on another; it was now an offence committed against society at large."

The Revival of Victimology and the Victim Movement

The science of victims emerged quite slowly, first in scattered articles and papers from the 1940s. Victimology then became a very popular science during the 1960s and the 1970s. Among the factors behind this were a converging of the interest of researchers, activities and public officials. Among the interested researchers were crimonologists and physicians.

It has been noted that victimology was originally a "victimology of acts" and is now a "victimology of action" concerned with affirmative action for victims of crime. Others have preferred to distinguish between victimology as a discipline and the victim movement as a political force. Such a distinction makes it easier to understand the many different ways in which victimology has been used. The victim movement has not taken the same direction in all of the countries of the world, nor have all practitioners (or researchers) interpreted the results in the same way. According to a recent analysis of the manifestation of the victim interest in criminal policy, four ideologies can be found.
1. Care ideology - which believes that the community should assist the victim in his stress, psychological trauma and financial need.

2. Rehabilitation ideology - which is geared towards restitution and mediation, and thus reintegration of the offender into society.

3. Retribution ideology - which called for punishment in proportion to the damage inflicted.

4. Abolitionist or minimalist ideology - which calls for a lesser role for the criminal justice authorities and correspondingly a stronger role for victims.

1. The care ideology is in keeping with the welfare orientation of modern states which attempt to assist all persons in need. Victims of accidents and illnesses are dealt with in much the same way as injured victims of crime. Persons in need of psychological support, rehabilitation or various forms of counseling can generally turn to the social welfare system regardless of the original cause of their distress. To this extent the victim’s movement has added nothing new.

   In the opinion of the proponents of the ideology, what is new is that the care ideology in the victim movement is calling attention to victimological research which points to more hidden or longer-lasting injuries which had not been dealt with in an appropriate manner. The “hidden” injuries may be psychological difficulties which are not noted even when a victim is detected by the criminal justice system. The remedy for this is generally better training of social service workers and other who come into contact with the victim. Perhaps more importantly, the injury is hidden in the case of those victims who never report the crimes to the authorities. Shelters for the victims of domestic violence, crisis services and so-called hot-lines have consequently been established in several cities and areas. Other services are considering “out-reach” programmes in order to notify “hidden” victims of the availability of services.

   The care ideology also notes that victims of crime may have financial needs not covered by existing services. The first significant law reform associated with the victim perspective in any European country is commonly held to be the adoption of a system of state compensation for victims of crime in England in 1964. While the scheme was in fact not the first state compensation scheme in Europe, it can be clearly attributed to victim policy (as opposed to crime policy) arguments.
2. The rehabilitative ideology can be regarded as a grafting of the victim movements on the social defence movements. Its major contribution to reform of the criminal process in European countries is the recent increase in interest in conciliation and mediation schemes, primarily in Northern and Western Europe. Plans for increasing the possibility of restitution from the offender to the victim are generally justified with care ideology arguments, but also with rehabilitative ideology argument.

3. The retributive ideology, in opposition to the liberalism of care and rehabilitative ideologies and the radicalism of the abolitionist ideology, has a predominantly conservative tendency.

4. The abolitionist or minimalist ideology has called for increased victim and community control of the solving of conflicts, and less state intervention in what the proponents of the ideology consider to be essentially private matters. It is a strong force behind the movement towards reconciliation and mediation in many western European countries.

First, the popular reference to the "forgotten victim of crime," is a clear exaggeration. The victim does indeed have difficulties in many countries in obtaining compensation for his loss. He may not be able to influence the processing of the case to the extent that he may wish. It has also been repeatedly observed that the treatment of many victims by criminal justice agencies in itself is insensitive and a source of victimization ("secondary victimization").101

The victim movement and victim-related factors in general, is only one element influencing the prevailing criminal policy. While it is true that official criminal policy in general has for a long time focused on the question of what should be done with the offender and not what should be done with the victim, this does not mean that the rise of victim movement will lead to a swing in the other direction. It has been repeatedly noted in declaration of victim policy by decision-makers that the improvement of the role and position of the victim should not take place at the cost of due process for the offender. Attempts to raise the punishment for certain offences may run counter to a more general efforts to lower the level of severity of punishment. It is equally obvious that the interest of the state in the prevention and control of crime will not permit an unlimited role for the victim.102

101 Joutsen, Matti : The role of the victim in the Criminal Justice Systems of Europe, Helsinki,1986
102 ibid