

DKG23 - VICTIMOLOGY AND VICTIM ASSISTANCE

Unit-I: Victimology Basics

Victimology: Basic Concepts - Historical development of Victimology. Meaning and definition of victim. National and International concern for victims of crime – UN Amnesty International - UN Declaration of Basic principles of justice for victims of crime and abuse of power, 1985. Handbook of justice for Victims, 1998. Guide for policy makers, 1998.

Unit-II: Perspectives in Victimization

Criminological perspectives: repeat victimization, routine activities, lifestyle exposure, fear of crime, punitivity and victimization surveys. *Psychological perspectives:* *Legal perspectives:* Rights of the Crime Victims - Victim in the criminal justice system and restorative justice.

Unit-III: Individual and Mass Victimization

Victims of traditional crime. Women victims - Dowry, battered women, Rape and other kinds of Sexual harassment - Child abuse. Cyber Crime Victimization of Women and Children. Trafficking in women and children. Victims of abuse of power, Genocide, Crimes against humanity, Internally Displaced persons, Victims of War - Child Soldiers, Refugees.

Unit-IV: Criminal Justice System and Victims

CJS and victim relationship: Collaborator or evidence - Victim & Police: Lodging of FIR & recording of statement - Deposition & cross-examination in courts. - Secondary Victimization by the criminal justice system and the society - Role of judiciary in Justice for victims. Creating awareness among the criminal justice professionals and the public on victim issues.

Unit-V: Victim Assistance

Alternative services for crime victims – victims support Services in the developed countries – Victim support services in India. Types of assistance. Offender Restitution Programs - Victim Witness Programs – Crisis Intervention – Victim Advocacy - Victim involvement in mediation and restorative justice – Victim compensation and restitution. Compensation for victims of crime: Indian Scenario. Advantages and disadvantages of Criminal Justice – based victim support schemes. Empirical assessment of Victim offender mediation. NGOS-Role of NGOS in victim assistance

RECOMMENDED READINGS

1. Chockalingam, K. 1985, *Readings in Victimology*, Raviraj Publications, Chennai.

2. Fattah, E.A. 1991. *Understanding Criminal Victimization*, Scarborough, Ont.: Prentice Hall Canada.
3. Gottfredson, M. R. 1984. *Victims Of Crime: The Dimensions Of Risk*, Home Office Research And Planning Unit, Report No. 81, London: Hmso.
4. Gupta M.C., Chockalingam K., and Jayatilak Guha Roy 2001, *Child Victims of Crime-Problems and Perspectives*. Gyan Publishing House, New Delhi.
5. Karmen, A. 1990. *Crime Victims: An Introduction To Victimology*, (2nd Edition). Monterey, Ca: Brooks/Cole.
6. Madhava Soma Sundaram, P., Jaishankar, K., & Ramdoss, S. (2008). *Crime Victims and Justice: An Introduction to Restorative Principles*. New Delhi: Serials Publications.
7. Mawby, R.I. And Gill, M.L. 1987. *Crime Victims: Needs, Services And The Voluntary Sector*, London: Tavistock.
8. Rajan, V.N., 1981, *Victimology in India*, Allied Publishers Pvt Ltd., New Delhi
9. Ronel, N., Jaishankar, K., & Bensimon, M. (2008). *Trends and Issues in Victimology*. New Haven, UK: Cambridge Scholars Publishing.
10. Shapland, J., Willmore, J. And Duff, P. 1985. *Victims In The Criminal Justice System*, London: Gower.

UNIT – I: VICTIMOLOGY BASICS

KEY BASIC CONCEPTS IN VICTIMOLOGY

A. Concepts

1. “**Victim**” has its roots in the early religious notions of suffering, sacrifice and death. This concept of “victim” was well known in the ancient civilizations, especially in Babylonia, Palestine, Greece, and Rome. In each of these civilizations the law mandated that the victim should be recognized as a person who deserved to be made whole again by the offender.
2. “**Crime victim**” is a person who has been physically, financially or emotionally injured and or had their property taken or damaged by someone committing a crime.
3. “**Victimogenesis**” refers to the origin or cause of a victimization; the constellation of variables which caused a victimization to occur.
4. “**Victim Precipitation**” a victimization where the victim causes, in part or totally, their own victimization.
5. “**Vulnerability**” is a physical, psychological, social, material or financial condition whereby a person or an object has a weakness which could render them a victim if another person or persons would recognize these weaknesses and take advantage of them.
6. “**General Victim**” is a person who has been physically, financially or emotionally injured and or had their property taken or damaged by someone, an event, an organization or a natural phenomenon.
7. “**Victimization**” refers to an event where persons, communities and institutions are damaged or injured in a significant way. Those persons who are impacted by persons or events suffer a violation of rights or significant disruption of their well being.
8. “**Victimology**” is an academic scientific discipline which studies data that describes phenomena and causal relationships related to victimizations. This includes events leading to the victimization, the victim’s experience, its aftermath and the actions taken by society in response to these victimizations. Therefore, Victimology includes the study of the precursors, vulnerabilities, events, impacts, recoveries, and responses by people, organizations and cultures related to victimizations.
9. “**Abuse of Power**” is the violation of a national or international standard in the use of organized powerful forces such that persons are injured physically, mentally, emotionally, economically, or in their rights, as a direct and intentional result of the misapplication of these forces.

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

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

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

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

14. **“Restorative Justice”** is a systematic formal legal response to crime victimization that emphasizes healing the injuries that resulted from the crime and affected the victims, offenders and communities. This process is a departure from the traditional retributive

form of dealing with criminals and victims which traditionally have generally perpetuated the conflict which resulted in the original crime.

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

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

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

18. **“Restitution”** is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.

19. **“Victim Survey”** is a periodic data collection and analysis process conducted usually by a Government entity within the general population to study information about crime victims regardless whether they reported their victimization to the police or not. It typically uses a face-to-face or telephone interview (or sent questionnaire) and covers demographics, attitudes about crime and details about the victimizations experienced over the previous six months.

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

HISTORICAL OVERVIEW OF VICTIMOLOGY

A. The Early Roots

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; *víh*, *wéoh*, *wíg* in Old European; *wíh*, *wíhi* in Old

High German; vé in Old Norse; weihs in Gothic; and, vinak ti in Sanskrit (Webster's 1971).

Victimology as an academic term contains two elements:

- One is the Latin word “Victima” which translates into “victim”.
- 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 here in Japan of the Tokiwa International Victimology Institute); and, the establishment of international journals which are now also a part of this institute. Mendelsohn provided us with his victimology vision and blueprint; and, as his disciples we have followed his guidance. We now refer to Mendelsohn as “**The Father of Victimology**”.

B. Critical Dates in Victimology

- **1924** Edwin Sutherland includes a chapter on victims in his criminology textbook.
- **1937** Benjamin Mendelsohn publishes his writings on the rapist and his victim.
- **1941** Hans von Hentig publishes article on victim and criminal interactions.
- **1947** Benjamin Mendelsohn coins the term “victimology” in a French journal.
- **1948** Hans von Hentig publishes his book *The Criminal and His Victim*.
- **1949** Frederic Wertham first used the word “victimology” in a book *Show of Violence*.
- **1957** Margery Fry proposes victim compensation in the *London Times*.
- **1958** Marvin Wolfgang studies homicide victims; uses the term “victim precipitation”.
- **1963** New Zealand enacts the first Criminal Compensation Act.
- **1965** California is the first state in the USA to start Victim Compensation.
- **1966** Japan enacts Criminal Indemnity Law and USA starts to survey crime victims not reported to the police

- **1967** Canada creates a Criminal Compensation Injuries Act as does Cuba and Switzerland.
- **1968** Stephan Schafer writes the first Victimology textbook *The Victim and His Criminal*.
- **1972** The first three victim assistance programmes are created in St. Louis, Missouri, San Francisco, California and in Washington, D. C.
- **1973** the first international symposium on Victimology is held in Jerusalem, Israel.
- **1974** the first police-based victim advocate project is started in Fort Lauderdale, Florida, USA.
- **1975** The first “Victim Rights’ Week” is organized by the Philadelphia District Attorney,
Associate Professor, Criminology Department, California State University, Fresno;
Director, Tokiwa International Victimology Institute, Tokiwa University Victimology Graduate School, Japan. Pennsylvania, USA.
- **1976** John Dussich launches the National Organization of Victim Assistance (NOVA) in Fresno, California, USA.
- **1976** Emilio Viano launches the first scholarly journal devoted to victimology.
- **1976** James Rowland creates the first Victim Impact Statement in Fresno, California, USA.
- **1979** The World Society of Victimology is founded in Munster, Germany.
- **1980** Mothers against Drunk Drivers (MADD) is founded by Candi Lightner after one of her twin daughters was killed by a drunk driver who was a repeat offender.
- **1981** President Ronald Reagan proclaims the first national Victims’ Rights Week in April.
- **1982** the first Victim Impact Panel established by MADD to educate drunk drivers about how their victims suffered, started in Rutland, Massachusetts, USA.
- **1984** The Victims of Crime Act (VOCA) establishes the national Crime Victims Fund from federal crime fines to pay for state victim compensation and services.
- **1985** The United Nations unanimously adopts the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- **1987** The US Department of Justice opens the National Victims Resource Centre in Rockville, Maryland.
- **1988** The first “Indian Nations: Justice for Victims of Crime” conference is held by the Office for Victims of Crime in Rapid City, South Dakota, USA.

- **1990** The European Forum for Victim Services was founded by all the national organizations in Europe working for victims of crime in consultative status with the Council of Europe and the UN.
- **1999** The United Nations and the US Office for Victims of Crime publish the Guide for Policymakers on the Implementation of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and the Handbook on Justice for Victims: On the Use and Application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.
- **2002** On 11 April, 66 the Rome Statute was ratified & went into force on 1 July at which time the International Criminal Court became effective and it included the creation of a Victim and Witness Unit.
- **2003** On October 2nd the Tokiwa International Victimology Institute, in Mito Japan opened its doors to promote victim rights, to conduct seminars, courses, publish an international journal, and host annual symposia and lectures and research about Victimology.
- **2004** The World Society of Victimology at its annual Executive Committee meeting in Orlando, Florida adopts a dramatic new strategic plan to commit itself to the ideals and promises of the UN Declaration (see Appendix A).
- **2005** Japan puts the UN Basic Principles of Justice for Victims of Crime and Abuse of Power into their national legislation by adopting a new fundamental law for crime victims. To ensure that the principles would be initiated, the Prime Minister established a cabinet level committee. The new law includes services for victims, restitution from the offender, information about criminal justice and a right to formally participate in the criminal justice process.

The Conceptual and Theoretical Development of Victimology

An Overview

In the introductory chapter we have mentioned that concept of victim justice and Victimology is of recent development in Criminal Justice administration. The position of victim was at the early development of criminal justice to some extent recognized in the matter of inflicting punishment but that was not in the notion of victim's position in contemporary criminal justice system. In this chapter, therefore, we will describe the

conceptual and theoretical development of victim Justice and Victimology in historical perspective. The study will be discussed under the following headings:

A. Seeds of the concept of victim, victim Justice, and Victimology

B. Contribution of social forces towards development of victim Justice.

C. Contribution of thinkers of Victimology though, initially, germinated from criminology, but has developed today into a full grown discipline. In recent times, there has been a discernable interest in the plight of crime victims and launching a movement towards integrating or reintegrating them into the criminal justice system. But the identification and consideration of victims in the criminal justice system can be traced even during the Hamurabi Code. Since 1940s Victimology has grown with the passage of every decade. Like any other discipline, this too has been influenced and affected by various events e.g. the world war, feminist movements, and the human rights movements. The various typologies of victims formulated by various authors reflected the perception about the victims during the period. Victimology though not yet grown into full maturity but has truly grown far beyond from where it started. Victimology today is just not concerned with the study of victims of crime but it includes study of any individual whose basic human rights or legal are sacrificed, victim assistance services and policies, reintegration and rehabilitation of victims and much more.

As is the case with most disciplines, theories emerge from a theme of ideas which persons attempt to explain by creating ways of grouping information. These groups of taxonomies reflect the writer's orientation:

A psychologist organizes information according to psychological terms and concepts (some may look at individual behavior patterns and focus on responses to stimuli) an economist sees information from a macro perspective (which deals with the way organizations or countries manage their resources and interact with other organizations to exchange money and goods).

An anthropologist may view the world from the perspective of cultural artifacts and cultural change (concern might focus on how language, trials, tools, and music transmit meaning and purpose from generation to generation to perpetuate a given culture: and so

on. Each discipline and each scientist use their unique words, concepts and understandings to interpret the phenomena before them. So it is with victimology.

This field started out in the domain of law, and consequently, the early writings were filled with terms, consequently the early writings were filled with terms, concepts and perceptions to encompass persons from other disciplines; medicine, psychiatry, psychology, philosophy, sociology, social work, nursing anthropology, et. Many new ideas were added to the discussions and to the understandings of Victimological thought. Theories evolved in a dynamic attempt to explain the various aspects of victimizations not only of crime, but also of other, injurious misfortunes, to include traffic accidents. Victimological theory has reached such a level, that it is now possible to recognize different categories of theory. Therefore it is simplest form; concepts and taxonomies; in its elementary forms as simple theories; and in the theoretical groupings which represent wide stands of theoretical thought. This presentation will then use tandem approach of viewing Victimological theory in historical perspective; and from the simple to the complex.

Benjamin Mendelsohn

The father of victimology Benjamin Mendelsohn, a Rumanian practiced criminal law and in the course of preparing his cases (especially rape cases) conducted extensive interviews with witness, criminals and victims, these interviews developed into studies which showed there was usually an extensive relationship between offenders and victims. From these primarily legal studies Mendelsohn then developed a typology of victims and their involvement with; the criminal act which ranged from the completely innocent victims to the imaginary victim. As a lawyer he was mostly concerned with degrees of innocence and guilt, as his six separate categories reflect:

- 1) **The completely innocent victim.** This victim may be a child or a completely unconscious person
- 2) **The victim with minor guilt.** This victim might be a woman who induces a miscarriage and dies as a result.
- 3) **The victim who is as guilty as the offender.** Those who assist other in committing crimes fall within this classification.
- 4) **The victim guiltier than the offender.** These are persons who provoke other to commit a crime.
- 5) **The guiltiest victim.** This occurs when the perpetrator (victim) acts aggressively and is killed by another person who is acting in self-defense.

- 6) **The imaginary; victim.** These are persons suffering from mental disorders such as paranoia who believe they are victims.

As paranoia who believes they are victims

Mendelsohn, in trying to explain the phenomena of victimization used such terms as vicinity (to compare it with Criminogenesis) which explains the causes of victimization, and victimology (to compare it with criminology) which is the study of victimization. One of his earliest articles about victims was about offender victim relationships, was published in 1940 in the Italian journal *Gustizia penale* entitled Rape in criminology. Later in his following writings he began to mention the importance of developing victim centers for all forms of victimizations that went beyond crime. Although his first focus was with crime victims he later recognized the importance of, and similarities and similarities in needs of other forms of victims. Consequently he proposed the term general victimology to include persons injured or killed accidents, war abuse, of power, pollution and disasters.

Hans Von Hentig

Hans von hentig, a German professor, in his classic book, *The criminal and his victim* published in 1979, also focused on the relationship between offender (doer) and victim (sufferer). In the last chapter of this book, he presented his ideas as to how the criminal law dichotomizes between the doer and sufferer. His; studies also evolved into an elaborate typology which he grouped in to three classes' the general classes of victims, the psychological types of victims, and activating sufferer. However his focus was primarily on risk; he risk, he used twelve categories based on psychological, social and biological factors

The General Classes of Victims

1. **The young.** They are weak and the most likely to be a victim of an attack youth is the most dangerous period of life.
2. **The female.** The female sex is another from of weakness recognized by the law, because numerous rules of law embody; the legal fiction of a weaker (female) and stronger (male) sex.
3. **The old.** The elder generation holds most positions of accumulated wealth and wealth-giving power, and at the same time is physically weak and mentally feeble.

4. **The mentally defective.** The feeble minded the insane, the drug addict, and the alcoholic form another rage class of victims.
5. **Immigrants, minorities, and dull normal.** Immigration means more than a change in country. It causes a temporary feeling of helplessness in vital human relations. The inexperienced, poor and sometimes dull immigrant, minority, or others are easy prey to all kinds of swindlers.
6. **The depressed.** These victims may suffer from a disturbance of the instinct of self preservation. Without such an instinct, the individual may be easily overwhelmed or surprised
7. **The acquisitive.** This type of person makes an excellent victim. The excessive impediments.
8. **The wanton.** Often a sensual or wanton disposition requires other concurrent factors to become activated. Loneliness, alcohol, and critical phases are “process-accelerators” of this type of victim
9. **The lonesome and the heartbroken.** Loneliness causes critical mental facilities to be weakened. These individuals become easy prey for criminals. The heartbroken victims are dazed by their loss and therefore become easy targets for a variety of “death rackets” that might, for example, charge a widow an outlandish fee for a picture of her late husband to be included in his biography.
10. **The tormentor.** This victim becomes a perpetrator. This psychotic father who may abuse the wife and children for a number of years until one of the children grows up and under extreme provocation kills him.
11. **The blocked exempted, and fighting.** The blocked victim is so enmeshed in such a losing situation that defensive moves become impossible. This is a self imposed form of helplessness and an ideal condition for a victim from the point of view of the criminal

The activating sufferer

This occurs when the victim is transformed into a perpetrator. A number of factors operate as activators on the victim: certain predispositions, age, alcohol, and loss of self-confidence.

While most of these categories were not studied under empirical conditions, they still reflect and expanded interest in the many types of victim’s risks. One of the dominant conclusions by Von Hentig was that many persons because of these risks which

influenced potential offenders made them responsible for their own victimization. Of course this notion has since been disproved for most victims.

Thorsten Sellin and Marvin Wolfgang

One of the broadest typologies is that of Sellin and Wolfgang. While it does not provide for specific types of victims, it does list categories of victimizations.

- Primary victimization-the victimization of persons
- Secondary victimization-victimization of legal persons, stores factories enterprise
- Tertiary victimization-victimization of the social order
- Mutual victimization-exchanged victimization
- No victimization-acts where the persons endangers only himself and his social well being.

Stephen Schafer

In 1968 Stephen Schafer, a Hungarian lawyer and judge, published his book with a title reversed from that of von Hentig, the Victim and His Criminal. His intent was clearly to emphasize the victim in the penal relationship. His study of victimization classified victims based on function responsibility. He was convinced that the criminal justice system should consider the treatment of both criminal and victim to deal with the crime problem Schafer went beyond considering crime as the responsibility for crime was also shared by society. His classification of victims also included the role of victims who contribute to their victimization by their acts of negligence, precipitate actions, or provocations. Schafer used the term functional responsibility to explain the role that victims should play in preventing crime. Further, Schafer believed they are responsible for actively altering the victim-offender relationship to prevent crimes from occurring.

Ezzat Fattah

A law professor and criminologist by training, Ezzat Fattah, in his 1991 book, understanding Criminal Victimization: An introduction to Theoretical Victimology developed his own unique typology in which he attempted to produce a dynamic approach to victimology linked to criminology. Using the law for his orientation. Fattah presented and interactions theoretical framework with the integration of forty macro and macro propositions. These are organized into ten categories opportunity, risk factors motivated offenders, exposure, associations, dangerous times and dangerous places, high risk activities, defensive/avoidance behaviors, structural cultural proneness.

Simha Landau and R.E Freeman-Longo

These two Criminologist/Victimologists have developed a highly imaginative typology which is multidimensional and based on a functional sociological view of society. This typology uses consensus, equilibrium and incremental change as the bases for understanding victimization. Its focus is on explaining regular crimes. The eleven categories are as follows:

1. The Source of Victimization.
2. The legal-better the normative-framework.
3. The intentionality of the perpetrator.
4. The identification of the victim.
5. Victim vulnerability.
6. Victim's perception of the victimization.
7. Other's perception of the victimization.
8. Type of victimization-better: the damage suffered.
9. Severity of victimization.
10. Victim-offender-relationship
11. Victim's contribution to the event.

John Dussich

An American criminologist/victimology John Dussich created victimization taxonomy based his previously published social coping theory (1985). By using this **social psychological theory** victimization is explained by stating that "when a person becomes victimized". Vulnerability exists as a product of inadequate resources to cope with a specific threat. Each person has different resources available to them (called coping repertoires). The taxonomy is divided into and can be used to explain all forms of victimization and recovery.

Pre-victimization conditions:

1. The victim in a high risk milieu (regardless of the victim's qualities)
2. The victim who has psychic resources disabilities
3. The victim who has social resource disabilities
4. The victim who has physical resource disabilities
5. The victim with constrained time resources.
6. The victim with an underdeveloped coping repertoire (a lack of relevant experiences)

7. The victim with an underdeveloped coping repertoire (having experiences that lead to failure and helplessness)

Post-victimization conditions:

1. The victim with adequate recovery resources
2. The victim with marginal recovery resources
3. The victim without adequate recovery resources

Thus, the main thesis of this taxonomy is that both victimization and recovery are explained: “persons with few resources have a higher likelihood for becoming victims; if they become victims, they have a poorer chance to survive; and if they survive they will not recover as well as those with more resources”

Marlene young

In an attempt to broaden the theoretical structure from predominantly a juridical one explaining criminal victimization, to one that enhances the understanding of victimization and its effects on society and the individual, Marlene young presented a theoretical model in 1979 at the Third Symposium of victimology and then in 1982 at the fourth international symposium on victimology she revised and further elaborated her original work. Her basic framework is made up of five types of environments in which victimization occurs. These are:

- i. The bio-physical(the human body)
- ii. Social world (in which crime discrimination and other forms of victimization occur)
- iii. The natural world (in which disaster victimization occurs)
- iv. Technological (which encompasses all machines and non-living manmade items), and
- v. Interface (the communication which links the other four environments together)

Her approach is that victimization is the result of an imbalance between the individual and his environment. Thus victims are persons who have suffered environmental imbalances which resulted in distress. For her, trauma usually causes distress and thus can be indicator of severe victimization.

Victimological Frameworks

Three basic victimological strands of theoretical thought have been identified by Mawby and Walklate: positivist victimology, radical victimology, and critical victimology. These strands (frameworks) group the various perspectives concerning victims and victimization whether they were intended as theoretical works or just approaches in dealing with the problems of responding to victimization in its broadest sense.

Positivist Victimology

Similar to Karmen's "conservative victimology" and Walklate's "conventional victimology": is focused on interpersonal street crimes, especially victims who contribute to their own victimization. It excludes rape, abuse and other forms that are esoteric victimization that occur in private. This is a form of victimization that uses science with its statistics, patterns, variables, etc, to produce typologies. This strand of victimology is concerned with the separation of science from humanitarian endeavors. This type of victimology would include the various victim assistance movements support the retributive justice process. These would include such organizations as NOVA in America, Die Weisser Ring in Germany, and victim support schemes in England. It also would include the typologies which were first developed by; Mendelsohn, and von Hentig. A more recent typology in the positivist vein is the multidimensional model proposed by Landau and Freeman-Longo in 1990. Positive victimology has been clearly the most influential area of victimology, especially in terms of programs developed and research funded is gradual and incremental and thus, does not allow for differences in definitions of victimization (especially across cultures) it does not explain why or how victims resist the victim label and recover to then accept a "survivor" label; and, it does not allow for dramatic social changes which produce victimizations quite different from traditional victimizations. Examples would be, victims of the abuse of power, victims of consumer fraud, victims of terrorism, and victims of religious cults.

Radical Victimology

Ironically it was Mendelsohn who proposed that victimology go beyond the traditional concern with crime victims. Although his typology was clearly in the positivist mode, he never revised his typology to include his later more radical proposals for a general victimology.

In this stand of victimology one finds the concern of victimology incorporates such themes as abuse of power, victim of police violence victims of war, victims of a state, victims of terrorism, etc. In the focus of the state or power lies the link to radical criminology. In 1972 Richard Quinney, well know for his work in radical criminology is the concern for human rights in its broadest sense. Soon thereafter, R.Elias began to publish books with titles like: victims of the systems (1983) and the politics of victimization (1986) coming full circle back to Mendelsohn's concern for all forms of victimization. This form of victimology includes the United Nations Declaration of Human Rights (article 22) as well as the Declaration of Basic Principles of Justice for victims of Crime and the abuse of power (A/RES/40/34). Although radical victimology by pointing to the problems caused by laws an oppressive states-in particular class, there are still aspects of victimization which are not considered: victimization of gender, race and age to mention a few.

Critical victimology

The principle focus of this frame work of theoretical thought is on who has the power to apply the victim label and what the significant aspects of making that decision are. Like the labeling theorists of criminology, social psychology and symbolic interactions also has a role to play in explaining the process of victimization. This approach searches for an empirically sound and comprehensive understanding of victimizations. It recognizes the complexities of multifactor precursors to victimizations and proposes that the precursors to understand victimizations and proposes that the only rational way to understand victimizations. Fully is with the scientific method. That means selecting theoretical models to test, formulation of acceptable, realistic and factual conclusions essentially, broadest social context, as a dynamic, temporal and transdisciplinary phenomena

NATIONAL AND INTERNATIONAL CONCERN FOR VICTIMS OF CRIME:

Information about the World Society of Victimology

The World Society of Victimology (WSV), founded in 1979, is the sole international academic organization that advances Victimological research and practices around the world.

The WSV is a not-for-profit, non-governmental organization that has consultative status with the Economic and Social Council (ECOSOC) of the United Nations and the Council of Europe. In addition to its international symposia held once every three years, the WSV holds annual post-graduate courses on victimology and victim assistance at different locations such as Japan (Mito); Croatia (Dubrovnik); Colombia (Bogota);

and El Salvador (San Salvador). The WSV also sponsors numerous other training sessions and seminars; and publishes regular newsletters and proceedings from each symposium.



Defining the WSV:

The World Society of Victimology is a not-for-profit, nongovernmental organization with Special Category consultive status with the Economic and Social Council (ECOSOC) of the United Nations and the Council of Europe. Brought together by a mutual concern for victims, its world-wide membership includes: victim assistance practitioners, social scientists, social workers, physicians, lawyers, civil servants, volunteers, university academics of all levels and students.

The purpose of the WSV is to advance Victimological research and practices around the world; to encourage interdisciplinary and comparative work and research in this field, and to advance cooperation between international, national, regional and local agencies and other groups who are concerned with the problems of victims.

U.N DECLARATION ON BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER, 1985

Under this declaration, victims include two categories:

- 1) Victims of Crime and

2) Victims of abuse of power.

‘Victims of crime’ means:

- 1) Persons who individually or collectively have suffered harm including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.
- 2) A person may be considered a victim under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The “victim” also includes, where appropriate the immediate family or dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization
- 3) The above U.N. Declaration is the first major effort by the United Nations to spell out specifically the rights of victims of crime and abuse of power and obligation of the Nations and Governments to protect and ensure these rights. The rights of the victims have been classified and brought under four specific heads as follows under the Declaration.

Access to Justice and Fair Treatment:

- 1) Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided by the national legislation for the harm that they have suffered.
- 2) Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.
- 3) The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:
 - a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information.

- b) Allowing the views and concerns of victims to be presented and considered at appropriate stage of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system.
 - c) Providing proper assistance to victims throughout the legal process.
 - d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary and ensure their safety, as well as that of their families and witnesses on their behalf from intimidation and retaliation
 - e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.
- 4) Informal mechanisms for the resolution of disputes including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims (Compendium of U.N.1992)

Restitution

1. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependents. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
2. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.
3. In cases of substantial harm to the environment, restitution, if ordered, should include as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.
4. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted.

Compensation:

1. When compensation is not fully available from the offender or other sources, State should Endeavour to provide financial compensation to:
 - a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes.
 - b) The family, in particular dependents of persons who have died or became physically or mentally incapacitated as result of such victimization.
2. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose including those cases where the State of which the victim is national is not in a position to compensate the victim for the harm.

Assistance:

1. Victims should receive the necessary material, medical, psychological and Social Assistance through governmental, voluntary, community based and indigenous means.
2. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.
3. Police, justice, health, social service and other personnel concerned should receive training to sensitize them for the needs of victims, and guidelines to ensure proper and prompt aid.
4. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted on them.

Hand Book of Justice for Victims

The Handbook on Justice for Victims contains;

The Handbook on Justice for Victims

Section 1 – Impact of Victimization

Section 2 – Victim Assistance

Section 3 – The role and Responsibility of Front Line Professionals to Victims

Section 4 – Advocacy, Policy Making & Law Reform

Section 5 – Working together at the International Level

Guide for Policy Makers (1998)

This Guide was prepared by a group of experts from more than 40 countries at a series of meetings supported by the Office for Victims of Crime in the United States Department of Justice and the Ministry of Justice in the Netherlands. The document was developed in cooperation with the United Nations Office at Vienna, Centre for International Crime Prevention, Office for Drug Control and Crime Prevention, and its publication was generously funded by the Office for Victims of Crime, United States Department of Justice.

Preface

The present guide is designed for policy makers, including those in ministries or departments of justice, interior, and social welfare and health, and local authorities in all countries concerned with improving the position of victims of crime and abuse of power and providing these victims with the necessary assistance and access to justice. The guide briefly sets out lines of work that can be pursued; further information will be available in a handbook on justice for victims on the use and application of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

The United Nations Commission on Crime Prevention and Criminal Justice is the key body for encouraging the international community to further implement the 1985 General Assembly Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex, of 29 November 1985). States can obtain assistance in their work from the United Nations Crime Prevention and Criminal Justice Programme Network, including the Centre for International Crime Prevention, the United Nations interregional advisors and the network of associated institutes.

It is the responsibility of Governments to develop and support programmes that will respond to the challenge of victimization in society. Victims deserve respect for their dignity, privacy and security. Assistance to victims prevents their alienation from the criminal justice system and the community. The efforts and resources devoted to such programmes, including an effective programme of prevention, should provide significant short- and long-term benefits. The costs of crime will be reduced. Victims will be more ready to provide information about crime and criminals, which is indispensable to the criminal justice system. The response must bring together the Government,

intergovernmental and nongovernmental organizations and the community at large. This guide should help in showing the way forward.

National Organization for Victim Assistance

The National Organization for Victim Assistance is a private, non-profit, 501(c) (3) organization of victim and witness assistance programs and practitioners, criminal justice agencies and professionals, mental health professionals, researchers, former victims and survivors, and others committed to the recognition and implementation of victim rights and services.



NOVA's mission is to promote rights and services for victims of crime and crisis everywhere. Its experience is described in the following review of its guiding purposes.

Our Four Purposes and Accomplishments:

1. National Advocacy.
2. Direct Services to Victims.
3. Assistance to Professional Colleagues.
4. Membership Activities and Services.

1. National Advocacy

In the public policy arena, NOVA has been the preeminent public interest group linked to the following successes:

In 1980, there were 27 victim compensation programs in the United States. By 1998, there were 50 state programs as well as ones in the District of Columbia and the U.S. Virgin Islands. NOVA's involvement in helping to expand compensation programs was evidenced in 1995 by its suggestion to the Attorney General of the State of Oklahoma to

seek an increase in the amount of money available in the State's fund in order to compensate the large number of eligible crime victims in the aftermath of the Alfred P. Murrah Federal Office Building bombing. The legislative effort to do so was successful. To a similar end, the Anti-Terrorism Act, enacted after the bombing of the Murrah Building, allows the Office for Victims of Crime (OVC) in the U.S. Department of Justice to use federal funds to serve victims of terrorism and mass violence. That provision, which NOVA helped devise, helped underwrite the costs of some 9,000 people deeply affected by the bomb blast.

In 1980, there were only a few jurisdictions, which took into consideration the impact of the crime on the victim when determining the offender's sentence. By 1998, virtually every state allowed victim input at sentencing as well as parole, and many allow spoken testimony as well as written statements.

In 1980, many victim service programs faced shutdowns due to the termination of a Federal criminal justice grant program. In 1984, as a direct result of NOVA's consistent work to help draft and ensure passage of the Victims of Crime Act (VOCA) of 1984 – and to help amend it when needed – the picture changed dramatically for the better. Over VOCA's first twelve years, its Crime Victims Fund transferred some \$2.2 billion in Federal criminal fines to state compensation and local assistance programs – these in addition to the far higher contributions of states and localities made to the same programs. The Violence Against Women Act also provides financial support for victim services. NOVA is justly proud of its involvement in these efforts to ensure funding for programs to help rehabilitate crime victims.

In 1980, the concept of "victim rights" was merely that – a concept. By 1998, virtually every state had enacted some form of a bill of rights for crime victims, as had the Federal government. As of this writing, 29 states have passed a victim rights amendment to their constitutions. Again, NOVA has been in the forefront of this effort. NOVA's senior staff helped to co found the National Victims Constitutional Amendment Network (NVCAN), a body of which NOVA's Deputy Director is currently an Executive Board Member. The hard work of NOVA and the other Network members was illustrated in April 1996, when a federal constitutional amendment was introduced in Congress and later received the support of both major parties and their Presidential candidates.

In 1980, NOVA proclaimed "National Victim Rights Week," exercising a leadership role on behalf of crime victims. President Reagan adopted a similar proclamation in 1981. Since that time, the President has proclaimed, under various names, a national "victim rights week" seventeen times, and a Presidential Task Force on Victims of Crime in 1982

produced 68 recommendations for improving the treatment of victims. The Clinton Administration published an updated version, entitled *New Directions from the Field: Victim Rights and Services for the Twenty-First Century*, which is based in part on five topical papers drafted by NOVA staff.

As part of NOVA's efforts to highlight the plight of crime victims and the need for legislative reform, NOVA has hosted a National Forum on Victim Rights for 18 years. The Forum is held on Capitol Hill, and is co-hosted each year by many Senators and Representatives who support the need to give victims of crime a voice in the decisions that affect them.

NOVA maintains an active Litigation Committee to assist in filing amicus curiae motions and briefs, most recently illustrated by briefs filed on behalf of the victims of the Oklahoma City bombing.

NOVA also strives to make legislative issues clear to our membership. NOVA Newsletters often explain the strengths and pitfalls of current or potential legislation. Two recent examples of such writing are a Newsletter charting out the many victim-related provisions of the 1994 Crime Control Bill and one reviewing efforts to pass the Federal Constitutional Amendment in the 104th Congress.

2. Direct Services

When NOVA first began operation; Direct Services was not one of its stated purposes. However, from the beginning, NOVA has received requests for help from crime victims who frequently had no other place to turn. It became imperative that NOVA adopt Direct Services as a priority mission. As a result, NOVA developed training materials and trained its staff and selected volunteers in crisis intervention and victim advocacy, a practice that continues to this day. Every staff member of NOVA is required to take the minimum basic training course of forty hours, and is frequently invited (or required, depending on their work assignments) to take more advanced training. In addition, NOVA began to develop directories of national organizations and local service provider agencies to aid in the dissemination of information and referral to victims who contacted NOVA.

Today NOVA has some 60,000 contacts with victims every year, referring most to services near their home through directories that list some 10,000 programs, but serving as the primary counselor and advocate for many victims at any given time. Contacts come to NOVA directly from the 24-hour hotline (1-800-TRY-NOVA), from letters, faxes, and

e-mails, and from people who visit the Washington office. Due to public service announcements on national television and references to its national hotline in magazines and newspapers, NOVA's number is the first point of contact for tens of thousands of otherwise underserved victims, such as those who live in rural areas. Along with the emotional support that NOVA provides over the phone or by responding to letters, NOVA has developed numerous information packets that can be mailed to interested victims/survivors (and other service providers). A series of audio cassette tapes is also available for those who prefer that medium.

NOVA's hotline became more of a "lifeline" to thousands of victims with the advent of a toll-free number in the early 90's. The hotline – known as the National Crime Victim Information and Referral Hotline – is the only national toll-free hotline that serves all victims and survivors of violent crime, providing information and referral, crisis counseling, and case advocacy. After the brutal murders of Nicole Brown and Ron Goldman, and before the inception of the National Domestic Violence Hotline in February of 1996, NOVA's hotline was a major source of support for thousands of domestic violence victims seeking support, information, and guidance to find safety.

With the help of trained volunteers, NOVA operates a victim service program in Washington, D.C. to help supplement existing services. NOVA also works with local law enforcement and other agencies to bring services to victims of drug-related crime in Washington's inner-city. In an effort to encourage networking among local service providers, NOVA founded and incorporated the D.C. Victim Services Network, which has been in operation since 1985. NOVA continues its efforts and commitment to improving the victim service delivery infrastructure in D.C.

NOVA created the concept of sending multi-disciplinary teams to the scenes of major crimes, disasters, and accidents. The National Community Crisis Response Team, which began in 1986 after the murder of 14 people in the post office in Edmond, Oklahoma, has sent trained crisis responders, all volunteers, to numerous communities which have been traumatized by a catastrophe such the terrorist bombing in Oklahoma City and, since then, the deadly tornadoes that ripped through seven Midwest states, and the shooting of students in West Paducah, KY, Jonesboro, AR and Springfield, OR. NOVA's Crisis Response Teams have been invited to many communities devastated by major crime; some of those teams have been funded by OVC's program to fund rapid response victim assistance. See the National Crisis Response Team to further the development of community-based crisis response teams based on the model NOVA has created, OVC

funded three series of regional trainings to encourage team-building locally. Another federal agency, the U.S. Department of Education, has worked closely with NOVA to better train and prepare school systems for coping with violence and disasters. Closer to home, NOVA founded the Capital Area Crisis Response Team, an active coalition of volunteers who serve the metropolitan Washington area; and abroad, it has sent teams to war-torn Bosnia and Croatia, and to earthquake-stricken Kobe, Japan.

NOVA's work in the field of community crisis response has been recognized by other national disaster response agencies. NOVA was accepted as a Class A member of the National Voluntary Organizations Active in Disaster (NVOAD), where NOVA is the only organization to serve crime victims as a "disaster" population. Along the same lines, NOVA works collaboratively with FEMA, the National Transportation Safety Board, and the Center for Mental Health Studies. At this writing, NOVA is preparing to sign a memorandum of understanding with Church World Service, whose Emergency Response Office works cooperatively with 34 religious denominations and communions to perform disaster relief work. There is a link to the NVOAD web site in National Crisis Response Team.

NOVA developed a special direct service project – the Hostage Family Project – when American citizens were taken hostage in Lebanon. The project is activated only when needed, but when needed, performs a valuable service for families of American hostages: helping them to network with each other, obtain needed information on the status of efforts to free hostages, a family phone hotline and newsletter, and advocacy with key players in the event. In a related effort, NOVA developed a special booklet on coping with the media when Americans were taken hostage in the Gulf War conflict, and helped with resettlement of Americans and Kuwaiti nationals who were forced to flee the country.

NOVA is a recognized Non-Governmental Organization (NGO) of the United Nations, and works closely with the United Nations on initiatives related to crime and disaster victims and victims of abuse of power. It has twice hosted an Expert Working group of the U.N.'s Commission on Crime Prevention and Criminal Justice Division in the formulation of an international manual on victim assistance.

NOVA compiles and publishes several invaluable directories to help victim advocates provide information and referrals. These include:

- Directory of Victim Assistance Programs and Resources in the United States: a state-by-state listing of programs known to serve crime victims.

- Directory of National Programs Serving Survivors of Crime, Crisis and Trauma: listing national-scope programs.
- Directory of International Programs Serving Survivors of Crime, Crisis and Trauma: a listing of programs operating internationally, including those located in the U.S.

3. Assistance to Professional Colleagues:

NOVA has focused its professional development efforts in two priority areas. In both, NOVA's knowledge of the organization, development, and implementation of training conferences is demonstrated by the following illustrations:

A) Providing support to victim advocates and their allied professionals in their work to establish and maintain quality services. Examples of such work are as follows:

Since 1980, NOVA has provided training to prosecutors, nurses, law enforcement officers, social workers, judges, clergy members, mental health professionals, law enforcement officers, and victim service practitioners, paid and volunteer, in over 500 state, regional, and national workshops and seminars. A listing of the most recent trainings to illustrate NOVA's range of training capabilities is found in Professional Development/Training.

In the same time period, NOVA has organized 38 regional conferences and 28 national conferences ranging in size from 50 to 1,500 participants. Participant evaluations of the training programs and conferences consistently have been excellent. On a scale of 1 to 10, with 10 rating the highest, average scores are typically 9.5.

NOVA has translated much of its training experience into written training curricula for seven professional groups, from judges to victim advocates. In addition, with support from OVC, NOVA has developed many training curricula. A listing of NOVA's training curricula is found in Professional Development/Training.

NOVA is continuously converting its published materials to text files available on the Internet, while maintaining a clearinghouse on general and cutting-edge victim issues, and answering hundreds of requests for information each month.

NOVA has established a 40-hour National Crisis Response Team (CRT) Training Institute, has presented the Institutes numerous times since 1990, and has taken the curriculum to many other countries. It now offers a 24-hour Advanced CRT Training Institute, a 40-hour War Trauma Training Institute and a 50-hour Training for Trainers.

B) Identifying "cutting-edge" issues and generating innovations in programs and services, in training knowledge and curricula, and in information dissemination. Examples include: In 1983, NOVA organized a strategic planning seminar to analyze the next decade of victim services and to coordinate a long-range plan for the victims' movement addressing public policy, victim service, and victim-oriented training needs.

In 1985, NOVA, with the support of the National Institute of Mental Health, convened a national mental health "consensus seminar" which resulted in a national consensus statement on mental health needs for victims of crime.

Also in 1985, in collaboration with Mothers against Drunk Driving, NOVA organized the National SHARE ("Self-Help Associations Relating to Each Other") Conference to discuss the future needs of grass-roots organizations and victim activists. The most significant outcome of the conference was the development of a network of individuals committed to the idea of a national constitutional amendment on victim services.

Also in 1985, NOVA organized the first National Conference on the Crime Victimization of Racial Minorities.

In 1986, NOVA organized the first National Conference on a Constitutional Amendment on Victim Rights.

In 1990, NOVA began a concerted effort to address the impact of technology on the victims' field. After two years of reviewing the state of the art, NOVA held a national conference, "2001: The Next Century – Megatrends in the Victims' Movement," the first such gathering to identify the next decade's emerging issues. Its proceedings were published in 1994. Workshops on "future issues" were presented at NOVA's annual conferences in 1992-94, which was elevated to a plenary session on new technology in 1995.

In 1994, NOVA held a second national conference on emerging issues, "Victim Assistance: The Cutting Edge." Also in 1994, NOVA invited a small group of individuals from the public and private sectors to discuss the implications of new technologies on the victims' movement. Among their recommendations were to improve technological literacy among victim advocates and to improve the ways technology is used to provide protection to victims.

4. NOVA has drawn to itself an expanding membership of some 5,500 agencies and individuals who forge within NOVA bonds of fellowship across diverse professions and interests. Its member services include an annual conference – the oldest such event in the worldwide victims' movement – plus twelve annual issues of The NOVA Newsletter,

periodic topical "Information Bulletins" and other benefits. The loyalty of NOVA's members is based on their democratically-elected Board's commitment to NOVA's mission, and to the high standing their board, staff, and volunteers enjoy in the larger community.

The following is a sampling of NOVA's Information Bulletins made available to the field:

NOVA has become the recognized umbrella group for national organizations, which have an interest in victim issues. It has served as the convener of a number of activities, including an annual North American Victim Assistance Conference every year since 1975, and, since 1981, the National Forum on Victim Rights, annually co-sponsored by a dozen or more national organizations. It was the initiator of National Victim Rights Week and of the coalition-building effort that led to replacing its annual "Victim Rights Week Kit" with a Victim Rights Week guide co-sponsored by 18 national organizations, with OVC's support.

The NOVA Conference: each year, an annual conference is hosted for the membership as an opportunity to network, learn and share experiences concerning the victims' movement. Since its early days, NOVA has striven to be on "the cutting edge" of victim issues, and the annual conference is recognized as the premiere conference to attend. Every year, NOVA continues to attract to the conference upwards of 2,000 victims, their allies and their advocates from every sector of the movement and every quarter of the globe – indeed, long formally called "The Annual North American Victim Assistance Conference," it has in recent years added the tagline, "And International Summit," in recognition of the contributions of several dozen international visitors who contribute to the work of the conference.

AMNESTY INTERNATIONAL

What is Amnesty International?

It is worldwide voluntary activist movement working towards the observance of all human rights as enshrined in the Universal Declaration of Human Rights and other international standards.

The main features of Amnesty International are:

- It is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support

or oppose the views of the victims whose rights it seeks to protect. It is concerned solely with the impartial protection of human rights

- It promotes respect for human rights, which it considers interdependent and indivisible, through campaigning and public awareness activities, as well as through human rights education and punishing for ratification and implementation of human rights treaties.
- It takes action against some of the gravest violations by governments on people's civil and political rights. The focus of its campaigning against human rights violations is to:
 - Free all prisoners who are people detained for their political, religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status – who have not used or advocated violence;
 - Ensure fair and prompt trials for all political prisoners; Abolish the death penalty, torture and other ill-treatment of prisoners;
 - End political killings and “disappearances”.
- It calls on armed political groups to respect human rights and to halt abuses such as the detention of prisoners of conscience, hostage-taking, torture and deliberate and arbitrary killings.
- It has formal relations with the United Nations Economic and Social Council (ECOSOC); the United Nations Educational, Scientific and Cultural Organisation (UNESCO); the council of Europe; the Organisation of American States; the Organisation of African Unity; and the Inter-Parliamentary Union.
- ‘The 10 Basic Human Rights Standards for Police officers’ are based on United Nations law enforcement, criminal justice and human rights standards.
- The aim of this document is to raise awareness amongst government officials, parliamentarians, journalists and non-governmental organizations of some fundamental standards which should be part of any police training and police practice.

The Guide for Policy Makers on Implementation

The Guide's parts

•Introductory Sections

- The Prologue
- The Purpose
- The Declaration
- Victims of Crime of Abuse of Power
- Two annexes: Selected References
- Key UN documents on Victims

What does this mean to India?

- First, the quality of life for many crime victims would be improved.
- Second, the cause of justice for all victims would be strengthened.
- Third, crime prevention would be enhanced – “good victim assistance is good crime prevention”
- Fourth, survivor volunteer who work for other victims would be supported.
- Fifth, the people would be empowered with the “will to change”

UNIT – II: PERSPECTIVES IN VICTIMIZATION

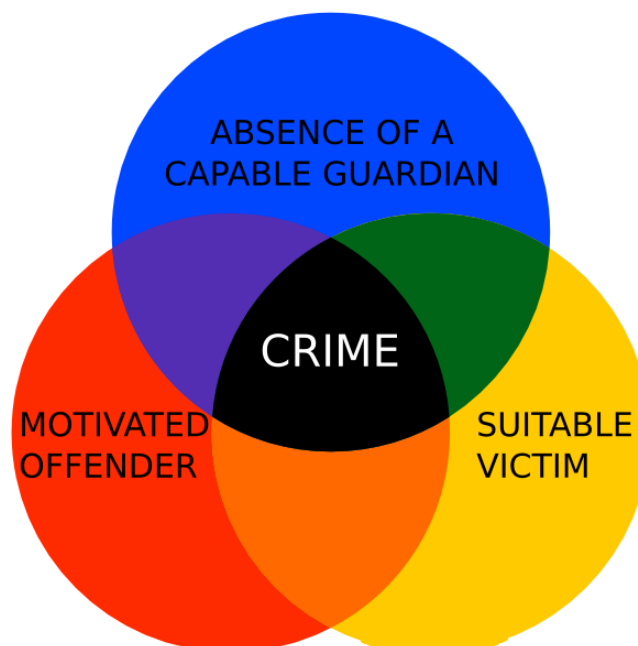
CRIMINOLOGICAL PERSPECTIVE: REPEAT VICTIMIZATION

Repeat victimization refers to the repeated criminal victimization of a person, household, place, business, vehicle or other target. Repeats can be the same or different crime types. There were a limited number of studies in the 1970s, with the field developing mainly from the late 1980s onward in the wake of the Kirkholt Burglary Prevention Project, which successfully targeted repeat burglaries for prevention. In the 1990s and 2000s there were a series of efforts, particularly in the United Kingdom and the United States, to incorporate the prevention of repeat victimization into mainstream policy and practice. Good practice guides for policing were developed in both countries. In the United Kingdom, repeat victimization was formally incorporated as a key performance measure for policing and each of that country’s police forces was obliged to develop and implement a policy on repeat victimization prevention. Many victim services organizations sought to change their orientation by providing advice on preventing further victimization rather than the traditional practice of reassuring victims that crime was less likely to happen to them again. In recent years, the role of repeats in high crime area hot

spots and similar concentrations of crime is increasingly apparent. There is an increasing incorporation of key concepts such as hot products, risky facilities, hot places and hot routes, into repeat victimization research as it has become clear that they are related forms of repeats or near repeats, including repeats of the same or different crime types.

ROUTINE ACTIVITY THEORY

Routine Activity Theory states that in order for a crime to be committed, three specific criteria must be involved. These criteria are that there must be a motivated offender, a suitable target, as well as the absence of a capable guardian. Routine activity theory emerged as a key theoretical approach in criminology in the late 1970s. It was first proposed by Marcus Felson and Lawrence E. Cohen in their explanation of crime rate change in the United States 1947 – 1974. This theory attempts to show that crime rates are not generally affected by macro changes such as economic recessions and unemployment rates. While researching crime rates after World War II it was discovered that even though America was economically prospering compared to the pre-war depression, crime rates were still high, and showed no signs of decreasing. The general lifestyle of an individual plays an important part in the definition of routine activity theory. The more one is exposed to criminal behavior in their everyday lifestyle, the higher the likelihood that a person will commit criminal activity. Many experiments and surveys have been conducted to test this theory. They attempt to find empirical evidence supporting the assumption of the Routine Activity Theory, specifically that macro social causes do not play as big a role in the causation of crime as personal lifestyle does.



ROUTINE ACTIVITY THEORY

In order for a theory to be considered useable, it must be empirically valid. This validity is determined by testing the theory in different circumstances using experiments to either prove that the theory is correct, or figure out if there are any holes in the theory. Cohen and Felson suggested that lifestyles contribute significantly to both the volume and the type of crime found in any society. The two believed that increased personal affluence and the development of social activities outside the home changed the nature of American society during the 1960s and 1970s. They felt this brought about increased rates of household theft and personal victimization by strangers. When applied at the individual level, the routine activity approach has generally aimed to explain why a person is victimized, or offends, by explaining how his/her individual routines (lifestyles) bring him/her into contact with (or expose him/her to) situations conducive to crime. Some efforts have been made to integrate the routine activity approach with other criminological theories. In terms of policy and prevention, the routine activity approach has mainly been linked to situational crime prevention and policing (for example, hot spots analysis).

LIFE STYLE THEORY

Lifestyle theory purports that individuals are targeted based on their lifestyle choices, and that these lifestyle choices expose them to criminal offenders, and situations in which crimes may be committed. Examples of some lifestyle choices indicated by this theory include going out at night alone, living in "bad" parts of town, associating with known felons, being promiscuous, excessive alcohol use, and doing drugs.

In addition to theorizing that victimization is not random, but rather a part of the lifestyle the victims pursues, the lifestyle theory cites research that victims "share personality traits also commonly found in law violators, namely impulsivity and low self-control" This previous statement was discussed in a psychology journal by Jared Dempsey, Gary Fireman, and Eugene Wang, in which they note the correlation between victims and the perpetrators of crimes, both exhibiting impulsive and antisocial-like behaviors. These behaviors may contribute to their victimization since they cause the individual to put

themselves at higher risk for victimization than their more conservative lifestyle counterparts.



As Cohen and Felson observe, “The risk of criminal victimization varies dramatically among the circumstances and location in which people place themselves and their property.” For instance, a person routinely using an Automated Teller Machine (ATM) in an isolated locations late at night is more likely to be preyed upon by robbers than a person who stays home after dark. Lifestyles that contribute to criminal opportunities are likely to result in crime because they increases the risk of potential victimization.

The Lifestyle Exposure Theory focuses on the trends in which people with certain demographic characteristics distribute their time and energies to across a range of activities, and the relationship of these trends to the risk of victimization by motivated offenders. Key Points - Since the 1970's the study of criminal opportunities has been dominated by researchers interested in victimizations.

- Their explanations-in this case the Lifestyle Exposure Theroy-focus on on how spatial and temporal variations in crime are related to the opportunities to commit the crime.

- Developed by Michael Hindelang, Michael Goffredson, and James Garofalo in their book "Victims Of Personal Crime" in 1978. Victimization Patterns In Canada People

misinterpret victims to be elderly people rather than people our own age or even a bit older. This is not the case though. It is said to be that most victimizations occur to a young male, who may not have had a good home life or may be single. This is because they are more vulnerable, and they are more apt to hang around potential offenders. Rates of Violent Crime per 1'000 Canadians Since the earliest studies of victimization, it became clear that the risks of these victimizations have increased when people engage in activities outside the home. Some of these statistics include:

- Less than 10 activities outside the home result in a total violence of 44 occurrences, 8 being sexual assaults, 3 being robberies, and 33 being physical assault.
 - 10-19 activities outside the home result in 77 occurrences of violence including 14 sexual assaults, 5 robberies, and 59 physical assaults.
 - 20-29 activities outside the home result in 104 occurrences of violence including 21 sexual assaults, 11 robberies, and 72 physical assaults.
 - 30+ activities outside the home result in 174 occurrences of violence including 36 sexual assaults, 20 robberies, and 118 physical assaults.
- 8 Propositions About Victimization
Hindelang, Gottfredson, and Garofalo offer the following 8 propositions about victimizations:

1. The more time a person spends in public - especially at night - increases that person's chances of being victimizations.
2. Certain lifestyles increase an individual's reasoning to be in public so frequently.
3. Individuals tend to interact with people who share the same lifestyle.
4. Victimization increases when the potential victim and offender have similar demographics.
5. The amount of time an individual spends in public without family members varies according to lifestyle.
6. The chances of a person being a victim (theft) increases with the amount of time spent

with non-family members.

7. Lifestyle differences are related to an individual's abilities to isolate themselves from those with offender characteristics.

8. Lifestyle choices influence the convenience, desirability, and ease of victimizing people. **Victimization and Disability Status** It has been proven that people with disabilities are more likely to be victims of a crime. This is because they are far more vulnerable than the average person. **Personal Victimization.** A person becomes more vulnerable to personal victimization when they are outside of the home and with non-family members. Oddly enough, elderly women are less likely to be victims because they hang around other elderly women. A person's lifestyle choices and social roles also play a huge part in personal victimization.

FEAR OF CRIME

Most people have a low chance of being victims of crime but the numbers of people that are afraid or worried about something happening to them are relatively high.

The British Crime Survey 2006/07 identified that the %age of adults with high levels of worry about burglary were 13%; high levels of worry about car crime 13% and high levels of worry about violent crime were 17%. In the 2002 international survey of 'feeling unsafe walking home at night' – published by UN Habitat in 2007 – of the 35 nations surveyed, England and Wales featured as the 17th most fearful country (above the United States, Canada, Japan, China etc). It should also be noted that 'fear of crime' within United Kingdom differs by region – with London being significantly higher in fear than other parts of the UK.

Fear of crime can also deter people from using public facilities (parks and open spaces) and public transport; and some groups are particularly affected. Black and minority ethnic people's fear of crime is higher than that of white people, some women will not travel after dark, and parents restrict their children's usage of public transport.

A UK government survey (Department of Environment Transport and the Regions) found that fear of crime while waiting for a train or bus after dark is greater for women than for men, with bus stops being considered less frightening than railway platforms. In the survey 44% of women and 19 % of men felt unsafe waiting for a bus, and 53 % of women and 23%r of men felt unsafe on a railway platform after dark. However, both men and women feel safer once they have boarded their bus or train, with buses again rating as less frightening than trains.

Because of the nature of the problem - as an expression of feelings - it is easy to devalue it. However, these are genuine responses to people's perceived risks and although they may appear to be exaggerated, those feelings means that fear of



crime not only impacts on lives in a general way (through the way that people will conduct their lives to avoid peceived risks) but - as seen above, in a way that reduces the positive impact of any actual crime reduction. The neighbourhood, in the eyes of the population, can therefore retain its reputation of lawlessness even though crime has significantly diminished. Crime and Disorder Reduction Partnerships (CDRP's) cannot ignore the issue but will need to ensure that they do whatever they can to tackle its causes.

Influences on crime perceptions

People's perceptions of crime – and the risks of victimisation - will affect the way in which they conduct their lives. This awareness of the impact may well be marginal to the individual but, in reality, can prevent them from leaving their homes after dark, accessing public facilities – such as parks and open spaces – traveling by public transport (see below) etc.

Fear of crime also differs within the population – with gender, ethnicity, location etc being important factors in the levels of concern and the degree to which this can alter people's ability to go about their daily lives.

There are a number of identified influences on the perceptions of crime – some of these are personal to an individual or family (personal experience victimisation, Nuisance and anti-social behaviour in the area may also increase fear of crime, with low-level offences making people worried and more afraid about crime than they perhaps need to be.

There is also evidence to demonstrate that a small number of serious violent offences function '... to articulate and animate social reactions to crime and social control in contemporary social life'. A useful article on this subject is *Crime as a Signal, Crime as a Memory* by Martin Innes.

CDRP's and local communities need to make sure that all the various problems are taken into account and identify how best to tackle fear of crime in their area to avoid implementing measures that result in an increase in fear of crime rather than a reduction in both the fear of crime and in crime itself.

Effective Communications - reducing fear of crime

The activities listed below can be used to impact on the local fear of crime. These should be developed in conjunction with local community safety partnership plans.

Understanding the local problems

- Conducting a **local a survey of perceptions of crime** to identify the specific issues concerning residents, business people and visitors to the area
- Scanning the area for significant fear of crime issues - social and environmental
- Conducting 'face the people meetings' with residents and other stakeholder in the area
- Reviewing local crime and disorder data - including historical information

Improving the Local Environment

- Repairing broken and vandalised facilities, removing litter and generally improving the appearance of a local area can have a big impact on reducing fear of crime
- Target-hardening measures such as increased lighting, home security upgrades and CCTV can all help reduce crime and fear of crime. For example, research conducted on behalf of the Home Office found that the three key things the public think would make a car park safe from crime are regular patrols/high visibility of staff, CCTV coverage and increased lighting

- Improved residential and commercial planning in line with the Secured by Design standard

Community Capacity Building

- Developing community engagement in crime and disorder reduction
- Developing Neighbourhood Management schemes which include Neighbourhood Policing and local community safety objectives
- Using ‘Planning for Real’ techniques to involve local people in identifying areas that make them feel unsafe and help develop measures to reduce their fear
- Developing Neighbourhood Watch and Street Warden programmes

Improving Local Communications and Knowledge of Crime and Disorder

Reduction

- Developing and implementing a communications action plan
- Developing positive campaigns with local newspapers/radio stations
- Holding local crime prevention and community safety surgeries

Reducing levels of crime and anti-social behaviour in the area can help reduce fear of crime. However, this is not always the case and it is also possible that strategies to reduce crime may increase fear of crime. For example by highlighting the potential victimisation through a crime awareness campaign. This is why interventions to reduce fear of crime must be developed as part of local crime and disorder reduction plan and should be based on specific problems in the area.

PUNITIVITY

Punitivity come from the Latin root word *punire*, "to inflict a penalty on." *Punitive* doesn't always refer to a person-to-person punishment, like a mom disciplining a child. It can also describe the unpleasant result of an action on a large scale, like the punitive effect higher taxes will have on the middle class. It describes inflicting a punishment. If someone takes punitive action against you, you'll probably whine and complain- you're in trouble and you're about to get punished.

Examples of Punitive in a sentence

The purpose of the punitive lawsuit's community service ruling is to forever remind the drunk driver of the cost of his actions. When the case began, the attorney announced his client was seeking both monetary and punitive damages for being fired without cause.

The proceeds from the punitive lawsuit will be used to establish a fund for families who lose loved ones in a drunk driving incident. Since the punitive sanctions are not producing the desired results, the United Nations is sending troops into the distressed country.

The university is taking punitive actions against the football player who failed his drug test.

VICTIMIZATION SURVEYS

Police report data alone will not suffice for the assessment: data from 52 countries show reporting rates by victims to be 30%-40% overall, with reporting rates for crimes such as sexual assault to be low as 10% or less. The lowest reporting rates are found in the least developed nation.

Victimization surveys are the best way to determine its incidence and prevalence, but they are costly to do properly and keep updated. In addition, they are not likely to fully capture certain crimes such as spouse assault, child abuse, elder abuse, and abuse of power crimes which often go unreported. For such crimes, the "dark figure" of unknown victimizations will remain large. Nonetheless it is critical to conduct victimization surveys of these special groups so; that the victim assistance response is appropriate in size and character.

These surveys may also overlook the effect of sudden, isolated cases of mass violence, such as terrorist attack, massacres, or hijackings.

Having obtained the best possible estimates of victimization, the next step will be to determine accurately the financial medical, psychological, and other costs of victimization to the victims. Developed



"And finally, would you say your fear of crime had increased?"

countries have various data systems that help in determining the levels of victimization (at least for individuals). However, research suggests that even these data systems capture only a fraction of the full costs of crime to its victims. Therefore, any estimates of shortfall are likely to underestimate the level of victim needs in comparison to the assistance available, unless the costs to victims are fully taken into account.

For example, a study by the Bureau of Justice Statistics at the U.S Department of Justice found that in 1992 American crime Victims lost \$17.6 billion in direct costs, which included losses from property theft or damage, cash losses, medical expenses, and amount of pay lost because of injury or activities related to the crime. For victims of abuse of power, especially in areas devastated by war, the costs are greatly magnified and must necessarily include the costs to the community and society in restoring the often massive damage to a country's infrastructure.

The provision of assistance to individual victims will usually include formal victim services, compensation, and/or restitution from both governmental and non-governmental sources. In the case of homicide and certain other crimes, assistance may be provided to the co victim such as the families of the victims themselves, added to this and typically more utilized by the victim are informal sources of assistance such as family, neighbors, friends, and others. Employers sometimes offer assistance. Public and private insurance plans may be available to assist with medical and psychiatric needs as well as property losses, and to provide counsel through legal procedures, and thus should be included if they meet the needs of victims even if that is not their primary focus.

If data on the incidence and prevalence of victimization of individuals, and of its costs, are weak in general, they are even weaker when it comes to crimes against business and crimes against collective groups. Few countries have ongoing and systematic ways of capturing these data. The envisaged international survey of business victimization will be a pioneering effort to remedy this problem. Establishing the cause of business losses can be problematic in many cases, e.g., inventory "shrinkage," which can result from shoplifting employee theft, fraudulent billing, or poor record-keeping. But whatever the cause, business failure due to crime will harm the community through loss of a source of employment and of tax revenue, leading, to "whole community harm" that expands beyond the individual business establishment.

Sources of assistance to victimized business may include government loans and subsidies, as well as public and private insurance. Individuals who are victimized in connection with their employment or for example through forms of large-scale fraud may

be entitled to special programs of assistance provided by the government or by the employer.

With reference to collective victims of abuse of power, such entities as the United Nations High Commissioner on Refugees, the International Red Cross, and Red Crescent have assessment mechanisms which are part of their response programs.

U.N. DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER

Under this Declaration the victims of crime means persons who individually or collectively have suffered harm including physical or mental injury emotional sufferings economic loss or substantial impairment of their fundamental rights through acts or omissions that are in violation of criminal laws, proscribing criminal abuse of power. A person may be considered a victim under this declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The victim also includes where appropriately the immediate family or the dependents of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

The above U.N Declaration is the first major effort by the United Nations to spell out specifically the rights of victims of crime and abuse of power and the obligation of the Nations and Governments to protect and ensure these rights. The rights of the victims have been classified and brought under four specific heads as follows under the Declaration. They are;

- 1 ACCESS TO JUSTICE AND FAIR TREATMENT**
- 2 RESTITUTION**
- 3 COMPENSATION**
- 4 ASSISTANCE**

Numerous criminal victimization surveys have revealed that the dark field of undirected or unreported crime is very expensive And that the crime victim is the “Gate Keeper” of the criminal justice system. It is he who usually initiates criminal proceedings by reporting the crime. Police Prosecution and Courts rely heavily on the victim’s

cooperation in controlling crime. At the same time it was also discovered that crime victims are often, subject to renewed suffering as a consequence of the response to their victimization and that victims are not at all satisfied with their position in criminal proceedings.

As far as the rights of the victims of crime in India are concerned, the existing rights are insufficient to fulfill their needs. Justice V.R Krishna Iyer (1958) strongly advocated the enactment of a separate and comprehensive code to deal with all aspects of reparation to victims of crime. He further said that monetary compensation is a marginal feature of the attempt to provide reparation and it is therefore essential to evolve an entire legal structure to deal with victimology”

RIGHTS OF THE VICTIMS OF CRIME UNDER CR.P.C 1973:

The present law relating to victim compensation in India is covered by section 357 of the Criminal Procedure Code. It confers on the Court a discretionary power to award compensation to the victims of crime. Sub – section 1 of section 357 limits the Court’s power to award victim compensation only to those categories of cases in which the Court has either wholly or partly impose a sentence of fine simply put the ambit o sub-section 1 is based on the logic that if there is no sentence of fine, then there can be no victim compensation under. But sub – section 3 of section 357 deals with cases in which fine does not form part of a sentence. In such cases the court is empowered to order the accused person to pay by way of compensation, such amount as may be specified by the court in its order. Such specified amount is to be paid to the person who has suffered any loss or injury by reasons of the act for which the accused person has been so sentenced. It is to be noted that there is no maximum limit to the amount of compensation awardable under section 357 of the code.

As far as the victims of abuse of power wherein the victimization has been caused by the State agencies, there has been tremendous attitudinal change on the part of the Higher judiciary in India to provide compensation by the victims of abuse of power due to the judicial activism shown by the Apex Court and courts at the district level in the recent of crime in the criminal justice administration in India with regard to compensation is deplorable as the question of compensation depends on the question of compensation depends on the mercy of the court (chockalingam 1996)

The law relating to compensation/restitution which is basically contained in section 357 of the Criminal procedure Code leaves it entirely to the discretion of the court. Unfortunately, Courts have seldom invoked this power. Only in the last decade, the superior courts are liberal in awarding compensation to the victims in cases where tortuous acts are committed by the state officials in the cause of their employment even before the accused is found guilty by the court. But compensation under section 357 of the code can be made only when the offender is found guilty. A mandatory provision in the code for awarding compensation to the victims of crime is the need of the hour (Solomon raja 1998)

Rights under the constitution of India :

ARTICLE 21 SPEEDY TRIALS

The above mentioned article imposed an obligation on the state to safeguard the right of every person. The right includes right to life liberty and property.

The Supreme Court in its decision Raghuvir Singh vs. state of Bihar AIR 1987 page (148) clearly stated that a right to a speedy justice is the part of the Fundamental Rights stated in Article 21

Article 39-a stipulates that the state shall secure that the operation of legal system promoted justice on a basis of equal opportunity and shall in particular provide free legal and by suitable legislation or schemes or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities

The above cited articles can be made use of in formulating a special law concerning the victim since the victim too needs justice and equal opportunity to redress grievances committed to him.

VICTIM IN THE CRIMINAL JUSTICE SUSTEM AND RESTORATIVE JUSTICE

Victims in common-law jurisdictions now have far more input into the criminal process. Victim participatory rights are currently recognized as an important component of criminal justice proceedings. Research has shown that victim participation in justice can help victims who want to be included in proceedings and that victim participation does not result in difficulties or create problems for the smooth operation of the criminal justice system. However, because victim participation in sentencing decisions challenges

traditions and established patterns within the criminal courts, these rights sometimes encounter resistance in their implementation. As legal cultures are transformed, however, and victims are increasingly perceived as a legitimate party in proceedings, victim participation can become an acceptable practice and a way to inject restorative justice elements into adversarial justice systems. Ultimately, it is the underlying value system and ideology that will determine whether victims are meaningfully integrated into proceedings. Attempts to integrate victims outside the adversarial criminal justice system through restorative justice schemes have worked for some victims, but they do not serve those who wish to remain within the protective structure of adversarial systems.

This entry reviews the historical development of the role of crime victims in common-law criminal justice systems. It presents and assesses research on the impact of these changes on victims and the criminal justice system. Emerging alternative perspectives and schemes to integrate victims in proceedings are then discussed. The entry concludes by noting some implications for criminal justice policies regarding crime victims.

Victims' Role in Criminal Proceedings

In adversarial justice systems, a criminal trial entails a conflict between two adversaries—the state and the defendant, and the search for the “truth” is conducted before an impartial adjudicator—the judge. In earlier centuries, crime victims had to assume the responsibility of pursuing the offender and bringing him or her to justice. Over time, this state of affairs changed. With the centralization of power and creation of the concept of “the King’s peace,” victims lost their active role in justice. The state began to prosecute a defendant on behalf of the community, and the crime victim was relegated to the role of witness for the prosecution.

For most victims, even their role as witness never materializes. Most criminal incidents do not result in a trial as a result of the attrition of cases. The police may fail to make an arrest, or the prosecutor may decide not to file a criminal charge. If a charge is filed, it may be stayed or withdrawn. In the vast majority of cases, the offender ultimately pleads guilty, and the case proceeds to sentencing without a criminal trial being held. Unlike continental legal systems, which provide victims with a formal role in criminal proceedings, adversarial legal systems do not accord victims any formal standing in the prosecution of “their” offenders. Victims have little influence over whether (or how) the

state chooses to proceed against the alleged perpetrator. Thus, until fairly recently, crime victims were denied any input into the sentence of the offender. Yet the state highly depends on victim cooperation, without which a criminal prosecution is unlikely to succeed.

Changes in the Role of Crime Victims

Until the 1970s, crime victims were considered the “forgotten persons” of criminal justice—invisible to and neglected by the system. The lack of victim standing in criminal proceedings, and the consequent insensitivity to the needs of crime victims, led to victim dissatisfaction and alienation from the criminal justice system. Surveys of crime victims in a number of countries revealed complaints related to the lack of information about the case as well as frustration due to the lack of input into the proceedings. These findings provoked campaigns by victims’ rights groups to bring about changes in the criminal justice system.

In response to the victim movement, Western countries have passed legislation creating various victim rights and have established a wide range of services for victims of crime. Victims now have the right to receive information about the status of the case in which they are involved, and they also have the right to apply for financial compensation and psychological assistance. More recently, many jurisdictions have provided victims with participatory rights throughout the criminal process, beginning with the arrest of a suspect and ending with the prisoner’s release from prison. Although most rights and benefits that facilitate victim participation in justice have been generally accepted, the right to actively participate in the judicial process and to have a voice in proceedings has proved controversial and continues to be the subject of heated debate.

Emergence of Participatory Rights for Crime Victims

Research and practice have shown that while some victims prefer to stay out of the criminal justice system, many others wish to participate. The need to accord victims participatory rights has been recognized by many national committees established to study victims in the criminal justice process (e.g., the President’s Task Force on Victims of Crime, 1982, in the United States and the report of the Standing Committee on Justice and Human Rights, 1998, in Canada). Similar reports have been published in other jurisdictions.

The international community has also recognized the need to integrate victims into the criminal justice process. In 1985, the United Nations Seventh Congress on the Prevention of Crime and Treatment of the Offender adopted a declaration that required that victims be allowed to present their views and concerns at appropriate stages of the criminal justice process. Victims also enjoy significant rights in proceedings before the International Criminal Court in the Hague. That court hears cases involving the most serious crimes committed against many hundreds of crime victims.

Many states in the United States have enacted victims' bills of rights that vary in scope from mandating that criminal justice officials simply show respect toward victims, to establishing a victim's right to be present and heard, to allowing victims to sit at the prosecutor's table during trial. In several states, victims' rights are achieved by specific statute, but a number of states have adopted constitutional amendments to give victims' rights greater permanence and visibility. The majority of the states also allow for victim participation in sentencing and parole hearings. The states also provide for victim participation in plea bargaining. However, the extent to which victims are allowed to participate in plea discussions varies widely, with no state providing victims with a veto over plea agreements.

Reforms addressing the circumstances in which victims are afraid or reluctant to provide testimony or input into proceedings (such as domestic violence cases) have also been adopted. These laws (or statutory amendments) require the police to make arrests regardless of whether the victim signs the complaint. Similarly, prosecutors are allowed to proceed with a case even if the victim refuses to cooperate (this is known as a "no-drop" policy). Mandatory arrest laws and no-drop prosecutorial policies recognize that victims of domestic violence are especially vulnerable to retaliation from the perpetrator if they press charges. These laws therefore remove this decision from victims. Mandatory charging and prosecuting policies thus create a potential conflict with the principal goal of victims' advocates: to give victims a say in important criminal justice decisions that affect their lives. Accordingly, some battered women's advocates and feminist scholars have criticized the mandatory element of these policies on the grounds that they further disempower the crime victim.

Victim Impact Statements at Sentencing

Sentencing attracts more interest than any other stage of the criminal process. Victims look toward a sentencing court to vindicate their suffering and to mark the crime by imposing an appropriate penalty on the convicted offender. It is therefore not surprising that it is at the stage of sentencing that victims are most interested in providing input. Of all the participatory reforms, victim input into sentencing decisions, or victim's right to submit victim impact statements (VIS), have attracted the most opposition.

Arguments for Victim Participation at Sentencing

Advocates of victims' rights to participate in the criminal justice process have advanced a variety of arguments, some moral, some penological, and others practical in nature. The idea of victim participation recognizes victims' wishes to be treated as a party to the proceeding. Allowing victims to participate in the criminal process reminds judges, juries, and prosecutors that behind the "state" there is an individual victim with an interest in how the case is ultimately resolved. It is argued that providing victims with input promotes proportionality in sentencing because victims can provide accurate information about the seriousness of the crime. Victim participation may also lead to increased victim satisfaction with the judicial process and cooperation with the criminal justice system. This, in turn, may enhance the system's effectiveness in bringing offenders to justice. It may also increase perceptions of the fairness of proceedings, because it will also allow victims to be heard. The use of VIS may also promote psychological healing by helping victims recover from the emotional trauma associated with their victimization. Finally, it may also alleviate some of the feelings of helplessness that can arise as a result of the crime and the inability on the part of victims to express themselves to judicial authorities.

VICTIM IN THE RESTORATIVE JUSTICE

For the last 25 years in the United States, victims of crime and victim advocates have tried to make the criminal justice system more responsive to the needs and interests of victims. Victims have worked hard, first to be informed, and then to be able to participate. Over time, community-based organizations, police, prosecutors, courts, and corrections departments all began to provide victim advocates to help guide victims through the system-- to advise them of their rights to be present and to participate in proceedings.

These days, in the United States, it is far more common for victims to hear about a plea negotiation, to speak at sentencing or parole hearings, or to learn about an offender's release from prison. Still, many victims feel ignored, excluded, and profoundly disrespected by the system. There is no meaningful interaction with offenders, and victims' emotional, physical, and financial needs are rarely fully addressed, if addressed at all. As a result, victims often feel further alienated and unsatisfied.

On the other hand, restorative justice holds great promise as a set of values which promote healing and strengthen the social bonds which serve as the foundation of our communities. Empathy, mutual understanding, restitution and accountability are key principles of restorative justice. A high priority is placed on maintaining or restoring individual dignity. Crime is not depersonalized. It is viewed as an experience between individuals, in the midst of a community. All three - victims, offenders, and communities - should recognize how the crime has harmed each, and all three should attempt to rebuild social ties and recreate "right relationships."

Sounds like everything victims' advocates have been asking for. Right? Not quite.

Let me explain how restorative justice falls short.

Restorative justice programs leave out most victims.

Most victims do not participate in any formal process to resolve the issues surrounding their victimization. In the traditional criminal justice system, there are many reasons for this. The victim may not report the crime to the police, the police may not find the offender, the offender may not be arrested, the prosecutor may not pursue the case, or the case may never make it to trial. As a result, only a small %age of victims in this country ever make it to court. To the extent that restorative justice models depend upon an arrest or some other official complaint to trigger the process, they will suffer from the same limitations and the vast majority of victims will not be able to take advantage of their benefits.

Furthermore, as I understand it, restorative justice typically requires an offender who has admitted culpability and wants to participate in the process. Consequently, the number of cases eligible for restorative justice processes is even smaller. At its best, restorative justice, as currently applied, is able to help only a very small number of victims of crime. Please do not misunderstand me. It could be that for those few victims and offenders,

restorative justice may present a far more appealing option than the traditional criminal justice system. But for those who talk about restorative justice as a preferred approach, and one which could replace traditional systems, it is important to remember that the doors to restorative justice do not yet open as wide as the doors to the courthouse.

Restorative justice does not address many critical needs of victims.

Unlike the traditional criminal justice system, restorative justice offers victims a highly participatory process. Restorative justice focuses on victims' need:

- to tell their story and to be heard, to reconnect to their community;
- to participate in discussions about how to resolve their "conflict;"
- to experience empathy from the offender, the community or both;
- to get more information about the circumstances of the crime;
- to receive an apology and/or expression of remorse from the offender; and
- to receive restitution.

UNIT – III: INDIVIDUAL AND MASS VICTIMIZATION

VICTIMS OF TRADITIONAL CRIME

WAR CRIME

A **war crime** is an act that constitutes a serious violation of the law of war that gives rise to individual criminal responsibility. Examples of war crimes include intentionally killing civilians or prisoners, torture, destroying civilian property, taking hostages, perfidy, rape, using child soldiers, pillaging, declaring that no quarter will be given, and serious violations of the principles of distinction and proportionality, such as strategic bombing of civilian populations.

ORGANIZED CRIME

Organized crime is a category of transnational, national, or local groupings of highly centralized enterprises run by criminals who intend to engage in illegal activity, most commonly for money and profit. Some criminal organizations, such as terrorist groups, are politically motivated. Sometimes criminal organizations force people to do business with them, such as when a gang extorts money from shopkeepers for so-called "protection".

GENOCIDE

After the Holocaust, the United Nations created a new term — genocide — and defined it as any of the following actions committed with intent to destroy a national, ethnic, racial or religious group:

Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group, or forcibly transferring children of the group to another group.

WOMEN VICTIMS

The United Nations defines violence against women as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." So they are called as Women Victims.

Intimate partner violence refers to behaviour by an intimate partner or ex-partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, Psychological abuse and controlling behaviours.

Sexual violence is "any sexual act, attempt to obtain a sexual act, or other act directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. It includes rape, defined as the physically forced or otherwise coerced penetration of the vulva or anus with a penis, other body part or object."



DOWRY

Dowry means any property or valuable security given or agreed to be given either directly or indirectly:

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II.-The expression 'valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

Section 304B in The Indian Penal Code

1. 304B. Dowry death.—

- a. Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.
Explanation.—For the purpose of this sub-section, "dowry" shall have the same meaning as in section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).
- b. Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

BATTERED WOMEN

To understand battered woman's syndrome, one must first understand how someone becomes a "battered woman". According to Dr. Lenore E. Walker, the nation's most prominent expert on battered women, a woman must experience at least two complete battering cycles before she can be labeled a "battered woman". The cycle has three distinct phases. First is the tension-building phase, followed by the explosion or acute battering incident, culminating in a calm, loving respite - often referred to as the honeymoon phase. Walker, L., *The Battered Woman* (1979).

Battered woman syndrome (BWS) is a mental disorder that develops in victims of domestic violence as a result of serious, long-term abuse. BWS is dangerous primarily because it can lead to what some scholars say is "learned helplessness" – or psychological paralysis – where the victim becomes so depressed, defeated, and passive that she believes she is incapable of leaving the abusive situation. Though it may seem like an irrational fear, it feels absolutely real to the victim. Feeling fearful and weak, and sometimes even still holding onto the hope that her abuser will stop hurting her, the victim remains with her abuser, continuing the cycle of domestic violence and Strengthening her existing BWS.



Battered woman syndrome is recognized by many states as a legitimate mental disorder, and there are support systems available to women who suffer from a situation of domestic violence and BWS. It's worth noting, also, that the laws of many states account for violent outbursts by BWS victims. If you or someone you know is afraid of coming forward to authorities because of an injury to the abuser, there may be ways to avoid punishment.

1. The woman believes that the violence was her fault.
2. The woman has an inability to place the responsibility for the violence elsewhere.
3. The woman fears for her life and/or her children's lives.
4. The woman has an irrational belief that the abuser is omnipresent and omniscient.

RAPE AND OTHER KINDS OF SEXUAL HARASSEMENT

RAPE DEFINITION (SECTION 375 OF IPC)

A man is said to commit "rape" if he—

- a. penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

b. inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

c. manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any ~ of body of such woman or makes her to do so with him or any other person; or

d. applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—



First.—Against her will. Secondly.—Without her consent.

Third/y.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourth/y.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifth/y.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

Seventhly.—When she is unable to communicate consent.

Explanation I.—For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception I.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.'

SEXUAL HARASSMENT AT WORKPLACE

According to the Protection of Human Right Act, 1993 "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India. It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women as to live with dignity is a human right guaranteed by our constitution.

It has been laid down by the Supreme Court that it is the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the Commission of acts of sexual harassment and to provide the procedure for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

What amounts to sexual harassment?

Sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- (a) physical contact and advances
- (b) a demand or request for sexual favours
- (c) sexually coloured remarks
- (d) showing pornography
- (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Where any of these acts is committed in circumstances where under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem it amounts to sexual harassment.

It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

CHILD ABUSE

Child abuse comes in many different forms such as neglect, physical abuse, fetal abuse, sexual abuse, emotional abuse, and spiritual abuse. The Child Abuse Prevention and Treatment Act (**CAPTA**) has these definitions:

Child abuse and neglect - At a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm. Sexual abuse - the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children.

NEGLECT

Physical neglect – Includes abandonment or inadequate supervision, and failure to provide for safety or physical needs. Includes failure to thrive, malnutrition, unsanitary conditions, or injuries from lack of supervision.

Educational neglect – Includes not enrolling child in school, or allowing child to engage in chronic truancy.

Emotional neglect - Includes withholding of affection or attention, failure to provide psychological care, ignoring the child's emotional needs.

Medical neglect – Includes delay or denial of dental or health care, or withholding medical care due to religious beliefs. Some states will not prosecute due to withholding of health care due to religious beliefs but court orders are occasionally obtained to save a child's life.

Neglect Indicators

- Poor hygiene, including lice, scabies, severe or untreated diaper rash, bedsores, body odor
- Squinting
- Unsuitable clothing; missing key articles of clothing (underwear, socks, shoes); overdressed or underdressed for climate conditions
- Untreated injury or illness
- Lack of immunizations
- Indicators of prolonged exposure to elements (excessive sunburn, insect bites, colds)
- Height and weight significantly below age level

PHYSICAL ABUSE

Physical abuse is the most obvious form of abuse. It is an act that results in physical injury to a child. Punching, beating, kicking, biting, burning, breaking bones, hair pulling and shaking a baby are examples of physical abuse.

Physical Abuse Indicators:

- Recurrent injuries with unexplained, guarded, implausible, or inconsistent explanations
- Oddly shaped or patterned bruises or lacerations (from an object)
- Uncommon locations for injury (underarms, neck, back, genitals, stomach, thighs)
- Lacerations
- Burns (cigarette, immersion)
- Welts
- Broken bones and intracranial trauma
- Hair loss
- Wearing long sleeve clothing out of season
- Hesitation on showing certain body parts (not dressing out for P.E.)
- Acts out aggression on others
- Fear, withdrawal, depression
- Fantasies, art work, or threats related to violence
- Regression
- Nightmares, insomnia

FETAL ABUSE

Fetal alcohol Syndrome (FAS) – Caused from the consumption of alcohol during pregnancy.

Drugs – tobacco, marijuana, cocaine, methamphetamines, heroin, PCP, LSD.

Indicators of fetal abuse due to FAS

- ♣ Mental retardation
- ♣ Prenatal and postnatal growth deficiency
- ♣ Facial malformations
- ♣ Central nervous system dysfunction
- ♣ Varying degrees of major organ dysfunctions
- ♣ Developmental delays
- ♣ Indicators of fetal abuse due to drug usage
- ♣ Miscarriage
- ♣ Low birth-weight
- ♣ Premature birth
- ♣ Developmental delays
- ♣ Behavioral and learning problems
- ♣ Drug dependency and subject to withdrawal (tremors, sleeplessness, muscle spasms, and difficulties feeding)
- ♣ Susceptibility to HIV

SEXUAL ABUSE

Sexual abuse is any misuse of a child for sexual pleasure or gratification. It is the involvement of children in sexual activities that they do not fully comprehend, that they are unable to give informed consent to and/or that violates societal taboos.

Non-touching sexual abuse - Indecent exposure or exhibitionism, exposure to pornographic material or any sexual act, including masturbation.

Touching sexual abuse – Fondling, making a child touch an adult's or another child's sexual organs, penetration of a child's vagina or anus by an adult or an object, and any other sexual act with a child.

Sexual exploitation - Engaging a child for the purposes of prostitution or using a child to

film or photograph pornographically.

Sexual Abuse Indicators:

- ⊗ Compulsive masturbation, teaching others to masturbate
- ⊗ Excessive curiosity about sex or seductiveness
- ⊗ Sexual acting out with peers, others
- ⊗ Bruises or bleeding in external genitalia or stained, torn, bloody underclothing
- ⊗ Frequent, unexplained sore throats, yeast or urinary infections.
- ⊗ Bed-wetting, soiling, playing with feces
- ⊗ Complains of pain or itching in genitalia
- ⊗ Difficulty in sitting or walking
- ⊗ Excessive bathing
- ⊗ Withdrawn or aggressive
- ⊗ Sexually transmitted diseases
- ⊗ Pregnancy, especially in early adolescence
- ⊗ Sexual inference in school artwork
- ⊗ Overly compulsive behavior
- ⊗ Fears and phobias
- ⊗ Sleep problems
- ⊗ Depression
- ⊗ Somatic symptoms (stomach aches, headaches, etc)

EMOTIONAL ABUSE

“When it comes to damage, there is no real difference between physical, sexual and emotional abuse. All that distinguishes one from the other is the abuser’s choice of weapons.”

- Andrew Vachss

Emotional abuse is a pattern of behavior that can seriously interfere with a child's positive development, psyche and self-concept. Emotional abuse is hard to identify due to no physical evidence.

Rejection and Ignoring – Telling a child in a variety of ways that he or she is unwanted, having a lack of attachment, showing no interest, not initiating or returning affection, and/or not listening to the child. Not validating feelings. Breaking promises. Cutting the child off while he or she is speaking. Pretending to hear concerns, but then disregard them.

Shame and Humiliation –Telling a child he or she is stupid, etc. or evoking criticism when performance is not perfect. Judging what the child does as wrong, inferior, or worthless. Using reproaches such as "You should be ashamed of yourself," or "Stop crying or I'll give you something to cry about." Pride is also a feeling that is often met with shameful condemnations, such as "Who do you think you are, Mr. Big Shot?"

Terrorizing – Accusing, blaming, insulting, criticizing, punishing and threatening with abandonment, physical harm, or death. Sabotaging success by making unreasonable demands or labeling the person as a loser. Taking advantage of the person's weakness or manipulating. Slandering.

Isolating – Not allowing the child to engage with peers or activities, keeping a child in a room or small area, and not exposing the child to stimulation. Withholding information.

Corrupting - Engaging children to witness or participate in criminal acts such as stealing, drug dealing etc. Telling lies to avoid justifying actions or ideas.

Emotional Abuse Indicators

- Hiding his or her eyes
- Lowering his or her gaze
- Biting lips or tongue
- Forcing a smile
- Fidgeting
- Annoyance
- Defensiveness
- Exaggeration
- Confusion or denial
- Feeling of nakedness, defeat, alienation or lack of worth
- Regression
- Poor self-esteem
- Angry acts
- Withdrawal
- Insecurity
- Alcohol or drug abuse
- Depression
- Suicide
- Difficulty in relationships
- Eating disorders
- Sleep disorders/nightmares
- Speech disorders
- Developmental delays
- Nervous disorders or somatic symptoms

CYBER VICTIMIZATION OF WOMEN AND CHILDREN

Cyber crime is a global phenomenon. With the advent of technology, cyber crime and victimization of women are on the high and it poses as a major threat to the security of a

person as a whole. Even though India is one of the very few countries to enact IT Act 2000 to combat cyber crimes, issues regarding women still remain untouched in this Act. The said Act has termed certain offences as hacking, publishing of obscene materials in the net, tampering the data as punishable offences. But the grave threat to the security of women in general is not covered fully by this Act.

Cyberbullying can affect everyone, including children. Safety Web provides support for parents to improve internet safety for kids.

Internet crimes: crimes against children are facilitated by the Internet, the increased use of which in recent years has led to a huge rise in offending. Not only can offenders distribute and access child abuse material more easily, but they can also come into direct contact with children – via chat rooms and social networking sites. We run a project in conjunction with Internet Access Service Providers to block access to child abuse material online.

Types of cyber crime that is committed against women and children:

Amongst the various cyber crimes committed against individuals and society at large the crimes which can be mentioned as specially targeting women and children are as follows:

- Harassment via e-mails.
- Cyber-Stalking.
- Cyber Pornography.
- Defamation.
- Morphing.
- Email Spoofing.

Brief discussions of these offences are as follows:

I. **Harassment through e-mails** is not a new concept. It is very similar to harassing through letters. Harassment includes blackmailing, threatening, bullying, and even cheating via email. E-harassments are similar to the letter harassment but creates problem quite often when posted from fake ids.

II. **Cyber stalking** is one of the most talked about net crimes in the modern world. The Oxford dictionary defines stalking as "pursuing stealthily". Cyber stalking involves following a person's movements across the Internet by posting messages (sometimes

threatening) on the bulletin boards frequented by the victim, entering the chat-rooms frequented by the victim, constantly bombarding the victim with emails etc. Cyber Stalking usually occurs with women, who are stalked by men, or children who are stalked by adult predators or paedophiles. Typically, the cyber stalker's victim is new on the web, and inexperienced with the rules of netiquette & Internet safety. Their main targets are the mostly females, children, emotionally weak or unstable, etc. It is believed that Over 75% of the victims are female. The motives behind cyber stalking have been divided in to four reasons, namely, for sexual harassment, for obsession for love, for revenge and hate and for ego and power trips. Cyber stalkers target and harass their victims via websites, chat rooms, discussion forums, open publishing websites (e.g. blogs and Indy media) and email. The availability of free email and website space, as well as the anonymity provided by these chat rooms and forums, has contributed to the increase of cyber stalking as a form of harassment.

There are a couple of reported cases, which speak of the position of the cyber stalking in India. The recent being the case of Manish Kathuria who was recently arrested by the New Delhi Police. He was stalking an Indian lady, Ms Ritu Kohli by illegally chatting on the Web site MIRC using her name. He used obscene and obnoxious language, and distributed her residence telephone number, inviting people to chat with her on the phone. As a result of which, Ritu kept getting obscene calls from everywhere, and people promptly talked dirty with her. In a state of shock, she called the Delhi police and reported the matter. For once, the police department did not waste time swinging into action, traced the culprit and slammed a case under Section 509 of the Indian Penal Code for outraging the modesty of Ritu Kohli (Indiachild, 2005). In another case, an engineering and management graduate, facing prosecution in a dowry harassment case, was arrested by Delhi police for sending obscene e-mails in his wife's name to several persons. In June 2000, a man was arrested by the Delhi police for assuming the identify of his ex-employer's wife in a chat channel an encouraging others to telephone net. The victim who was getting obscene telephone calls at night from stranger made a complaint to the police. The accused was then located "on line" in the chat room under the identity of the, victim and later traced through the telephone number used by him to access the internet (Mishra, 2001).

III. **Cyber pornography** is the other threat to the female netizens. This would include pornographic websites; pornographic magazines produced using computers (to publish and print the material) and the Internet (to download and transmit pornographic pictures, photos, writings etc). Child pornography refers to any content that depicts sexually explicit activities involving a child. Visual depictions include photographs, videos, digital or computer generated images indistinguishable from an actual minor.

Internet has provided a medium for the facilitation of crimes like pornography. Cyber porn as it is popularly called is widespread. Almost 50% of the web sites exhibit pornographic material on the Internet today. Pornographic materials can be reproduced more quickly and cheaply on new media like hard disks, floppy discs and CD- Roms. The new technology is not merely an extension of the existing forms like text, photographs and images. Apart from still pictures and images, full motion video clips and complete movies are also available. Another great disadvantage with a media like this is its easy availability and accessibility to children who can now log on to pornographic web-sites from their own houses in relative anonymity and the social and legal deterrents associated with physically purchasing an adult magazine from the stand are no longer present. Furthermore, there are more serious offences which have universal disapproval like child pornography and far easier for offenders to hide and propagate through the medium of the internet. Recent Indian incidents revolving around cyber pornography include the Air Force Balbharati School case. A student of the Air Force Balbharati School, Delhi, was teased by all his classmates for having a pockmarked face. Tired of the cruel jokes, he decided to get back at his tormentors. He scanned photographs of his classmates and teachers, morphed them with nude photographs and put them up on a website that he uploaded on to a free web hosting service. It was only after the father of one of the class girls featured on the website objected and lodged a complaint with the police that any action was taken.

In another incident, in Mumbai a Swiss couple would gather slum children and then would force them to appear for obscene photographs. They would then upload these photographs to websites specially designed for paedophiles. The Mumbai police arrested the couple for pornography.

IV. Cyber defamation: Cyber tort including libel and defamation is another common crime against women and children in the net. This occurs when defamation takes place with the help of computers and / or the Internet. E.g. someone publishes defamatory matter about someone on a website or sends e-mails containing defamatory information to all of that person's friends

V. Morphing: Morphing is editing the original picture by unauthorised user or fake identity. It was identified that female's pictures are downloaded by fake users and again re-posted/uploaded on different websites by creating fake profiles after editing it. This amounts to violation of I.T. Act, 2000 and attracts sec. 43 & 66 of the said Act. The violator can also be booked under IPC also. The Times of India reported that in October, a Delhi-based beautician told the police that her photograph was flashed on a porno portal along with her mobile number.

VI. Email spoofing: A spoofed e-mail may be said to be one, which misrepresents its origin. It shows its origin to be different from which actually it originates. A review in the CyberlawTimes.com shows that India has crossed the danger mark in cyber crime targeting women and children. Statistics show, and law enforcers confirm, that the maximum number of cyber crimes related to obscenity occurred in Mumbai last year. There were at least 40 cases in 2006 (of which only ten were registered), a steep rise from only five cases in 2005. Delhi was close behind, with 30 obscenity-related cases (nine registered), but topped in cases of hacking. Bangalore, Chennai, Hyderabad and Pune reported only a handful of obscene crimes but saw a greater incidence of hacking.

The more common method used by men is to email vulgar photographs of themselves to women, praising their beauty, and asking them for a date or inquiring how much they charge for 'services'. Besides sending explicit messages via e-mail, SMS and chat, many also morph photographs - placing the victim's face on another, usually nude, body. In another instance, a couple entered an internet chat room agreeing to strip for each other using a web camera." The guy stripped, but the person at the other end was actually another man and his friends, who obviously didn't. They recorded it and uploaded the clip on a porno website," said Duggal. "These things happen in every city but only one in every 500 cases is reported," added Duggal. According to Borwankar, most cases go unreported because people are "petrified of adverse publicity". While Mumbai is battling

obscurity, other cities are concerned about hacking. While Delhi reported 67 cases last year, there were 30 in Bangalore.

TRAFFICKING IN WOMEN AND CHILDREN

The trafficking of women for sexual exploitation is an international, organized, criminal phenomenon that has grave consequences for the safety, welfare and human rights of its victims.

Trafficking in women is a criminal phenomenon that violates basic human rights, and totally destroying victims' lives. Countries are affected in various ways. Some see their young women being lured to leave their home country and ending up in the sex industry abroad. Other countries act mainly as transit countries, while several other receive foreign women who become victims of sexual exploitation.



It is a global problem in which INTERPOL actively seeks to increase and improve international law enforcement co-operation in order to help combat this crime.

INTERPOL derives its actions from such conventions as the United Nations Convention against Transnational Organized Crime, and the additional Protocol to Prevent, Suppress and Punish Trafficking in Persons.

They give guidelines for law enforcement action and the following are some examples of those actions:

The protocol urges an increase in the information exchange between states in order to determine

Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons, the types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons, and the means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible means for detecting them.

Impact of trafficking

The impact of the experience of trafficking on the physical and mental health of the victims has not been properly documented and analysed. Reports about the consequences vary, depending on whether the end purpose is included in the adopted definition of trafficking. Thus, some studies may include instances of human rights violation that occur at the destinations; others may not. Trafficking has health, social, legal and economic effects on the victims.

VICTIMS OF ABUSE OF POWER

(i) ‘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 do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

(ii) States should consider incorporating into their national law, norms proscribing abuses of power, and providing remedies to victims of such abuses. In particular, such remedies should include restitution and or compensation, and necessary material, medical, psychological and social assistance and support.

(iii) States should consider negotiating multilateral international treaties relating to victims.

(iv) States should periodically review existing, legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts and should develop and make readily available appropriate rights and remedies for victims of such acts.

GENOCIDE

After the Holocaust, the United Nations created a new term — genocide — and defined it as any of the following actions committed with intent to destroy a national, ethnic, racial or religious group:

Killing members of the group; Causing serious bodily or mental harm to members of the group; Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; Imposing measures intended to prevent births within the group, or forcibly transferring children of the group to another group.

Raphael Lemkin and Creation of the word “Genocide”

In 1944, a Polish-Jewish lawyer named Raphael Lemkin sought to create a new term to describe Nazi policies of the systematic murder of Jewish people.

Lemkin used the ancient Greek word *genos* (race, tribe) and the Latin *cide* (killing) to come up with the new word, “genocide.”



Lawyer Raphael Lemkin

The United Nations Convention on the Prevention and Punishment of the Crime of Genocide

In 1946, the United Nations General Assembly adopted a resolution that “affirmed” that genocide was a crime under international law, but did not provide a legal definition of the

crime. Two years later, the UN General Assembly adopted the Convention on the Prevention and Punishment of the Crime of Genocide which legally defined the crime of genocide for the first time.

Fifty years later, the UN Security Council took on further responsibilities around civilian protection against acts of genocide. Resolution 1674, adopted on April 28, 2006, “reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity”. With the adoption of the Resolution, Council committed itself to take action to protect civilians in armed conflict.

In 2008, the U.N. Security Council expanded the definition of genocide with the passage of Resolution 1820 noting that “rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide”

Moving Beyond Definitions Into Action

The passage of the Convention changed the role of the international community in responding to genocide: state’s rights no longer superseded rights of individuals. This concept was declared in Article 1 stating that genocide “is a crime under international law which they undertake to prevent and to punish.”

While individuals and nations may debate whether a particular mass atrocity constitutes a true genocide, we believe the most important thing is that we remember past genocides and mass atrocities, we learn from them, and we strive to make a difference — by being aware and taking action together, we can stop and prevent mass atrocities, we can end genocide.

CRIMES AGAINST HUMANITY

The term “crimes against humanity” was used for the first time in 1915 by the Allied governments (France, Great Britain and Russia) when issuing a declaration condemning the mass killings of Armenians in the Ottoman Empire. However, it was only after World War II in 1945 that crimes against humanity were for the first time prosecuted at the International Military Tribunal (IMT) in Nuremberg. Both the Charter

establishing the IMT in Nuremberg as well as that establishing the IMT for the Far East in Tokyo included a similar definition of the crime.

Since then, the notion of crimes against humanity has evolved under international customary law and through the jurisdictions of international courts such as the International Criminal Court, the International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda. Many States have also criminalized crimes against humanity in their domestic law; others have yet to do so.

Crimes against humanity have not yet been codified in a dedicated treaty of international law, unlike genocide and war crimes, although there are efforts to do so. Despite this, the prohibition of crimes against humanity, similar to the prohibition of genocide, has been considered a peremptory norm of international law, from which no derogation is permitted and which is applicable to all States.

The 1998 Rome Statute establishing the International Criminal Court (Rome Statute) is the document that reflects the latest consensus among the international community on this matter. It is also the treaty that offers the most extensive list of specific acts that may constitute the crime.

Rome Statute of the International Criminal Court Article 7 Crimes Against Humanity

1. For the purpose of this Statute, ‘crime against humanity’ means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

1. Murder;
2. Extermination;
3. Enslavement;
4. Deportation or forcible transfer of population;
5. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
6. Torture;

7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
8. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
9. Enforced disappearance of persons;
10. The crime of apartheid;
11. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

‘Attack directed against any civilian population’ means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

Elements of the crime

According to Article 7 (1) of the Rome Statute, crimes against humanity do not need to be linked to an armed conflict and can also occur in peacetime, similar to the crime of genocide. That same Article provides a definition of the crime that contains the following main elements:

1. A *physical element*, which includes the commission of “any of the following acts”:

- Murder;
- Extermination;
- Enslavement;
- Deportation or forcible transfer of population;
- Imprisonment;
- Torture;
- Grave forms of sexual violence;
- Persecution;
- Enforced disappearance of persons;
- The crime of apartheid;
- Other inhumane acts.

2. A *contextual element*: “when committed as part of a widespread or systematic attack directed against any civilian population”; and

3. A *mental element*: “with knowledge of the attack”

The contextual element determines that crimes against humanity involve either large-scale violence in relation to the number of victims or its extension over a broad geographic area (widespread), or a methodical type of violence (systematic). This excludes random, accidental or isolated acts of violence. In addition, Article 7(2)(a) of the Rome Statute determines that crimes against humanity must be committed in furtherance of a State or organizational policy to commit an attack. The plan or policy does not need to be explicitly stipulated or formally adopted and can, therefore, be inferred from the totality of the circumstances.

In contrast with genocide, crimes against humanity do not need to target a specific group. Instead, the victim of the attack can be any civilian population, regardless of its affiliation or identity. Another important distinction is that in the case of crimes against humanity, it is not necessary to prove that there is an overall specific intent. It suffices for there to be a simple intent to commit any of the acts listed, with the exception of the act of persecution, which requires additional discriminatory intent. The perpetrator must also act with knowledge of the attack against the civilian population and that his/her action is part of that attack.

INTERNALLY DISPLACED PERSONS/ PEOPLE

Internally displaced people (IDPs) have not crossed a border to find safety. Unlike refugees, they are on the run at home.

While they may have fled for similar reasons, IDPs stay within their own country and remain under the protection of its government, even if that government is the reason for their displacement. As a result, these people are among the most vulnerable in the world.

Although UNHCR’s original mandate does not specifically cover IDPs, we have been using our expertise to protect and assist them for years.



By the end of 2014, a record-breaking 38 million people had become displaced within their own country as a result of violence. A massive 11 million of them were newly uprooted during 2014 – equal to 30,000 people a

day, according to the Norwegian Refugee Council's Geneva-based Internal Displacement Monitoring Centre (IDMC).

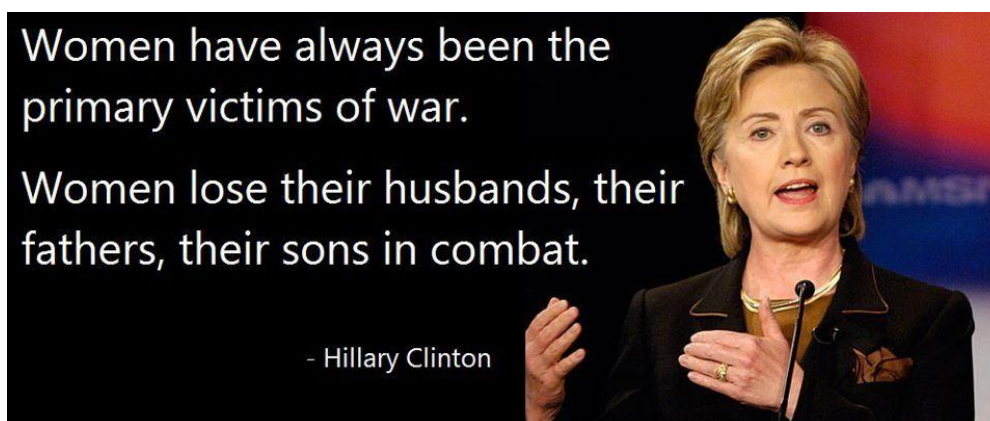
UNHCR cared for around 26 million of the world's IDP population in 2014. The IDMC's Global Overview 2015 reported that the majority of the increase in new displacement during that year was the result of protracted crises in Democratic Republic of the Congo, Iraq, Nigeria, South Sudan and Syria. In total, these five countries accounted for 60 per cent of new displacement worldwide.

Iraqi civilians suffered the most new displacement, with at least 2.2 million displaced in 2014, while at least 40 per cent of Syria's population, or 7.6 million people, have been displaced – the highest number in the world. Europe, for the first time in more than a decade, also suffered massive enforced displacement. This was caused by war in eastern Ukraine, where more than 640,000 people fled their homes.

As a consequence of being displaced, civilians often struggle to meet essential needs amid exacerbated hardship, and they may face particular threats, such as tensions between them and host communities, settlement in unsafe or unfit locations, and forced return to unsafe areas. Also, the lack of access to official documents, often left behind or lost during flight, is one of the major concerns affecting internally displaced persons and one that can prevent them from gaining access to essential services such as health care and education.

VICTIMS OF WAR

The notion of 'war victims' has several connotations: from its narrow sense in international law - where it denotes a person who has been harmed by the consequences of an internationally unlawful act - to its broader sense where it refers to all persons whom humanitarian law seeks to protect in armed conflict. Indeed, it is this latter understanding which is used in the domain of humanitarian action. From a humanitarian perspective, armed conflicts and violence are about people – the risks, vulnerabilities and suffering they are exposed to, and the actions that must be undertaken to prevent, mitigate or put an end to that suffering. In this spirit, the present edition focuses on the people affected by armed violence, and on how they can be better protected, assisted, and treated with dignity.



- **EDITORIAL: WAR VICTIMS**

Wars may create winners and heroes, but they also generate suffering and sacrifice. A victim, in the etymological sense, is in fact a living creature sacrificed in religious rites. The German translation of victim ('Opfer') reflects these ideas of sacrifice and suffering, which remain important even in armed conflicts that do not have religious connotations. Contrary to the well-defined battles of the Middle Ages, modern wars – where the distinction between combatants and civilians is blurred and even deliberately disregarded – often demand the sacrifice and suffering of the whole population. War victims are therefore ubiquitous, increasingly recognized and often represented by organizations that compete even amongst themselves to draw attention to their specific plight and to make known the injustices done to them. More than this, a sense of self-perceived collective victimhood emerges as a major theme in societies involved in intractable conflicts,

and forms a fundamental part of the collective memory of the conflict.
Toni Pfanner, Former Editor-in-Chief of the International Review

- **INTERVIEW WITH KHALED ABU AWWAD AND RONI HIRSHENSON**

Khaled Abu Awwad is the General Manager of the Israeli-Palestinian Bereaved Families Forum. Roni Hirshenson is the Forum's president and one of its founders.

- **A SENSE OF SELF-PERCEIVED COLLECTIVE VICTIMHOOD IN INTRACTABLE CONFLICTS**

A sense of self-perceived collective victimhood is a mindset resulting from a perceived intentional harm inflicted on a group by another group. This emerges as a major theme in societies involved in intractable conflict. This article analyses the nature and antecedents of the self-perceived collective sense of victimhood in conflict, the functions that it fulfils for the society, and its consequences.

- **VICTIM IDENTITY AND RESPECT FOR HUMAN DIGNITY: A TERMINOLOGICAL ANALYSIS**

The use of the term 'victim' as an identity can have different implications, depending on who is using it, claiming it, rejecting it or attributing it to others; therefore, the term should be used with some care and insight. This article analyses the use and function of the word 'victim' at different levels in the work and actions of the ICRC. It stresses the importance of aid workers being able to recognize the potential and active identity of a person beyond the institutional label as 'victim', thereby respecting that person's human dignity.
Valerie Meredith

- **VARIOUS MECHANISMS AND APPROACHES FOR IMPLEMENTING INTERNATIONAL HUMANITARIAN LAW AND PROTECTING AND ASSISTING WAR VICTIMS**

This article presents an overview of the mechanisms for improving the lot of people affected by armed conflict. Some are anchored in international humanitarian law, but increasingly, multiple actors contribute to implementing this law outside its original implementation framework. This may result in different approaches to ensuring compliance with international humanitarian law: judicial recourse, public pressure on parties to a conflict, or even recommendations of the use of force. Nevertheless, humanitarian action unattached to any political agenda is often the only means of improving the situation of the victims of armed conflicts.

Toni Pfanner, Former Editor-in-Chief of the International Review

- **INTERNATIONAL ASSISTANCE FOR VICTIMS OF USE OF NUCLEAR, RADIOLOGICAL, BIOLOGICAL AND CHEMICAL WEAPONS: TIME FOR A REALITY CHECK?**

At an international level, there are no plans for assisting the victims of a nuclear, radiological, biological or chemical (NRBC) event which are both adequate and safe. This article examines the challenges posed to humanitarian organisations in developing and deploying any capacity to assist victims of an NRBC event, including in terms of the health and security of their personnel bringing this assistance.

- **THE INTERNATIONAL COMMITTEE OF THE RED CROSS: ITS MISSION AND WORK**

Adopted by the Assembly of the ICRC on 19 June 2008.

- **THE WAR DEAD AND THEIR GRAVESITES**

This article provides an overview of the various IHL obligations in respect of persons who have lost their lives in armed conflicts, as well as their gravesites. It investigates the peacetime applicability of these provisions, and examines why present-day IHL should be applied to questions concerning the war dead and their graves, regardless of when death occurred.

- **FACILITATING HUMANITARIAN ASSISTANCE IN INTERNATIONAL HUMANITARIAN AND HUMAN RIGHTS LAW**

Violent attacks on humanitarian workers, as well as other restrictions, substantially limit the ability of humanitarian aid agencies to provide assistance to those in need. Using the humanitarian crises in Darfur and Somalia as examples, this article considers the legal obligation of state and non-state actors to consent to and facilitate humanitarian assistance, and examines whether this obligation now extends even to situations where the denial of such assistance does not necessarily threaten the survival of a civilian population.

- **INTERNATIONAL COMMITTEE OF THE RED CROSS: PREVENTION POLICY**

Adopted by the Assembly of the ICRC on 18 September 2008.

- **ICRC OPERATIONAL SECURITY: STAFF SAFETY IN ARMED CONFLICT AND INTERNAL VIOLENCE**

Humanitarian work, especially in conflict areas, has become more dangerous and every humanitarian organization is affected by serious security problems, constituting a threat to their staff and hampering much-needed activities on behalf of the victims of armed conflicts and other situations of collective armed violence. The article outlines the general approach of the ICRC to security issues and describes the pillars of the security policy it has adopted in the field to protect its operational staff.

CHILDREN SOLDIERS

Right now, I am 12 years old and I fight. When I get older, I'd like to be a child.
-Alfonso, boy soldier, Nicaragua

Over the last decade alone, armed conflict has claimed the lives of over 2 million children. Another six million have been left wounded or disabled for life. One million have become orphans. It is estimated today that more than 300,000 children have been enrolled in militia groups and armies and been forced to carry a gun. Half of those they

kill are other children. Whether it is in Afghanistan, Iraq or in conflict-ridden areas of Africa, UNESCO has played a vital role in providing education and relief.

GENEVA —

The United Nations Children’s Fund (UNICEF) reports children are the main victims of war, with many suffering mental stress that will last a lifetime.

Children worldwide are subjected to multiple forms of abuse on a daily basis, but the U.N. Children’s Fund says these forms of physical and psychological violence pale in comparison to what children are forced to endure in situations of conflict.

UNICEF Child Protection Programs chief Susan Bissell says far too many children around the world are caught in situations of conflict, where they are killed, maimed and subjected to untold horrors.

“We are saying at present, though I suspect this is an underestimation, that about one billion children live in countries and territories affected by conflict. It sort of feels like the world is falling apart for children,” said Bissell.



Since the war in Syria broke out in March 2011, the United Nations estimates more than 100,000 people have been killed. At least 10,000 were children, with many more maimed.

It reports 6.5 million people are displaced within Syria, about three million of them children. In addition, half of the three million refugees in neighboring countries are children. Bissell says children have fallen victim to continuous,

widespread and systematic violations of international humanitarian law and international human rights law.

She says all warring factions are committing crimes with impunity and subjecting children to appalling abuse.

“We know that numerous armed groups are recruiting and using children for logistical support, handling ammunition, manning checkpoints and as combatants. Recruitment of children or pressure to join groups is also occurring among refugee populations in neighboring countries - a disturbing trend. The U.N. has also documented the detention and torture of children for association with a party to conflict, targeted sexual violence against children, both boys and girls, and deliberate attacks against schools and hospitals," she said.

She says children are vulnerable to trafficking and to sexual and other forms of exploitation. She says forced and early marriages, as well as child labor are on the rise. Susan Bissell says children who witness the killings and destruction around them, children who are separated from their families, and children who are abused sexually and otherwise, very often suffer from psychological and emotional distress.

She says UNICEF tries to ease their pain by providing counseling and tries to protect them by creating so-called child-friendly spaces where children can play and study without fear of having their rights violated.

REFUGEE

A refugee is defined as a person who ‘owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country.’

The 1951 Refugee Convention is the key legal document that forms the basis of our work. Ratified by 145 State parties, it defines the term ‘refugee’ and outlines the rights of the displaced, as well as the legal obligations of States to protect them.



The core principle is non-refoulement, which asserts that a refugee should not be returned to a country where they face serious threats to their life or freedom. This is now considered a rule of customary international law. UNHCR serves as the ‘guardian’ of the 1951 Convention and its 1967 Protocol. According to the legislation, States are expected to cooperate with us in ensuring that the rights of refugees are respected and protected

Unit – IV: Crime Justice System and Victims

COLLABORATOR OR EVIDENCE

Evidence a type of proof legally presented at trial (allowed by the judge) which is intended to convince the judge and/or jury of alleged facts material to the case. It can include oral testimony of witnesses, including experts on technical matters, documents, public records, objects, photographs and depositions (testimony under oath taken before trial). It also includes so-called "circumstantial evidence" which is intended to create belief by showing surrounding circumstances which logically lead to a conclusion of fact. Comments and arguments by the attorneys, statements by the judge and answers to questions which the judge has ruled objectionable are not evidence. Charts, maps and models which are used to demonstrate or explain matters are not evidence themselves, but testimony based upon such items and marks on such material may be evidence. Evidence must survive objections of opposing attorneys that it is irrelevant, immaterial or violates rules against "hearsay" (statements by a party not in court), and/or other technicalities.

VICTIM AND POLICE

Lodging of First Information Report:

Section 154 of the Code of Criminal Procedure (1973) stipulated the following;

- ❖ The police officer in charge of the police station has to record the oral statement of the victim or informant if given in writing.
- ❖ He/she must be read over the said statement to the victim/informant.
- ❖ He /she must obtain the signature of the victim/ informant in the report.
- ❖ A copy of the First Information Report shall be given free of cost to the victim/informant.
- ❖ If any Officer in charge of the police station refuses to register a complaint the victim may send the same to the superintendent of police.

Section 173(2) of the code provides that after completion of the investigation. The officer in charge of a police station shall also communicate, in such manner as may be prescribed by the state government the action taken by him, to the person if any by whom the information relating to the commission of the offence was first given. However if the first informant was a person other than the victim such victim will remain in total darkness about the action taken by the State in bringing the culprit to book. Therefore the victims if alive should also be informed of the action taken by the police.

Section 301(2) of the procedure code permits engagement of a private lawyer by the victim or the prosecution of the accused. But these provisions stipulate that such private lawyer thus engaged in only to submit written arguments. With the permission of the court after the evidence is closed in the case. He has no right to cross examine the witness or to make oral submissions before the court unless so permitted by the public prosecutor.

Section 421(1) of the code provides the right to the victims to recover the compensation awarded to him. When an offender has been sentenced to a pay fine, the court passing the sentence may take action for the recovery of the fine in the following way the court may issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender.

RECORDING OF STATEMENT

Statements of accused at various stages explained— The provisions of Sections 164, 342 [Sections 313 of new Code] and 364 [Section 281 of new Code] of the Criminal Procedure Code with regard to the confessions and statements of accused persons should be carefully studied. Section 164 deals with the recording of statements and confessions at any stage before the commencement of an enquiry or trial. Section 342 deals with the examination of accused persons during the course of the enquiry or trial. Section 342-A now enables the accused to appear as a defence witness during the trial and to give evidence on oath in disproof of the charges made against him or a co-accused. Section 364 prescribes the manner in which the examination of an accused person is to be recorded.

Section 164 (1) of the Code states that – any metropolitan magistrate or judicial magistrate may, whether or not he has jurisdiction in the case, record any confession or statement made to him in the course of an investigation under this chapter or under any other law for the time being in force, or at any time afterwards before the commencement of the inquiry or trial. Section 164 (5) of the Code states that – Any statement (other than a confession) made under sub-section shall be corded in such manner hereinafter provided for the recording of evidence as is, in the opinion of the Magistrate, best fitted to the circumstances of the case, and the magistrate shall have power to administer oath to the person whose statement is so recorded.

Section 164 (6) of the Code states that – the magistrate recording a confession or statement under this section shall forward it to the magistrate by whom the case is to be inquired into or tried. 06. In view of section 164 (5) of the Code it appears that it does not speak as to whether the signature of the witness making statement is to be obtained or not. In fact it specifically states that the Magistrate shall record the statement of the witnesses in a .6.

manner provided for the recording of evidence. While recording of evidence of a person we do not obtained the signature whose evidence is being recorded. That itself means that while recording a statement there is no need to obtain the signature of a witness who is making his statement before the magistrate. Thus after recording a statement of witness a magistrate should endorse his certificate at the foot of such statement. The statement recorded under section 164 of the code is the public document according to the section 74 of the Evidence Act. Such statement is admissible in evidence under section 80 of the Evidence Act

DEPOSITION

A deposition is a witness's sworn out-of-court testimony. It is used to gather information as part of the discovery process and, in limited circumstances, may be used at trial. The witness being deposed is called the "deponent."

Oral Depositions

Depositions usually do not directly involve the court. The process is initiated and supervised by the individual parties. Usually, the only people present at a deposition are the deponent, attorneys for all interested parties, and a person qualified to administer oaths. Sometimes depositions are recorded by a stenographer, although electronic recordings are increasingly common. At the deposition, all parties may question the witness. Lawyers may not coach their clients' testimony, and the lawyers' ability to object to deposition questions is usually limited.

Depositions are usually hearsay and are thus inadmissible at trial. There are, however, three exceptions to the hearsay rule that are particularly relevant to deposition testimony. The first is when a party admits something in a deposition that is against his or her interest. The second is when a witness's testimony at trial contradicts their deposition. The third is when a witness is unavailable at trial. See Federal Rules of Evidence, Article VIII.

Written Depositions

Depositions may also be conducted by written questions. In this kind of deposition, the parties submit questions in advance. At the deposition, the deponent answers those

questions and only those questions. Depositions by written questions are cheaper than depositions by oral questions, because parties' lawyers need not attend. However, this method is typically seen as less useful, because it is difficult to follow up on a witness's answers when the witness simply writes down his/her statements. Usually, parties use interrogatories instead of depositions by written questions.

CROSS EXAMINATION

The opportunity for the attorney (or an unrepresented party) to ask questions in court of a witness who has testified in a trial on behalf of the opposing party. The questions on cross-examination are limited to the subjects covered in the direct examination of the witness, but importantly, the attorney may ask leading questions, in which he/she is allowed to suggest answers or put words in the witness's mouth. (For example, "Isn't it true that you told Mrs. Jones she had done nothing wrong?" which is leading, as compared to "Did you say anything to Mrs. Jones?") A strong cross-examination (often called just "cross" by lawyers and judges) can force contradictions, expressions of doubts or even complete obliteration of a witness's prior carefully rehearsed testimony. On the other hand, repetition of a witness' s story, vehemently defended, can strengthen his/her credibility.

SECONDARY VICTIMIZATION

Secondary victimization by the Criminal Justice System and Society

Secondary victimization refers to the victimization that occurs not as a direct result of the criminal act but through the response of institutions and individuals to the victim.



Institutionalized secondary victimization is most apparent within the criminal justice system. At times it may amount to a complete denial of human rights to victims from particular cultural groups, classes or a particular gender, through a refusal to recognize their experience as

criminal victimization. It may result from intrusive or inappropriate conduct by police or other criminal justice personnel. More subtly, the whole process of criminal investigation

and trial may cause secondary victimization, from investigation, through decisions on whether or not to prosecute, the trial itself and the sentencing of the offender, to his or her eventual release. Secondary victimization through the process of criminal justice may occur because of difficulties in balancing the rights of the victim against the rights of the accused or the offender. More normally, however, it occurs because those responsible for ordering criminal justice processes and procedures do so without taking into account the perspective of the victim.

Other agencies that come into contact with the victim may cause secondary victimization. Hospital policies and procedures may restrict relatives' access to the body of a loved one. The hurried schedule of the emergency room may intrude on the privacy of a sexual assault victim or offend his or her sense of dignity. School personnel may discount a child's disclosure of abuse. Doctors may not acknowledge signs of spouse abuse. Spiritual leaders may attempt to guide victims into paths of forgiveness or accommodation before they are ready or against their wishes. Intrusive or inappropriate investigation and filming, photography and reporting by the media are also factors. Even agencies set up to help the victims of crime, such as victim services, victim compensation systems, refugee services and mental health institutions may have some policies and procedures that lead to secondary victimization.

The attitude of individuals is also important. Some people with whom the victim has contact (e.g. family, friends and colleagues) may wish to distance themselves from the distress of the crime by blaming the victim for what has occurred. They may view the victim's behaviour as having contributed to, or even caused, the victimization. They may deny the impact of the crime on the victim by urging him or her to forget about the crime and continue with his or her life. Families can be a particularly powerful influence in this respect.

Victims of abuse of power have particular difficulty in gaining recognition of the fact that they have been victimized. The essence of abuse of power is that it is committed by those who should be expected to protect the population. The shock and loneliness of victimization can be much greater for these victims. With regard to abuse of power, for offences committed by particular groups within a country (dominant sects or groups, companies, etc.), prompt condemnation of the action by the State and by the victim's

community will help, as will the message conveyed by any practical action. Where the offender is the State

itself, the principal problem of victims can be in obtaining acknowledgment that an offence has occurred. Here the groups to offer support may consist of people sharing the characteristics of those who have been victimized or who have been victimized previously themselves. Sometimes, by necessity, they have to be based outside the country.

The role of the judiciary in justice for victims

The judiciary must be an impartial entity that oversees the progress of a criminal action. Judges should weigh and protect the rights of all parties involved in criminal proceedings.



Judges should provide essential protection to victims. In cases involving children, for example, special arrangements, such as allowing the victim to testify through closed-circuit television, can also be ordered, where applicable and possible. Instructions requiring defence

counsel to meet the child's eye and not raise his or her voice, as well as other methods of making the courtroom less intimidating to a child, may also be ordered, where applicable and possible. Judges should also expedite trials so as not to further victimize the crime victim through additional delays during an already difficult process. In some jurisdictions, a common technique is for a defence counsel to subpoena the victim's family members as potential witnesses, request that the court order that witnesses be excluded from the courtroom and then, where possible, not call the family of the victim to testify, thereby preventing them from attending the court session. However, the defendant's family is allowed to sit in the courtroom, showing support for their family member who is on trial, while the victim's family is thus kept out. Such motions can, and should, be denied.

Judges are empowered to sentence offenders for the offences for which they have been convicted. It may be important that judges include information regarding the impact of the crime on the victim in their assessment of appropriate sentences.

In some jurisdictions, the victim is a party to the proceedings and can contribute such information directly. In other jurisdictions, however, this information must be provided through a prosecutor-based victim assistance programme, a probation office or some other official source. In some of these jurisdictions, it takes the form of a special “victim impact statement”. Such victim impact information is often the only comprehensive assessment of the injuries caused by the offender available to the judge.

For example, the Canadian Criminal Code requires that where a victim impact statement has been prepared, the sentencing judge shall consider it.

Recommendations for the judiciary on victim rights

Respect and recognition for victims

Judges have a leadership role in ensuring that victims and witnesses are treated with courtesy, respect and fairness, in order that:

*Victims and witnesses are provided with information regarding their rights and prerogatives, and such matters as the physical layout of the courthouse, witness fees, compensation funds and other available financial assistance; C Court administrators establish reception areas and provide victims and witnesses with information about public and community services.

Providing victims with information

Judges have a leadership role in ensuring that victims and witnesses are fully informed about the criminal justice proceedings, in order that:

- Victims should be able to obtain from appropriate court personnel information concerning the status of their cases;
- If requested and if possible, appropriate officials should give victims of serious crimes timely notice of the release of the defendant from pre-trial and post-trial custody.

Special services and support

Victims and witnesses may require special services and support, both material and psychological. Judges may, whenever possible, encourage such support by, for example, arranging for the following in their jurisdiction:

Separate waiting areas for the defence and for witnesses for the prosecution, including victims;

- Interpreter and translator services for victims and witnesses while they are in the courthouse;
- An “on-call” system to minimize unnecessary trips to court;
- The expeditious return of evidence;
- The availability of special transportation and protection to and from the courthouse when the safety of witnesses is a consideration;
- Informing the public of the importance of supporting the participation of victims and witnesses in court proceedings;
- Child-care services for victims and witnesses;
- Crisis intervention, counselling and other support services for victims;
- Ensuring that the victim is not charged for rape examinations or other costs of collecting and preserving evidence;
- Establishing fair and appropriate witness fees.

The ordering of restitution

Wherever possible under the law, judges should order restitution unless there is an articulated reason for not doing so, regardless of whether the offender is incarcerated or placed on probation.

Victim participation

Wherever possible under the law, victims should be allowed to participate and, where appropriate, to give input through the prosecutor or to testify in all stages of judicial proceedings, including:

- Pre-trial release or bail hearings;
- The scheduling of court proceedings;
- Continuances or delays (judges should state on the record the reason for granting a continuance);
- Plea and sentence negotiations, where these are conducted;
- Sentencing;
- Victim-offender mediation, where appropriate.

Persons accompanying victims

To encourage victim participation victims should, wherever possible, be accompanied in the courtroom by a supportive person; victim impact statements prior to sentencing

should be encouraged and considered; and victims or the victim's family should be allowed to remain in the courtroom.

Protection of the victim

Judges should use their judicial authority to protect victims and witnesses from harassment, threats, intimidation and harm by:

- * Limiting access to the addresses of victims and witnesses;
- * Ensuring that victims and witnesses are informed that if they agree to be interviewed prior to trial by opposing counsel or investigators, they may insist that the interviews be conducted at neutral locations;
- * Encouraging legislation or rules requiring parole boards to advise the judge, the prosecutor, the public and the victim, where appropriate, prior to any hearing on the release of an offender convicted of a serious offence.

Protection of special categories of victims

In order to protect particularly vulnerable victims (for example, minors, victims of sexual abuse, families of homicide victims, the elderly, persons with disabilities and victims of organized crime and repression), judges should consider the following:

- * The expediting of trials in cases involving particularly vulnerable victims;
- * Encouraging specially designed or equipped courtrooms to protect vulnerable victims;
- * Permitting the use of videotaped depositions in cases involving vulnerable victims;
- * Allowing vulnerable victims to have an individual of their choice accompany them in closed juvenile proceedings, closed criminal proceedings or in camera proceedings;
- * If a defendant is conducting his or her own defence, preventing the defendant from directly questioning the victim.

CRIME AWARENESS & PREVENTION

Crime prevention is everyone's responsibility, not just law enforcement. One of the best ways to take an active role in crime prevention is to be alert and informed. Each of us has a responsibility to be aware of social and public health issues that impact our homes, our families and our community and possess a common understanding of the law and its protections and penalties. Links below provide helpful information and resources addressing specific topics and targeted populations.

CREATING AWARENESS AMONG THE CRIMINAL JUSTICE PROFESSIONAL AND THE PUBLIC ON VICTIM ISSUES

- **Participating in a Minimum of 24 Community Awareness Activities**
 - Activities are targeted to include underserved communities and diverse populations in our county. The 24 community awareness activities focus on all our programs and services unless we are asked to speak on individual programs.
 - Community networking promotes community awareness of program services and availability by networking with professionals and leaders in the community.
 - Developing, building and maintaining Response Teams, which include representatives from victim advocacy, law enforcement, prosecution and healthcare.
 - Joining community-based collaborations (e.g., disaster preparedness committees, social service consortiums,)
 - Communicating regularly with staff at local social service agencies, hospital emergency room, law enforcement, state attorney, clerk of court and non-certified victim advocates
 - Visiting local businesses and dropping off sexual violence materials, event flyers and brochures
 - Joining local groups and sharing information
 - Collaboration with other agencies

Training For Professionals and Non-Professionals

- “Training” refers to education about available programs/services that are provided to professional and non-professional audiences.
- Trainers must be competent in the following content areas:
- Dynamics of each of our programs and all services that we offer Relevant community resources
- Crisis intervention
- Medical, criminal justice/legal and social service victim response

Training Sites Include:

- Social service agencies and organizations
- Educational institutions, including daycare centers
- Healthcare facilities
- Law enforcement agencies
- Youth organizations
- Legal – (e.g.. legal associations, clerk-of-court or prosecutors)

- Clubs (e.g., League, Kiwanis, Rotary, Senior Center, LGBTQ, 4-H)
- Local businesses (e.g., provide sexual violence training to employees)
- Churches (e.g., provide training to congregations and/or religious leaders)

Participation in Community Events:

Program staffs are involved in events throughout the community. Participation in community events often includes a table with promotional and informational items containing (at minimum) program names and hotline number, program materials and program brochures. Examples of community events:

- Festivals
- Fairs
- Community celebrations
- Parades
- Social service outreach (career day open house)
- School events (sports events or campus clubs/activities)
- Sexual Assault Awareness Month activities

Public Speaking:

Getting the word out will increase community awareness of programs and available services. Things to consider for public speaking:

- Keep an agency speakers bureau – the list should include advocacy core trained staff and volunteers with public speaking experience, their areas of specialization and general availability
- Advertise your availability to speak on the topic of sexual violence
- Call potential sponsors for speaking engagements
- Seek opportunities to speak at community events
- Set up interviews for local television and radio programs
- Submit workshop proposals for conferences

Distribution of Materials:

Programs should routinely distribute program materials to local businesses, churches, social service agencies, hospitals, law enforcement, court and legal personnel, clubs, schools and civic organizations. Things to consider:

- Materials should include information about all available programs as well as defined programs best suited for visit. Include on materials hotline and office telephone numbers, hours and location of services and website address.
- The community should be informed of materials that are available for distribution and a mechanism established to request material
- Drop off materials at local businesses (e.g., hotline tear off sheets, event flyers, program brochures)
- Contact law enforcement on a regular basis to check on the status of the “Victim Rights and Services” brochure. Responding officers are required to give the brochure to victims
- Develop materials that will be accessible to all members of your community

Resource Libraries:

Information technology is a means of sharing sexual violence materials and program services with the community. Site-based libraries, web-based resources and links and community-based libraries are all sources for resource sharing. Suggestions for resource libraries and sharing include:

- Maintain a resource library that contains up-to-date books, manuals, DVDs and training materials
- Advertise availability of agency-based resource library to the general public and/or local professionals
- Host a reading group
- Host a movie night
- Develop your agency website to include program specific resources that can be downloaded or links to resources

Media Coverage/Campaign:

Media provides a cost-effective means of advertising. Plan events to include media coverage. Use local media that reaches diverse populations within your service area; for example: rural, African American, Latina, migrant, LGBTQ or the elderly. Invite minority owned news outlets (newspaper, radio, television) to cover your events. Include coverage in language(s) that will reach all members of your community.

- Public Service Announcements on local television and radio stations

- Local media/newspapers – invite the news to cover program events such as Sexual Assault Awareness Month activities or fundraisers
- Social media – spread the news of your services through an agency Facebook page and/or Twitter account to keep professionals in your community up-to-date and informed on issues related to your program and sexual violence
- Agency website and blogs

Advertising:

Advertising program services and the hotline number should be included in agency advertising and materials as well as ways to inform hard-to-reach populations such as the mentally ill, homeless, substance abusers and sex workers of the available programs and services. Examples of ways to advertise:

- Listed on the Collier County Sheriff’s Office Website
- Listed on the Collier County Elder Brochure
- Membership outlets (e.g., local newsletters for seniors, LGBTQ, minority or women’s organizations)
- Newspaper ads
- Television and radio ads or PSAs

INTERVENTION

Through its intervention, the Criminal Justice Advocacy Program helps to overcome the criminal justice system's lack of understanding of developmental disabilities by:

- Providing technical assistance to attorneys who represent these individuals
- Educating the criminal justice and human service systems about intellectual and related developmental disabilities, including the disadvantages faced by this population and the ways in which appropriate community supports can address their habilitative needs.

The Criminal Justice Advocacy Program seeks to ensure that defendants with developmental disabilities are guaranteed equal access to justice and fair treatment in the criminal justice system. The Program can intervene during any stage of a defendant's involvement with this system, including initial appearance, arraignment, pre-trial conference, trial, sentencing, correctional facility, pre-release planning and community.

ADVOCACY

The Criminal Justice Advocacy Program provides advocacy services to individuals who, because of their disability, may not understand the process and procedures of the criminal justice system. The Program seeks to ensure fair and equal access to alternatives to incarceration and correctional habilitative programs, as well as a more coordinated system of follow-up and aftercare through specialized community release programs and services. The Program also actively advocates for and supports legislation promoting the development of specialized programs and services for offenders with developmental disabilities and the protection of their rights.

CASEMANAGEMENT

The Criminal Justice Advocacy Program provides Case Management Services as a way of monitoring individuals with developmental disabilities who become involved in the criminal justice system.

As soon as the Program receives a referral from the court, attorney, probation department, Department of Corrections, Division of Developmental Disabilities or any other public or private agency, a Personalized Justice Plan (PJP) is developed, immediately ensuring accountability for the individual's behavior while balancing the needs of the community.

The PJP serves as a Case Management tool that helps identify and coordinate relevant community services, thereby decreasing the fragmentation of these services as the individual passes from the criminal justice to the human service system.

EDUCATION

The Criminal Justice Advocacy Program seeks to educate clients, the service providers, legal professionals and the community with regard to persons with developmental disabilities and the criminal justice system.

- **Client Education:** Because of the number of persons with developmental disabilities living in the community, educating them about appropriate citizenship is paramount. The Program adheres to a prevention model and strives to teach clients with developmental disabilities about citizenship and the law.
- **Service Provider Information:** Through presentations to service providers, the Program provides specific information about the special needs of persons with

developmental disabilities and their at-risk status when involved in the criminal justice system.

- **Criminal Justice Education:** Through distribution of informational packets and advocacy letters, the Program educates the court system about offenders with developmental disabilities, and how these offenders can remain accountable for their criminal behavior while living in the community.
- **Community Education:** The Program educates the community about the needs of defendants with disabilities. Emphasis is on the effective use of the Personalized Justice Plan to assist persons with developmental disabilities who become involved in the criminal justice system.

TRAINING

The Program seeks to address the general lack of knowledge about developmental disabilities in the criminal justice system by providing generic and specialized training sessions to a number of target audiences, including defense and prosecuting attorneys, court officials, judges, police officers, parole officers, and community service agencies.

Training curricula are individually designed to meet the diverse needs and interests of the target audience.

PERSONALIZED JUSTICE PLAN (PJP)

The Personalized Justice Plan is presented to the court system as an alternative to incarceration. It emphasizes the use of the least restrictive community-based alternatives to incarceration as early as possible in the criminal justice process, while holding individuals accountable for their behavior.

When presented as a special condition of probation or parole the PJP can help stabilize the individual in the community by identifying, coordinating and monitoring supports. Once a client is placed on probation or parole, the Program monitors the PJP until the client completes his or her sentence; monitoring can occur weekly, bi-weekly, monthly, or even annually, depending on the needs of the individual.

Unit – V: Victim Assistance

ALTERNATIVE SERVICES FOR CRIME VICTIMS-VICTIM SUPPORT SERVICES IN THE DEVELOPED COUNTRIES

Victim Assistance in court proceeding:

It has been reported that in some countries, policies and procedures had been set in motion, providing for more humane treatment of victims. Such policies and procedures include greater recognition of victim's rights, importance of their role in the proceedings and their vested interest in the case and its outcome.

The existence of court-related assistance to the victims, particularly in criminal proceedings, is still relatively rare in many countries.

Court programmes and facilities for victims may include:

1. Translators or interpreters for victims (e.g. for migrants)
2. Free legal aid for victims.
3. Hearing of victim's civil claim during or in conjunction with criminal proceedings.
4. Victims –witness assistance schemes (e.g. information on court procedures, child care, emotional support)
5. Separate waiting rooms for victims and offenders.
6. Pre-trial diversion to court appointed mediator/arbitrator.
7. Official court observers to monitor fairness of proceedings.

Legal assistance to victims:

Many countries that afford free legal representation to the offender do not do so in victim's case. For many countries, it was felt that such a measure would be unnecessary because the victim's only role was victim's best interest. Some countries, however, provide legal counsel to victims, if not in criminal courts, at least in the civil courts, where appropriate. In Argentina, Botswana, and certain other countries, free legal counsel has been provided by law students under the supervision of University Professors. In Federal Republic of Germany, in cases where private prosecution is allowed, the victim is entitled to free legal representation. In India, at least in some states free legal aid to the poor is functioning well and this is available for victims also.

Expression of victim's interests in judicial proceedings"

In countries that allowed for the hearing of civil claim during or in conjunction with criminal proceedings tended to be larger.

In many countries legal provisions allowing for the hearing of civil claims along with criminal proceedings seem to be fairly common. The procedures usually provide for the possibility of deciding on the victim's civil claims in conjunction with the criminal trial

The policies of the majority of the countries allow for victim's participation in other phases, such as at the arrest or pre-sentencing stage.

In Qatar, it was noted that victims are provided with the opportunity and the right, at all stages of the criminal justice process, to express their concerns and wishes. In the UK, "certain aspects of a victim's circumstances – (e. g) fear of retaliation-should be taken into account. The central African Republic noted that "in all stages of the procedure the victim has the right and the means to let point of view be known".

In many countries, mechanisms have also been developed to allow the victims interests to be known at the sentencing stage. In FRG there are social workers in the prosecutor's office who drew up, a victim impact statement.

In Argentina before sentencing the perpetrator has to have a face to –face meeting with the victim

However, it was noted that inclusion of the victim's wishes in the sentencing stage was generally regarded as incompatible with the basic principles of justice, evenhandedness and consistency in the treatment of the accused

Some countries, made provisions for incorporating victim's wishes or interests in prison, parole hearings.

The decision to prosecute was generally made by someone other than the victim, for example from the prosecutor's office or the police. Many countries allowed the victim to appeal if the offender was cleared at some stage of the proceedings or if the decision was taken not to prosecute.

In India, if the police filed a non-prosecuting final report, the victim could file a protest to the magistrate.

In many majorities of the countries, the victim could institute private or civil proceedings if a decision was taken not to prosecute or formally charge the offender.

Victim Support Services in India

The overview of the victim support movement advocates a restorative-justice policy that aims to address criminal offenses with comprehensive services that serve both the needs of the victim and the offender. The author also argues that the state is responsible for making reparation to crime victims as a matter of social justice, since the state is responsible for protecting its citizens. The overview of the victim support movement also notes the significance of the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power in its emphasis on improving the status of and services to crime victims. In discussing the victim's position in Asian Countries, the chapter briefly reviews the victim compensation programs in the only Asian countries with separate victim compensation programs, i.e., Japan, Korea, the Philippines, and Taiwan. In reviewing crime victim services in India the chapter concludes that although India has engaged in various reforms in criminal investigations and prosecution, the sufferings of crime victims have been largely neglected. In many cases, the sufferings of victims have been mitigated only if nongovernmental organizations and human rights commissions have provided services, and this tends to occur only in cases of sensational crimes.

The majority of crime victims in India suffer without any redress. Although victim assistance is a rarity in India, principles for victim assistance exist under the Indian Constitution, in that the state is mandated to secure "the right to public assistance in cases of disablement and in other cases of undeserved want." Under the criminal law, victims receive compensation only in a limited way when the offender is convicted and sentenced. If a fine is involved, it can be applied to mitigate victim injuries, but only when the court determines that damages are recoverable by the victim in a civil court. The chapter describes efforts underway to expand compensation to cover all criminal cases, and the program of victim assistance instituted in one Indian State is profiled. The chapter concludes with a brief discussion of international efforts toward the uniform implementation of the U.N. Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power.

Enacting a law is often insufficient to ensure justice. That was the message delivered by women's rights lawyer Flavia Agnes from Majlis Legal Centre, Mumbai during a lecture at IDRC's Asia Regional Office on Wednesday, February 18, 2015. Her talk was part of the office's distinguished lecture series. Agnes is a co-founder of Majlis, a forum for

women's rights discourse and legal initiatives that provides quality legal services to women and children.

Agnes spoke about the concerns and challenges faced by victims within the Indian criminal justice system. Over the years, Majlis has been working on sexual assault of women and girls with the state machinery (courts, police, lawyers and jurists) and within the criminal justice system. Drawing from their body of work, Agnes reiterated that justice for victims depends largely on the lawyer's ability as well as sensitivity on part of the judicial system. She gave examples of many cases from start to the end and the hurdles encountered by victims at every stage.

Addressing the challenges of working with the police, she gave instances of the reluctance of police to file first information reports (FIRs), often using excuses of jurisdiction, particularly for the sexual assault of minors. This opens questions of custody when the sole custodian of the child is the abuser and the questions of shelter for children, among others. These result in delays in justice. There was an emerging need of clear guidelines on the role of police within the criminal justice system.

Encouraging police action and redress

To provide clear guidelines to the police regarding the procedure for recording FIRs and for investigating sexual offences, Majlis drafted a simple two page circular, submitted it to the Joint Commissioner of Police (Law and Order), and lobbied for its adoption. The Commissioner of Police (Mumbai City and Suburbs) issued it as a directive to all 92 police stations. This circular is the first of its kind in the State of Maharashtra, India. To complement the circular, Majlis has provided training to more than 600 police officers.

Agnes emphasized the need to establish District Compensatory Boards that have efficient victim compensation mechanisms for all kinds of violence against women. There should also be District Trauma Teams with members drawn from police, hospitals, the judiciary, and non-governmental organizations to ensure timely support for the victim, she said. Lastly, she called for the implementation of the Manodhairya Scheme in every district of the country. This scheme, intended for victims of acid attacks, child abuse and rape in Maharashtra, provides for financial support, legal aid, medical help, counselling, and vocational training, if required.

TYPES OF ASSISTANCE

EMOTIONAL ASSISTANCE

Crime can have a damaging effect on your mental and emotional well-being. If you've been affected by crime, one of the ways we can help you is by giving you the support you need to cope with emotional stress.

What we do is similar to counselling, but it's not the same. Counselling is a very specific type of therapy practised by qualified professionals who analyse someone's entire life and history to help them understand themselves better. That's not something most victims of crime need – usually, they just need some help dealing with the emotional turmoil they're experiencing. But when we think someone does need full counselling, for example with problems such as post-traumatic stress disorder, we can help to arrange it.

Our staff and volunteers are trained to listen, give information and offer feedback. They can help you to make sense of what you've been through, discuss your options and help you to feel like you're getting your life under control again. Talking with us gives you the chance to get things off your chest and let go of distressing experiences.

While some people can do this with friends and family, it doesn't work that way for everyone, especially if those around you are affected by the crime too. We can provide a safe, neutral place for you to voice your fears, worries and emotions. This helps a lot of people to cope and move forward after a crime.

FINANCIAL ASSISTANCE

STATE VICTIM COMPENSATION FUND IN TAMILNADU

APPENDIX

Serial Number	Particulars of loss or injury	Amount of Compensation
(1)	(2)	(3)
1.	Loss of life	Up to Rs. 3.00 lakh
2.	Loss of any limb or part of body (more than 80%)	Up to Rs. 2.00 lakh
3.	Loss of any limb or part of body (more than 50%)	Up to Rs. 1.00 lakh
4.	Loss of life due to acid attack	Up to Rs. 3.5 lakh
5.	Rape	Up to Rs. 3.00 lakh
6.	Loss or injury causing severe mental agony to women and children in cases like human trafficking, kidnapping, molestation, etc.	Up to Rs. 1.00 lakh

The following expenses shall be payable in addition to the compensation outlined above:-

1.	Funeral expenses	Rs. 2, 000
2.	Medical expenses – Actual expenses incurred before death or on account of injury as supported by bills or vouchers.	Up to Rs. 1, 50, 000/- (can be brought under Health Insurance Scheme)

The Health Department shall take measures to provide treatment to the victims of acid attack under the **Hon'ble Chief Minister Comprehensive Health Insurance Scheme.**

[a] Published TN Govt Gaz Extra, Pt.II., sec.2., Issue No.355 dt.30.11.2013.

OFFENDER RESTITUTION PROGRAMS

RESTITUTION

When the court orders an offender to pay restitution, it is ordering them to pay back the damage caused, both to the state and to the victim(s). The court orders restitution in all cases and does not consider the offender's ability (or inability) to pay when the order is made.

RESTITUTION ORDERED BY THE COURTS

The court orders restitution as part of the sentencing. In fact, the restitution order is read aloud in court along with the sentence to prison.

THERE DIFFERENT TYPES OF RESTITUTION

There are three different types of restitution: restitution fines, parole revocation fines, and direct orders. The court can order all three types of restitution in the same case. If the offender is found guilty in multiple cases, the court can order all three types of restitution in each case.

RESTITUTION FINE

Restitution fines are the offender's "debt to society." These fines are how offenders pay back the state for the crime they committed. Restitution fines are paid to the Victims Compensation and Government Claims Board and are ordered in amounts.

PAROLE REVOCATION FINE

At the time of sentencing, the judge may also order a parole revocation fine, which means the amount of the offender's restitution fine will be doubled if they violate parole and their parole is revoked.

DIRECT ORDER

The court orders a direct order of restitution to pay back the victim(s) of the crime. The amount of the direct order is based on the amount of the loss each victim suffered as a result of the crime. There is no maximum amount a judge can order for this type of restitution. This type of restitution goes directly to the victim.

COLLECTING THE RESTITUTION

- Automatically collects 50 % of prison wages or other money deposited into your trust account to pay your restitution. The Correctional department will always collect money to pay direct orders before collecting money to pay for restitution fines.
- Failure to make payment
- Failure to make your restitution payments may be a violation of the terms and conditions of your probation. If you do not pay your restitution fine, money may be garnished from your paycheck or bank account. If you are a juvenile offender

and do not pay your restitution in full, you will not receive an honorable discharge from the Juvenile Justice Board.

- In addition, the judge may deny your request to remove your conviction from your record.

VICTIM WITNESS PROGRAM

The Victim Witness Assistance Program is designed to provide victims with information, support, and advocacy services to victims, witnesses, and their families while involved in the criminal justice system. Victim/Witness personnel help victims deal with the feelings of confusion, frustration, fear, and anger that they may be feeling from the process. They will also explain to the victim, their rights as a victim or witness, and provide the victim with a better understanding of the workings of the criminal justice system. They act as a liaison for the victims as they interact with prosecutors, investigative staff, and court personnel.

One of the most important and basic rights of victims during prosecution is the right to participate. Victim/Witness personnel ensure that victims are afforded this right by providing guidance and support, and also by encouraging their participation in Victim Impact Statements at sentencing and other critical stages of prosecution.

Program Services

The purpose of the Victim Witness Assistance Program is to help provide systems-based advocacy and support services for victims during investigation and prosecution of a crime.

The Victim Witness Assistance program provides grants to county prosecutors for activities including, but not limited to:

- Providing information on victim rights.
- Providing assistance in obtaining protection orders.
- Providing information about the criminal justice process and status of the criminal case.
- Accompanying to criminal court proceedings.
- Providing support during legal processes including assistance with impact statements and restitution.

- Notification to victims and witnesses of court proceedings, dates, and events.
- Providing referrals to resources as appropriate.
- Preparation and submittal of orders of restitution.

Strategic Goal

- Domestic Violence
- Human Trafficking
- Sexual Assault
- Stalking
- Other Crimes

Fast Facts

- Services are available when a crime was reported and is being prosecuted.
- Victim witness assistance can be provided for multiple crime types, including sexual assault, domestic violence, kidnapping, trafficking, homicide, burglary, and driving under the influence of alcohol or drugs.

CRISIS INTERVENTION

In general, crisis intervention could be understood as a generic term for timely intrusion into people lives when their own coping mechanisms prove ineffective. The main goal of crisis intervention is to assist crisis victims to return their pre-crisis levels of functioning and to seek avenues for positive change. In other words the primary function of crisis intervention is to provide victims with first-aid treatment as for their pain/difficulties so as to empower and help recover their self-control. From the view point of victims crisis intervention means that they themselves cope with the crisis situation and regain autonomy. Basically, pre-crisis issues/problems are not to be dealt with in crisis intervention.

If victims express their needs to have further assistance, it is advisable to assume that crisis intervention is over and refer them to other professionals/agencies/organizations.

a) **Crisis intervention models towards small groups.** In order to mitigate the turbulence and/or confusion, and to alleviate the pain, there is another way of intervening, i.e. critical incident stress debriefing for small groups. This is method of processing the stress that accompanies serious cases. It's usually called debriefing. For children, there are various kinds of art expressing emotions, drawing, sketching; painting dancing, music poetry, etc. are used. Dolls of various sizes are also used.

b) **Crisis intervention models for communities.** In the case where the whole community might get thrown into a chaotic situation, information giving, training professional groups that work for victims, and consultation services, can be provided besides direct services.

c) **Important points in crisis intervention for victims.** In any form of crisis intervention, we should basically keep in mind that. We should not impair victims; autonomy or self-government. Consider so that victims could feel they have overcome the crisis situation. Important points during the crisis intervention process are; assure safety and security. Then ventilation and validation; that is allow victims to tell their stories, and let them find words or other ways that will give expressions to experiences and reactions. Moreover, crisis interveners make it clear that most reactions to traumatic events are normal. Finally, prediction and preparation; namely; make them prepared to realistic issues they may face in their lives.

d) **Death notification.** Death notification is part of crisis intervention in case of homicide, traffic accident and/or disaster. For death notification to the family/friends of the deceased it is important to keep secure their privacy and select places where they can feel most at ease. Explain why you have visited them briefly and succinctly. Wait until they respond whenever they are emotionally overwhelmed. Adjust your pace so that they can process the given information at their own pace. This flexible way of treating gives positives effects for their recovery autonomy. Also, don't block their emotional expressions. Confirm their will as to whether they want to call other family members, relatives or friends or not. After confirming their recovery of autonomy, the person, in charge of death notification will talk to them about how to keep in touch. Pass the handouts that they may find indispensable afterwards. The business card and /or memos that the person in charge leaves behind have facilitating effects to bring them to the reality of death of the loved one(s).

VICTIM ADVOCACY

The **Victim Advocacy Program** provides assistance to members who are victims of harmful, threatening, or violent incidents.

Advocates support individuals who have experienced:

- Sexual assault or rape

- Violent or potentially violent relationships
- Stalking
- Harassment
- Physical or emotional/mental assault
- Bias-related incidents
- Hazing
- Any other type of victimization

Services

Victim Advocates are trained staff members, they provide:

- Personal support and an opportunity to talk about what happened
- Information and answers to questions about options and resources
- Help thinking through and deciding on a course of action
- Accompaniment to meetings, court hearings, etc., or serve as a liaison
- Connection with campus, community, and state resources for counseling, advising , or reporting
- Connection with University offices (when appropriate, advocates can work with faculty and staff)

The Victim Advocacy service is free, and designed to help each individual pursue the course of action they feel is best for them.

Confidentiality: Conversations with a Victim Advocate are private and do not commit you to any future action. Discussions with an Advocate do not constitute making a report or filing a formal complaint. An Advocate will not contact academic or university staff, parents, or others without the client's consent. To assure privacy, the office does not keep formal records for Cornell Health or the University.

Referrals: The Advocates may need to refer the following inquires to other resources: victims of robberies or crimes against property; parties involved in tenant/landlord disputes; roommate / housemate differences or quarrels; and those who feel they've been treated unfairly by professors, teaching assistants, or supervisors within the academic environment.

VICTIM INVOLVEMENT IN MEDIATION AND RESTORATIVE JUSTICE

VICTIM INVOLVEMENT IN MEDIATION

For some forms of victimization, and in particular where the victim and the offender have an existing social relationship, the avoidance of the possible stigmatizing effect of criminal prosecution or at least of a formal sentence may have benefits for both the victim and the offender. In particular, the use of informal procedures has been considered by many to provide a number of benefits over formal procedures. In informal procedures, the two parties immediately concerned can generally take an active part in deciding on the appropriate outcome; all underlying circumstances can be considered; and social pressure can often be exerted on the offender to comply with the decision and provide restitution. However, critics of the use of informal proceedings (including mediation, arbitration, conciliation and applied therapeutic techniques) have noted some potential dangers, such as the exercise of undue pressure on one or both parties.



Many countries, in particular in Africa and Asia, have long made use of non-court dispute resolution mechanisms, including mediation and arbitration. Several western European countries, South Australia and some North American jurisdictions have demonstrated considerable interest in mediation and

conciliation programmes and several experimental programmes have been implemented.

Victim Assistance Programmes

Mediation programmes bring the offender and the victim together in face-to-face meetings to negotiate a restitution settlement. The objective is to alleviate the social situation that has been disturbed by the offender. The whole mediation procedure is different from traditional criminal proceedings: a mediation session is arranged only with the consent of both victim and offender. During a reconciliation session the participants can bring up the social conflict that might be the cause of the delinquent act. This approach attempts to address the economic as well as psychological injuries in such a way that the offender is able to comprehend the full impact that the crime has had upon the

victim. The advantages of mediation are: (a) the victim is not treated as a mere witness but has the opportunity to digest what has happened to him by expressing his shock and bewilderment; and (b) the offender is made to reflect upon the injustice he has done and to accept responsibility by engaging in constructive actions. This might have a high rehabilitation value. The offender is also less stigmatized as a result. The victim obtains financial and emotional restitution quickly and in an informal way. There is also greater community involvement in the solution of conflicts, which is supposed to have a positive impact on deterrence. In short, the event is no longer only handled according to the logic of the criminal code but according to the needs and interests of the parties involved (victim, offender and community). Mediation takes place in the presence of a trained mediator, on a date set by agreement and the session starts with an explanation of procedure.

There is some concern about whether restorative justice approaches such as mediation give sufficient attention to the interests of the victim. For example, although it is the victim who has suffered from the offence, most projects do not take the victim as the starting point for the mediation process. Instead, they start by asking the offender if he or she is willing to participate in the mediation process and they only approach the victim after the offender has conceded. This approach means that the victim may feel pressured into participating in the mediation process. For example, the victim may be reluctant to refuse because of the responsibility of thereby appearing to cause the offender to receive a heavier sentence. In addition, projects are often directed at particular groups of offenders, such as juveniles. This approach categorically excludes large numbers of victims from participating in restorative justice projects. If one were to take the victim as the focal point for mediation, the distinction between juvenile and adult offenders would be superfluous. Clearly, for mediation to be successful there must be a balance between the interests of the victim and of the offender. In France in 1993 and in Germany in 1994, following assessment of these experimental programmes, victim offender mediation has been fully recognized in criminal procedure. In France, the prosecutor is entitled to arrange for mediation prior to the decision whether or not to prosecute. The mediation is directed to the compensation of the victim and the rehabilitation of the offender. In Austria, too, special attention is paid to mediation as a diversionary measure whereby, through an early staying of the proceedings, all the advantages of mediation can fully develop. What these examples all have in common is that mediation is carried out within,

or at least in close proximity to, the criminal justice system because the decision to instigate a mediation procedure outside criminal proceedings always lies with the authorities.

RESTORATIVE JUSTICE

Restorative justice is a new term for an old concept. Throughout the history of humankind restorative justice approaches have been used in order to solve conflicts between parties and to restore peace in communities. Retributive or rehabilitative approaches to crime are, by comparison, relatively new approaches. In recent years, however, dissatisfaction with the retributive and rehabilitative approaches has given rise to a renewed interest in restorative justice. Restorative justice represents a paradigm shift in the way justice is dispensed in criminal justice systems. The framework for restorative justice involves the offender, the victim and the entire community in efforts to create a balanced approach that is offender-directed and, at the same time, victim-centred. Victim compensation has become a key feature of restorative justice in many developed countries but could well be revived in developing countries, where it has largely been abandoned with the introduction of alien justice systems. The framework of restorative justice can best be described as a combined emphasis on the following programming priorities:

Restoration: Concern for providing services and support to victims, whether or not an arrest takes place, is central to restorative justice. Restoration of community and social bonds is essential to victim support as well as to prevention of future victimization. Restoration of offenders to community life is a goal predicated on offenders' acknowledgment of the harm done and their willingness to be accountable for their actions and their victims;

Accountability Restitution: community service and victim-offender mediation create an awareness in offenders of the harmful consequences of their actions for victims, require offenders to take action to make amends to victims and to the community and, whenever possible, involve victims directly;

Community protection: Intermediate, community-based surveillance and sanctioning systems channel the offender's

time and energy into productive activities. A continuum of surveillance and sanctions provides a progression of consequences for non-compliance with supervision requirements, together with incentives that reinforce the offender's progress in meeting the objectives of competency development and accountability.

Competency development: Work experience, active learning and service provide opportunities for offenders to develop skills, interact positively in conventional society and demonstrate publicly that they are capable of productive competent behavior.

LOK ADALAT – VICTIM INVOLVMENT IN MEDIATION & RESTORATIVE JUSTICE

Lok adalats which are voluntary agencies at present are monitored and overseen by state legal aid and advice boards.

It has proved to be successful alternative forum for resolution of disputes through conciliatory methods. The legal services authority act 1987 has been enacted which will provide a statutory footing to the legal aid movement. Under the act there shall be legal service authorities at the central state and district levels. These authorities will have their own funds. Further the lok adalats which are at present informal agencies will acquire statutory authority.

Every award of the lok adalat shall be deemed to be degree of a civil court of order of any other court or tribunal and shall be final and binding on all the parties to the dispute. It also provides that in respect of cases decided at a lok adalat the court fee paid by the parties will be refunded.

LOK ADALATS MEAN PEOPLE’S COURTS:

The scheme is oriented with the object of resolving legal disputes. Between the parties, by negotiating and conciliation and by adopting persuasive, common sense and human approach to the problems, with the assistance of socially oriented and experienced members of a term of conciliators. The scheme aims at resolving the disputes:

- (1) Which have not yet gone to the court of law (pre-litigation matters)and
- (2) Which are pending in the court of law (pending cases).

Towards this latter objective, the Tamil Nadu Legal Aid and advice board has a scheme by which cases pending in courts and Tribunals are drawn with the consent of all the parties for adjudication before Lok adalats and for report back to the concerned courts and Tribunals for securing orders in terms of the settlement arrived at in the Lok adalats. This brings finality to the litigation.

The Tamil Nadu Board has so far been holding adalats for settling claims pending before the motor accident claims tribunals involving insured vehicles and a small number of cases relating to vehicles owned by the state transport corporations. The Tamil Nadu

Legal Aid Board has the desire to expand the scope of the Lok adalats scheme in Tamil Nadu to the other areas also (i.e) land acquisitions cases, actions under sec. 125 cr.p.c matrimonial disputes before civil courts, etc. A beginning has been made in this regard. The procedure followed by the T.N legal aid in setting before these adalats is as follows;

- 1) The Board which desires to convene an adalat will settle the date and venue of the adalat.
- 2) Permission of the High court would be sought for (a) holding a lok adalat (b) for permission to the functionaries of the legal aid system to peruse the records in the tribunals and to obtain copies of the documents for documentation. (c) For permission to the tribunals to sit at the venue of the adalat on the day of the adalat.
- 3) Further the legal aid committee would with the assistance of the tribunals concerned, collect the details of the accident claims to be placed before the adalat
- 4) A list of cases in which both the parties have agreed to the matter being placed before the adalat will be made
- 5) The cases would be documented and a preliminary discussion with the parties will be held to narrow down the difference that the adalats work will be facilitated.
- 6) Finally on the day of the adalat, the dispute is settled. The settlement is achieved by explaining to the parties concerned that settlement must be carried out voluntarily and that their intercession is purely to lead the parties to an amicable settlement through persuasion and perseverance.

VICTIM COMPENSATION AND RESTITUTION

RESTITUTION

1. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
2. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

3. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.
4. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

COMPENSATION

1. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:
 - (a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
 - (b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.
2. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

COMPENSATION FOR VICTIMS OF CRIME: INDIAN SCENARIO

Victims of any crime and of human rights violations (regardless of their legal status) have a right to be compensated for the losses sustained due to the crime committed on her/him. Compensation can be sought through criminal, civil or administrative procedures, and can be awarded for material (including unpaid wages and medical expenses) and non-material (such as for pain, suffering and trauma) damages). The victim of a criminal act can claim for compensation from the offender as part of a criminal case. Compensation has to be ordered by the court and is part of a guilty verdict. In criminal cases victims can directly apply for compensation and thus, it is important that prosecutors are aware of the existence of this right to request the judge to make such order. Trafficked persons, as with

all victims of human rights violations have a right to a remedy. This means they have a right to access criminal, civil and/or administrative procedures for seeking financial redress – compensation for material and non-material damages resulting from the crime committed to them, unpaid wages, restitution from the offender and other forms. The Legal Professionals should lobby with their governments for such compensation which is. Once such compensations become mandatory there will be reverse pressure on the Law enforcement to break the criminal networks which

In India the National Commission for Women has proposed a Criminal Injuries Compensation Board for the payment of compensation to victims of Rape . This proposal has been done on the Directives issued by the Supreme Court of India in the case **Delhi Domestic Working Women’s Forum Vs. Union of India and others writ petition (CRL) No.362/93** had directed the National Commission for Women to evolve a “scheme so as to wipe out the tears of unfortunate victims of rape” The Supreme Court observed that having regard to the Directive principles contained in the Article 38(1) of the Constitution, it was necessary to set up criminal Injuries compensation Board, as rape victims besides the mental anguish, frequently incur substantial financial loss and in some cases are too traumatized to continue in employment. The Court further directed that compensation for victims shall be awarded by the Court on conviction of the offender and by the Criminal Injuries compensation board whether or not a conviction has taken place. The Board shall take into account the pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurs as a result of rape.

Salient features of the Scheme of Rehabilitation of Trafficked Victims is as follows:

(Source <http://www.ncw.nic.in/schemeforrehabilitation.pdf>)

DISTRICT MONITORING COMMITTEE –

The State Government shall establish in every District, a Monitoring Committee, which shall be headed by the Superintendent of Police of the District. The committee shall comprise of the following other members, whom the District Collector/District Magistrate would nominate:

- (i) A police officer, preferably a woman
- (ii) A woman social activist or a counsellor;
- (iii) A Lawyer

(v) A Medical doctor;

(vi) A representative of the Panchayati Raj Institution or Municipality

The District monitoring committee shall perform the following functions;

(a) To arrange for psychological and medical aid and counseling to the victim.

(b) To arrange for legal aid to the victim in filing the FIR till the conclusion of the trial;

(c) To initiate suitable measures to ensure the protection of the victim and witnesses till the conclusion of the trial.

(d) Monitor and expedite the progress of the investigation.

(e) To aid and assist in opposing bails, filing appeals and making application for protection of the victim.

(f) In cases of young victims, to see that they receive education or professional training or training for self-employment.

(g) To assist them in securing employment.

(h) To provide the required psychiatric treatment/counseling

(i). To facilitate the victims' rehabilitation.

(j) Initiate action so as to ensure Anonymity of the victims.

(k) Ensure that Interrogations of the victim be conducted by female police

officers. During all stages of interrogation and examination of the victim or the applicant, at least one member of the DMC is present.

(l) To arrange shelter to the victim, for such period as the circumstances warrant.

(m) And such other functions as may be deemed expedient and necessary by the committee given the peculiar facts and circumstances of each case;

**PROCEDURE FOR TRANSACTION OF BUSINESS BY THE DISTRICT BOARD
(CIRRB):**

(a) A victim, or her legal heir or any person/voluntary organization espousing the cause of women, or DMC may apply to the District Board for financial relief and rehabilitation in accordance with the provisions of this Scheme.

(b) Where the legal heir is:—

(i) A child, the application may be made on his behalf by a parent or guardian or by any voluntary organization.

(ii) A mentally ill person within the meaning of the Mental Health Act, the Application may be made by the person with whom the victim normally resides or a duly authorized medical officer or a voluntary organization; or by a parent/guardian.

(c) An applicant shall submit the following documents, as applicable, with the application:

(i) Medical certificate, where the application is being made by or on behalf of the victim; or

(ii) The death certificate of the victim, where the application is being made by a legal heir.

(iii) Copy of FIR/Complaint.

(d) On receiving the application and after having been prima facie satisfied that a case of rape has been made out, the Board shall order an interim financial relief of Rs.20, 000/-.

(e) The Board shall as far as possible grant the interim relief within a period of three weeks from the date of receipt of the application;

(f) Before awarding the interim and other relief's, the Board shall satisfy itself about the claim, make a preliminary assessment about the nature of the claim as well as take into account the medical report and other evidences;

(g) The Board shall take the assistance of the District Monitoring Committee before arriving at any decision

(h) The Board may take other measures for the purposes of the rehabilitation or any special needs of the victim in addition to the financial relief

(i) In case of victims who belong to schedule caste / schedule tribes, the provisions of the scheme shall be in addition to the provisions prescribed for grant of relief under the scheduled caste and the scheduled tribes (prevention of atrocities) Act 1989. However, the District Monitoring Committee while deciding the relief under this scheme shall take into account the compensation payable to the SC/ST victim under that Act.

(j) The Board shall dispose the application for relief and rehabilitation within one month from the date on which the complainant gives her evidence or within one year from the date of receipt of the application whichever is earlier; In deciding the application for financial relief, the Board shall be guided by, but not completely controlled by, the stand of the applicant in the trial.

(ja) the Board shall release balance amount of RS 1.30 Lakh and any amount unspent towards relief and rehabilitation measures to the victim subject to the fixed limit as prescribed

(k) The Board shall as far as possible, award financial and other relief's, as per the heads specified in the scheme.

(l) Award the compensation to the victim in lump sum subject to a maximum of Rs.2,00,000/-. While awarding the final relief, the Board shall take into account the interim and other reliefs granted.

(m) The Board shall be guided by the peculiar needs of the victim in deciding the amount of compensation to be granted in each case;

(n) The financial relief that is awarded by the Board is in addition to rehabilitation measures that the Board may suggest/ administer in each case.

(o) In cases where the victim is a minor, the amount shall be paid to her guardian or next friend after satisfying itself about the legitimacy of the person for relief and rehabilitation of the victim;

(p) The Board shall keep the Best interests of the victim in mind at all times;

(q) The Board May reject any application where it is of the considered opinion that:-

(i) The applicant failed to take, without delay, all reasonable steps to inform the police, or other body or person considered by the Board to be appropriate for the purpose, of the circumstances giving rise to the injury; or

(ii) The applicant failed to co-operate with the police or other authority in attempting to bring the accused/assailant to justice; or

(iii) The applicant has failed to give all reasonable assistance to the authority or other body or person in connection with the application;

Recent Update:

The **Code of Criminal Procedure 1973** as amended by **The Code of Criminal Procedure (Amendment) Act 2008 (5 of 2009)** has now an added provision in the form of the section 357-A on victim compensation.

Section 357- A

(1) Every State Government in coordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependants who have suffered loss or injury as a result of the crime and require rehabilitation.

This added provision will now be an important tool in the hand of activist to push forward for victim compensation. This is strengthens the provision of Victim Protection in SAARC Protocol.

ADVANTAGES AND DISADVANTAGES OF CRIMINAL JUSTICE SYSTEM

The criminal justice system in America has both advantages and disadvantages. The process of the criminal justice system is different from state to state. The central government criminal justice system is also different from the states' criminal justice system, featuring its own procedures, rules, and legal terms to describe the various aspects of the proceedings. Despite this, the criminal justice system is based on a fixed number of stages.

Trial

One major advantage of the criminal justice system is the right to a fairly speed trial, which may be waived if the defendant wants more time to prepare for his upcoming trial.

If the defendant is facing charges that are punishable by more than six months in prison, he has the right to a jury trial, which is public. If he wishes, the defendant can elect to have a bench trial instead. A bench trial is when a judge takes over the fact-finding purpose of the jury.

Appeal

Another advantage of the criminal justice system is the right of a convicted defendant to appeal his conviction. When a defendant is found guilty on all or some charges, he has the right to appeal to an appellate court. There are numerous reasons to ask for an appeal in the event that a defendant is found guilty during his trial. Some reasons are the inclusion of evidence that was deemed inadmissible, the lack of satisfactory proof to support the guilty verdict and any errors in the judge's charge to the jury.

Juries

Juries can be a disadvantage in the criminal justice system. If jury members want their obligation to end more quickly so that they can return home sooner, they may be tempted to come up with a quick verdict that may not consider everything carefully. In addition, some laws involving jury secrecy are such that potentially innocent people remain convicted because questions into how the jury came to their verdict are not allowed.

Excessive Sentences

Another disadvantage in the criminal justice system is the trend towards sentences that are too long for crimes that are relatively petty. According to the Economist, petty drug dealers are serving longer and harsher sentences when many of them are not violent thugs and would be better served by drug treatment programs instead. It is not at all uncommon to see people doing more time for drug offenses than they would for violent crimes, or even manslaughter. Much of this has to do with extremely strict sentencing laws that have taken power away from judges and placed it in the hands of prosecutors.

VICTIM SUPPORT SCHEME

The Victims Support Scheme, handled by Victims Services, provides a coordinated approach to information, support and referral, with an emphasis on immediate assistance

and access to counselling. Through Victims Services, victims will be able to access the services when they need them most.

Victims will be allocated a support coordinator who will conduct a comprehensive assessment of each situation, develop a tailored plan and then guide the victim through the criminal justice and human services systems. The support coordinator will provide information, referrals to other services and ongoing advice.

A package of care may include some or all of five types of support:

1. Information, referrals and advice
2. Counselling
3. Immediate needs
4. Financial assistance
5. Recognition payment

Victim Support is here to help anyone affected by crime, not only victims and witnesses, but their friends, family and any other people involved.

If you are the victim of crime, you may be entitled to support under the Victims Support Scheme. You may be able to get help even if no one was charged or convicted.

If you are:

- someone who has been injured as a direct result of a violent crime (known as a primary victim)
- a parent, step parent or guardian of a primary victim
- a dependant family member of a primary victim, you may be entitled to the following support:
 - payment for immediate needs, such as emergency medical, or moving costs
 - financial assistance, for things like loss of earnings and medical treatment
 - a recognition payment.
- You also may be entitled to counselling if you witnessed the crime against a primary victim, or
- a parent or guardian who becomes aware of a crime committed against their child when the child was under 18 and the child was injured or killed.

VICTIM OFFENDER MEDIATION

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

THE IMPACT OF VICTIM-OFFENDER MEDIATION:

INNOVATION IS OFTEN used in criminal justice as a code word for reform. From a jail to a penitentiary (theoretically inspiring penance), to a reformatory, to a corrections center, to a halfway house, to a therapeutic community, to community corrections, to boot camps, to restorative justice, to whatever the next catchphrase might be, reform has too often meant changing the name without radically changing program content or underlying values. It has also often been the case that the latest justice innovation captures the imagination and zeal of a vocal following without the slightest scrutiny. Thus policies and supporting dollars outdistance the needed empirical research to determine impact and to help shape programming. Frequently, the result of enthusiasm without a critical eye is flash-in-the-pan programming, frustrated policy-makers, disheartened workers, and ill-treated victims and offenders. As the oldest and most widely used expression of restorative justice throughout the world, with more than 1,300 programs in 18 countries (Umbreit, 2001), victim-offender mediation, too, has, at times, attracted more zeal than substance. Some see VOM as the solution for an entire juvenile court jurisdiction, or the means to handle efficiently all restitution cases or to mollify victims while staffs get on with what really needs to be done. Some have said, this is what we have been waiting for. We will assign one probation officer to manage the 1,000 cases that we expect will involve restitution and that can be handled through the VOM process. Other justice system officials ask, —How do we fold VOM into what we already do without costing

more or changing how we handle youth? Fortunately, many have tried to keep the expectations of VOM reasonable while assuring officials and policy-makers that it is not a single-program panacea. And there have been numerous efforts to empirically evaluate and assess the working of the programs in a variety of settings during the last 20 years or so. In fact, more studies have examined the impact of victim offender mediation than numerous other mainstream correctional interventions that our nation spends millions of dollars on each year. While modest in proportion to many larger scale reforms, victim offender mediation is one of the more empirically grounded justice interventions to emerge. This overview of empirical studies designed to assess the growth, implementation, and impact of victim- offender mediation programs is based on a review of thirty-eight (38) evaluation reports. No doubt there are more. These studies have taken place in 14 states and the District of Columbia, four Canadian provinces as well as in England, Scotland, and New Zealand. Included are simple but informative post facto studies along with 12 that incorporate comparison groups. Five of the studies consist of in-depth secondary analysis, which often is a mark of a field of inquiry moving beyond immediate programmatic and policy questions to longer-range questions of causality. Most of the studies are quasi-experimental designs. Several studies offer more rigorous experimental designs with random assignment of subjects and higher-level statistical analysis. While specific studies focus on particular sets of questions germane to local interest, overall, they address questions of consumer satisfaction with the program and the criminal justice system, victim-offender mediation as a means for determining and obtaining restitution, victim- offender mediation as diversion from further penetration into the system, and the relationship of victim-offender mediation to further delinquency or criminality. The remainder of this article considers the consequences of victim-offender mediation over the past 20 years. Those consequences are divided into the following topics: 1) client satisfaction, 2) client perception of fairness, 3) restitution, 4) diversion, 5) recidivism, 6) costs, and 7) VOM and crimes of violence. Some topics such as client satisfaction, client perception of fairness, and restitution are considered in most of the studies under review and we are only able to provide a sense for the overall findings while offering an illustrative flavor of a few specific studies. Other topics, such as recidivism and costs, are addressed by only a handful of studies and we will provide a bit more detailed information regarding these. As one might expect, victim-offender mediation programs are called by many names and

share an array of acronyms reflecting philosophical, regional, and cultural characteristics. Whether referred to as victim-offender mediation, victim-offender dialogue, victim-offender conferencing, or victim-offender meetings, nearly all of these programs provide an opportunity for crime victims and offenders to meet face-to-face to talk about the impact of the crime on their lives and to develop a plan for repairing the harm. Most programs work with juvenile offenders, a growing number with adult offenders, and some with both. The vast majority of victim-offender mediation programs are —dialogue driven rather than settlement driven (Umbreit, 1997). To reduce confusion in the following discussion of a large number of studies, programs will simply be referred to as victim-offender mediation, or VOM.

Client Satisfaction:

Victim offender mediation proponents often speak of humanizing the justice system. Traditionally, victims have been left out of the justice process. Neither victim nor offenders have had opportunities to tell their stories and to be heard. The state has somehow stood in for the victim, and the offender has seldom noticed how his or her actions have affected real, live people. Victims, too, have been left with stereotypes to fill their thoughts about offenders. Reformers believed VOM offered opportunities for both parties to come together in a controlled setting to share the pain of being victimized and to answer questions of why and how. Personalizing the consequences of crime, it was thought, would enhance satisfaction levels with the entire justice process. The vast majority of studies reviewed reported in some way on satisfaction of victims and offenders with victim-offender mediation and its outcomes. Researchers found high levels of participant satisfaction across program sites, types of offenders, types of victims, and cultures. Before exploring the nature of this satisfaction further, we should note that across these studies, from 40 to 60 % of those offered the opportunity to participate in VOM refused, making it evident that participation is a highly self-selective process. Typically, these refusals came from victims who believed the crime to be too trivial to merit the time required, feared meeting the offender, or wanted the offender to have a harsher punishment (Coates and Gehm, 1985; Umbreit, 1995). Gehm, in a study of 555 eligible cases, found 47 % of the victims willing to participate (Gehm, 1990). In this study victims were more likely to participate if the offender was white, if the offense was a misdemeanor, and if the victim was representing an institution. The practical experience of VOM programs, however, is not consistent

with

this

finding.

Offenders were sometimes advised by lawyers not to participate (Schneider, 1986). And some simply didn't want —to be bothered (Coates and Gehm, 1985). The voluntary nature of VOM is a self-selection factor overlaying these findings. The high levels of satisfaction may have something to do with the opportunity to choose. Perhaps those who are able to choose among justice options are more satisfied with their experiences. Several studies noted victims' willingness to participate was driven by a desire to receive restitution, to hold the offender accountable, to learn more about the why of the crime and to share their pain with the offender, to avoid court processing, to help the offender change behavior, or to see that the offender was adequately punished. Offenders choosing to participate often wanted to —do the right thing and —to get the whole experience behind them (Coates and Gehm, 1985; Perry, Lajeunesse, and Woods, 1987; Umbreit, 1989; Roberts, 1995; Umbreit, 1995; Niemeyer and Shichor, 1996). Expressions of satisfaction with VOM are consistently high for both victims and offenders across sites, cultures, and seriousness of offenses. Typically, eight or nine out of ten participants report being satisfied with the process and with the resulting agreement (Davis, 1980; Coates and Gehm, 1985; Perry, Lajeunesse, and Woods, 1987; Marshall, 1990; Umbreit, 1991, 1994, 1995; Umbreit and Coates, 1993; Warner, 1992; Roberts, 1995; Carr, 1998; Roberts, 1998). Participants in one British study (Umbreit and Roberts, 1996) yielded some of the lowest satisfaction scores among the studies reviewed. While 84 % of those victims engaged in face-to-face mediation were satisfied with the mediation outcome, the bulk of the victims did not meet face to face with an offender. For those involved in indirect mediation, depending on shuttle mediation between parties without face-to-face meetings, 74 % were satisfied with their experience. These findings were consistent with an earlier study based in Kettering, where a small sub-sample of participants were interviewed, indicating 62 % of individual victims and seventy-one % of corporate victims were satisfied (Dignan, 1990). About half of the offenders responding reported being satisfied. Participants involved in face-to face mediation were more satisfied than those who worked with a go-between. Victims often reported being satisfied with the opportunity to share their stories and their pain resulting from the crime event. A victim stated she had wanted to —let the kid know he hurt me personally, not just the money . . . I felt raped (Umbreit, 1989). Some expressed satisfaction with their role in the process. One victim said: —we were both allowed to

...he (mediator) didn't put words into anybody's mouth (Umbreit, 1988). Another female victim indicated, —I felt a little better that I've stake in punishment (Coates and Gehm, 1985). Another indicated that —it was important to find out what happened, to hear his story, and why he did it and how (Umbreit and Coates, 1992). Numerous victims were consumed with the need for closure. A victim of violent crime indicated that prior to mediation, —I was consumed with hate and rage and was worried what I would do when he got out (Flaten, 1996). Of course not all victims were so enamored of the process. A distinctly small but vocal minority of victims were not pleased with the program. A male victim complained: —It's like being hit by a car and having to get out and help the other driver when all you were doing was minding your own business (Coates and Gehm, 1985). A Canadian stated: —The mediation process was not satisfactory, especially the outcome. I was not repaid for damages or given compensation one year later. The offender has not been adequately dealt with. I don't feel I was properly compensated (Umbreit, 1995). Offenders generally report surprise about having positive experiences. As one youth said, —He understood the mistake I made, and I really did appreciate him for it (Umbreit, 1991). Some reported changes: —After meeting the victim I now realize that I hurt them a lot...to understand how the victim feels makes me different (Umbreit and Coates, 1992). One Canadian offender stated his pleasure quite succinctly: —Without mediation I would have been convicted (Umbreit, 1995). The following comment reflects the feelings of a relatively small number of offenders who felt that victims at least occasionally abused the process: —We didn't take half the stuff she said we did; she either didn't have the stuff or someone else broke in too (Coates and Gehm, 1995). An offender in Albuquerque (Umbreit and Coates, 1992) also believed that the process allowed the victim too much power: —the guy was trying to cheat me...he was coming up with all these lists of items he claimed I took. Some offenders felt powerless to refute the accusations of victims.

Secondary analysis of satisfaction data from a U.S. study and a Canadian study yielded remarkably similar results (Bradshaw and Umbreit, 1998; Umbreit and Bradshaw, 1999). Using step-wise multiple regression procedures to determine those variables most associated with victim satisfaction, three variables emerged to explain over 40 % of the variance. In each study, the key variables associated with victim satisfaction were:

- 1) the victim felt good about the mediator,
- 2) the victim perceived the resulting restitution agreement as fair, and

3) the victim, for whatever reason, had a strong initial desire to meet the offender.

The last variable supports the notion that self-selection and choice are involved in longer-run satisfaction. These findings also underscore the important role of the mediator, and, of course, the actual outcome or agreement resulting from mediation. These high levels of satisfaction with victim-offender mediation also translated into relatively high levels of satisfaction with the criminal justice system. Where comparison groups were studied, those victims and offenders going through mediation were far more satisfied with the criminal justice system than those going through traditional court prosecution (Davis, 1980; Umbreit and Coates, 1993; Umbreit, 1995). For example, a multi-site U.S. study of VOM in four states (Umbreit & Coates, 1993) found that victims of juvenile crime were significantly more likely to be satisfied (79 %) with the manner in which the justice system dealt with their case than similar victims (57 %) who went through the regular court process.

Fairness

Related to satisfaction is the question of fairness. Many of the studies reviewed asked participants about the fairness of the mediation process and of the resulting agreement (Davis, 1980; Coates and Gehm, 1985; Umbreit, 1988, 1989, 1991, 1995; Coates and Umbreit, 1992). Not surprisingly, given the high levels of satisfaction, the vast majority of VOM participants (typically over 80 %) across setting, cultures, and types of offenses reported believing that the process was fair to both sides and that the resulting agreement was fair. Again, these experiences led to feelings that the overall criminal justice system was fair. Where comparison groups were employed, people exposed were more likely to feel that they had been treated fairly than those going through the traditional court proceedings. In a study of burglary victims in Minneapolis, Umbreit found that 80 % of those undergoing VOM experienced the criminal justice system as fair, compared with only 37 % of burglary victims who did not participate in VOM (Umbreit, 1989). As expected from the quantitative numbers on fairness, statements from victims and offenders about fairness reflected that assessment. Common comments included: —The mediator was not biased, she was not judgmental (victim) and —he listened to everyone during the meeting (offender). (Umbreit and Coates, 1992). A few, however, did not feel the same way. —He seemed more like an advocate for the kid, and —she seemed kind of one sided to the victim (Umbreit and Coates, 1992) reflect perceived imbalance and unfairness in the mediation process. While the negative data that emerged was quite small in proportion to the overall positive findings,

negative statements offered helpful insight into how the mediation process may have unintended consequences for the participants. These overall positive experiences of satisfaction and fairness, however, have generated support for VOM as a criminal justice option. When asked, typically nine out of ten participants would recommend a VOM program to others (Coates and Gehm, 1985; Umbreit, 1991).

Restitution

Early on, restitution was regarded by program advocates as an important by-product of bringing offender and victim together in a face-to-face meeting. Restitution was considered somewhat secondary to the actual meeting where each party had the opportunity to talk about what happened. The current emphasis on humanistic—dialogue-driven mediation (Umbreit, 1997) reflects this traditional emphasis on restitution being of secondary importance. Today, a few jurisdictions see VOM as a promising major vehicle for achieving restitution for the victim. These jurisdictions view the meeting as necessary to establish appropriate restitution amounts and garner the commitment of the offender to honor a contract. Victims frequently report that while restitution was the primary motivator for them to participate in VOM, what they appreciated most about the program was the opportunity to talk with the offender (Coates and Gehm, 1985; Umbreit and Coates, 1992). In many settings, restitution is inextricably linked with victim-offender mediation. About half the studies under review looked at restitution as an outcome of mediation (Collins, 1984; Coates and Gehm, 1985, Perry, Lajeunesse and Woods, 1987; Umbreit, 1988; Galaway 1989; Umbreit, 1991; Umbreit and Coates, 1992; Warner, 1992; Roy, 1993). Of those cases that reached a meeting, typically 90 % or more generated agreements. Restitution in one form or another (monetary, community service, or direct service to the victim) was part of the vast majority of these agreements. Looking across the studies, it appears that approximately 80-90 % of the contracts are reported as completed. In some instances, the length of contract exceeded the length of study. One study was able to compare restitution completion between those youth participating in VOM with a matched group who did not (Umbreit and Coates, 1993.) In that instance, 81 % of participating youth completed their contracts contrasted with 57 % of those not in the VOM program, a finding that was statistically significant. In another study comparing an Indiana county that integrated restitution into victim-offender mediation with a Michigan county that imposed restitution without mediation, no difference in completion rates were found (Roy, 1993). Each was just shy of 80 % completion.

Diversion

Many VOM programs are nominally established to divert youthful offenders into less costly, time consuming, and (it is believed) less severe options. Although diversion is a goal lauded by many, others express concern about the unintended consequence of widening the net, that is, ushering in youth and adults to experience a sanction more severe than they would have if VOM did not exist. While much talk continues on this topic, there is a dearth of study devoted to it. Only a handful of the studies reviewed here address this question. One of the broadest studies considering the diversion question was conducted over a three-year period in Kettering, Northamptonshire, England (Dignan, 1990). Offenders participating in the VOM program were matched with similar nonparticipating offenders from a neighboring jurisdiction. The author concludes that at least 60 % of the offenders participating in the Kettering program were true diversions from court prosecution. Jurisdictional comparisons also led him to conclude that there was a 13 % widening-the-net-effect, much less than local observers would have predicted. An agency based in Glasgow, Scotland, where numbers were sufficiently large to allow random assignment of individuals between the VOM program and a comparison group going through the traditional process, found 43 % of the latter group were not prosecuted (Warner, 1992). However, most of these pled guilty and were fined. This would suggest that VOM in this instance was a more severe sanction and indeed widened the net of government control.

In a very large three-county study of mediation in North Carolina, results on diversion were mixed (Clark, Valente, Jr., and Mace, 1992). In two counties, mediation had no impact on diverting offenders from court. However, in the third county the results were quite dramatic. The authors concluded: —The Henderson program's effect on trials was impressive; it may have reduced trials by as much as two-thirds.¶ Mediation impact on incarceration was explored in an Indiana-Ohio study by comparing consequences for 73 youth and adults going through VOM programs with those for a matched sample of individuals processed in the traditional manner (Coates and Gehm, 1985). VOM offenders spent less time incarcerated than did their counterparts. And when incarcerated, they did county jail time rather than state time. The length and place of incarceration also had substantial implications for costs.

Recidivism

While recidivism may be best regarded as an indicator of society's overall response to juvenile and adult offenders, it is a traditional measure used to evaluate the long-term impact of justice programs. Accordingly, a number of studies designed to assess VOM have incorporated measures of recidivism. Some simply report rearrest or reconviction rates for offenders going through the VOM program under study (Carr, 1998; Roberts, 1998). Since no comparison group or before/after outcomes are reported, these recidivism reports have local value, but offer very little meaning for readers unfamiliar with typical rates for that particular region. One of the first studies to report recidivism on VOM was part of a much larger research project on restitution programs (Schneider, 1986). Youth randomly assigned to a Washington, D.C. VOM program were less likely to have subsequent offenses resulting in referral to a juvenile or adult court than youth in a comparison probation group. These youth were tracked for over 30 months. The results were 53 % and 63 %; the difference was statistically significant. A third group, those referred to mediation but refusing to participate, also did better than the probation group. This group's recidivism prevalence was 55 %.

Marshall and Merry (1990) report recidivism on two programs handling adult offenders in Coventry and Wolver Hampton, England. The results are tentative but encouraging. In both sites, the offenders were divided into the following groups: those who did not participate in mediation at all, those who were involved in discussions with staff even though their victims were unwilling to participate, those who were involved in indirect mediation, and those who met their victims face-to-face. Offender records were analyzed to determine criminal behavior for comparable periods before referral to program and after program intervention. In Coventry, while there was no statistically significant differences between the —no work or no participation group and the others, those who went through direct mediation and those who received individual attention even though their victims were unwilling to meet, did better, that is, either they committed fewer crimes or less serious offenses. In Wolver Hampton, the indirect mediation group fared best, with 74 % improving their behavior compared to 55 % direct mediation, 45 % individuals receiving staff attention only, and 36 % for those not involved in the program. The authors regard these findings as highly tentative and remain puzzled about why in one site indirect mediation fared so much better than direct while the reverse was found in the other.

The study based in Kettering, England (Dignan, 1990) compared recidivism data between the VOM offenders who went through face-to-face mediation with those who were exposed only to —shuttle mediation. The former group did somewhat better than the latter: 15.4 % and 21.6 %. As with satisfaction measures reported earlier, face-to-face mediation seems to generate better results both in the short run and in the longer run than the less personal indirect mediation. In a study of youth participating in VOM programs in four states, youth in mediation had lower recidivism rates after a year than did a matched comparison group of youth who did not go through mediation (Umbreit and Coates, 1992). Overall, across sites, 18 % of the program youth re-offended, compared to 27 % for the comparison youth. Program youth also tended to reappear in court for less serious charges than did their comparison counterparts. The Elkhart and Kalamazoo county study (Roy, 1993) found little difference in recidivism between youth going through the VOM program and the court-imposed restitution program. VOM youth recidivated at a slightly higher rate, 29 % to 27 %. The author noted that the VOM cohort included more felons than did the court-imposed restitution cohort. A study of 125 youth in a Tennessee VOM program (Nugent and Paddock, 1995) reported that these youth were significantly less likely to re-offend than a randomly selected comparison group: 19.8 % to 33.1 %. The VOM youth who did re-offend did so with less serious charges than did their comparison counterparts. A sizeable cohort of nearly 800 youth going through mediation in Cobb County, Georgia between 1993 and 1996 was followed along with a comparison group from an earlier time period (Stone, Helms, and Edgeworth, 1998). No significant difference in recidivism rates was found: 34.2 % mediated to 36.7 % non-mediated. Three-quarters of the mediated youth who returned to court did so because of violation of the conditions of mediation agreements. In a recent article, Nugent, Umbreit, Wiinamaki and Paddock (2001) conducted a rigorous reanalysis of recidivism data reported in four previous studies involving a total sample of 1,298 juvenile offenders, 619 who participated in VOM and 679 who did not. Using logistic regression procedures, the authors determined that VOM youth recidivated at a statistically significant 32 % lower rate than non-VOM youth, and when they did re-offend they did so for less serious offenses than the non-VOM youth. All in all, recidivism findings across a fair number of sites and settings suggest that VOM is at least as viable an option for recidivism reduction as traditional approaches. And in a good number of instances, youth going through mediation programs are actually faring

better.

Cost

Relative costs of correctional programs are difficult to assess. Several studies reviewed here addressed the issue of costs. Cost per unit case is obviously influenced by the number of cases handled and the amount of time devoted to each case. The results of a detailed cost analysis in a Scottish study were mixed (Warner, 1992). In some instances, mediation was less costly than other options and in others more. The author notes that given the —marginal scopel of these programs it remains difficult to evaluate how much they would cost on a scale large enough to affect overall program administration. Evaluation of a large-scale VOM program in California led authors to conclude that cost per case was reduced dramatically as the program went from being a fledgling to being a viable option (Niemeyer and Schichor, 1996). Cost per case was \$250. An alternative way of considering the cost impact of VOM is to consider its effect on the broader system. Reduction of incarceration time served can yield considerable savings to a state or county (Coates and Gehm, 1985). Reduction of trials, such as in Henderson County, North Carolina, where trials were reduced by two-thirds, would have tremendous impact at the county level (Clarke, Valente Jr., and Mace, 1992). And researchers evaluating a VOM program in Cobb County, Georgia point out that while they did not do a cost analysis, time is money (Stone, Helms, and Edgeworth, 1998). The time required to process mediated cases was only a third of that needed for non-mediated cases. The potential cost savings of VOM programs when they are truly employed as alternatives rather than as marginal showcase add ons is significant. Yet a cautionary note must continue to be heard. Like any other program option, these programs can be swamped with cases to the point that quality is compromised. And in the quest for savings there is the temptation to expand the eligibility criteria to include those who would not otherwise penetrate the system or to take on serious cases that the particular program staff are ill equipped to manage. Staff and administrators must be prepared to ask, —Cost savings at what cost?!

VOM and Crimes of Violence

In 1990, a survey of victim-offender mediation program, in the juvenile justice system noted that most programs excluded violent offenders and sex offenders (Hughes and

Schneider, 1990). Two-thirds of cases reported by VOM programs in a 1996-97 survey (Greenwood and Umbreit, 1998) involved offenders with misdemeanor offenses. 45 % of reporting programs worked only with juveniles while nine % handled adults only. The remainder worked with both. These figures support the notion that VOM is often used as a —front-end‖ diversionary option often working with —less serious‖ cases. In fact, the largest VOM programs in the United States, some receiving over 1,000 referrals a year, serve as a diversion of young offenders with little or no prior court involvement from formal processing in the juvenile court. Many program staff contend that in order to work with burglary and moderately serious assault cases programs must accept the less serious cases. Others would argue that these so- called —less serious‖ cases still involve human loss and tragedy. And still others claim that making crime a human problem for offenders at these less serious levels will prevent more serious crimes from occurring. As indicated above when discussing recidivism, there is at least some modest empirical support for these contentions. Without disparaging the work of VOM programs dealing in cases perceived and defined as —less serious,‖ there are signs of at least a subtle shift in the utilization of VOM. In the above-mentioned 1996– 97 survey, many program administrators indicated that programs —are being asked to mediate crimes of increasing severity and complexity.‖ And —virtually all interviewees indicated that advanced training is necessary in working with cases of severe violence.‖ (Greenwood and Umbreit, 1998). Apart from the general pressure to take on more severe and complex cases, some individuals and programs specialize in working with the most violent kinds of crime. Studies involving murder, vehicular homicide, manslaughter, armed robbery, and sexual assault in such disparate locations as New York, Wisconsin, Alaska, Minnesota, Texas, Pennsylvania, Ohio, and British Columbia (Umbreit, 1989; Roberts, 1995; Flatten, 1996; Umbreit, Bradshaw, and Coates, 1999; Umbreit and Brown, 1999; Umbreit and Vos, 2000) are yielding important data for shaping mediation work with violent offenders and victims of violent crime. These very intense, time-consuming mediation efforts have shown promising, positive results. Victims who seek and choose this kind of encounter and dialogue with an individual who brought unspeakable tragedy to their lives report feelings of relief, a greater sense of closure, and gratitude for not being forgotten and unheard. In several states, lists of victims seeking to meet with violent offenders far exceed the resources available to accommodate the victims’ desires.

Conclusion

Victim-offender mediation has received considerable research attention—more than many other justice alternatives. With over 20 years of experience and research data, there is a solid basis for saying:

1. For those choosing to participate—be they victims or offenders — victim-offender mediation and dialogue engenders very high levels of satisfaction with the program and with the criminal justice system;
2. Participants typically regard the process and resulting agreements as fair; Restitution comprises part of most agreements and over eight out of 10 agreements are usually completed;
3. VOM can be an effective tool for diverting juvenile offenders from further penetration into the system, yet it may also become a means for widening the net of social control;
4. VOM is as effective (if not more so) in reducing recidivism as traditional probation options;
5. Where comparative costs have been considered, VOM offers considerable promise for reducing or containing costs;

There is growing interest in adopting mediation practices for working with victims and offenders involved in severely violent crime and preliminary research shows promising results, including the need for a far more lengthy and intensive process of preparing the parties. For at least a significant minority of folks involved in the justice system, VOM is regarded as an effective means for holding offenders accountable for their actions. While there is a fairly extensive base of research on victim-offender mediation across many sites supporting this contention, far more work needs to be done. Most of the studies reported offer results that are at best suggestive because of the limitations of their research methodology. Far more rigorous studies, including random assignment, control groups and longitudinal designs, are required. Yet in the real world of field research in the criminal justice system, the 25-year experience of victim-offender mediation has become one of the more promising and empirically grounded reform movements to emerge during the last quarter of the twentieth century.

NON-GOVERNMENTAL ORGANIZATION (NGO)s

A non-governmental organization (NGO) is basically a legally constituted organization which is operated by legal persons who act independently from any government. In those cases where the NGOs are funded partially or completely by governments, the NGO barred the government representatives from any membership in the organization in order to sustain its non-governmental status. The term is used for those organizations which have wider social target with political aspects. However, any NGO cannot be blatantly political organizations. The term “non-governmental organization” has no agreed legal definition and these are termed as “civil society organizations” in many jurisdictions.

ROLE OF NON-GOVERNMENTAL ORGANIZATIONS IN VICTIM ASSISTANCE

Victim Assistance Programmes

Mediation programmes bring the offender and the victim together in face-to-face meetings to negotiate a restitution settlement. The objective is to alleviate the social situation that has been disturbed by the offender. The whole mediation procedure is different from traditional criminal proceedings: a mediation session is arranged only with the consent of both victim and offender. During a reconciliation session the participants can bring up the social conflict that might be the cause of the delinquent act. This approach attempts to address the economic as well as psychological injuries in such a way that the offender is able to comprehend the full impact that the crime has had upon the victim. The advantages of mediation are: (a) the victim is not treated as a mere witness ``but has the opportunity to digest what has happened to him by expressing his shock and bewilderment; and (b) the offender is made to reflect upon the injustice he has done and to accept responsibility by engaging in constructive actions. This might have a high rehabilitation value. The offender is also less stigmatized as a result. The victim obtains financial and emotional restitution quickly and in an informal way. There is also greater community involvement in the solution of conflicts, which is supposed to have a positive impact on deterrence. In short, the event is no longer only handled according to the logic of the criminal code but according to the needs and interests of the parties involved (victim, offender and community). Mediation takes place in the presence of a trained mediator, on a date set by agreement and the session starts with an explanation of procedure.

There is some concern about whether restorative justice approaches such as mediation give sufficient attention to the interests of the victim. For example, although it is the victim who has suffered from the offence, most projects do not take the victim as the starting point for the mediation process. Instead, they start by asking the offender if he or she is willing to participate in the mediation process and they only approach the victim after the offender has conceded. This approach means that the victim may feel pressured into participating in the mediation process. For example, the victim may be reluctant to refuse because of the responsibility of thereby appearing to cause the offender to receive a heavier sentence. In addition, projects are often directed at particular groups of offenders, such as juveniles. This approach categorically excludes large numbers of victims from participating in restorative justice projects. If one were to take the victim as the focal point for mediation, the distinction between juvenile and adult offenders would be superfluous. Clearly, for mediation to be successful there must be a balance between the interests of the victim and of the offender. In France in 1993 and in Germany in 1994, following assessment of these experimental programmes, victim offender mediation has been fully recognized in criminal procedure. In France, the prosecutor is entitled to arrange for mediation prior to the decision whether or not to prosecute. The mediation is directed to the compensation of the victim and the rehabilitation of the offender. In Austria, too, special attention is paid to mediation as a diversionary measure whereby, through an early staying of the proceedings, all the advantages of mediation can fully develop. What these examples all have in common is that mediation is carried out within, or at least in close proximity to, the criminal justice system because the decision to instigate a mediation procedure outside criminal proceedings always lies with the authorities.

VICTIM ADVOCACY

The **Victim Advocacy Program** provides assistance to members who are victims of harmful, threatening, or violent incidents.

Advocates support individuals who have experienced:

- Sexual assault or rape
- Violent or potentially violent relationships
- Stalking
- Harassment
- Physical or emotional/mental assault
- Bias-related incidents

- Hazing
- Any other type of victimization

Services

Victim Advocates are trained staff members, they provide:

- Personal support and an opportunity to talk about what happened
- Information and answers to questions about options and resources
- Help thinking through and deciding on a course of action
- Accompaniment to meetings, court hearings, etc., or serve as a liaison
- Connection with campus, community, and state resources for counseling, advising , or reporting
- Connection with University offices (when appropriate, advocates can work with faculty and staff)

The Victim Advocacy service is free, and designed to help each individual pursue the course of action they feel is best for them.

Confidentiality: Conversations with a Victim Advocate are private and do not commit you to any future action. Discussions with an Advocate do not constitute making a report or filing a formal complaint. An Advocate will not contact academic or university staff, parents, or others without the client's consent. To assure privacy, the office does not keep formal records for Cornell Health or the University.

Referrals: The Advocates may need to refer the following inquires to other resources: victims of robberies or crimes against property; parties involved in tenant/landlord disputes; roommate / housemate differences or quarrels; and those who feel they've been treated unfairly by professors, teaching assistants, or supervisors within the academic environment.

VICTIM OFFENDER MEDIATION

“Victim Offender Mediation” (VOM) is a formal process for face-to-face meetings in the presence of a trained mediator between a victim of a crime and his/her offender who committed that crime. This is also called victim-offender dialogue, victim-offender conferencing, victim-offender reconciliation, or restorative justice. Often the victim and the offender are joined by their respective families and community members or other persons related to the crime event. In these meetings, the offender and the victim talk to

each other about the victimization, the effects it had on their lives, and their feelings about it. The aim is to create a mutually agreeable plan to repair any damage or injury that occurred as a result of the crime in the hopes of permanently eliminating the conflict that caused the crime in the first place.

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