

AN ANALYSIS ON WOMEN VICTIM COMPENSATION: THE HUMAN RIGHTS APPROACH

Mrs. Aaditya Jain

Research scholar, Amity Law School, Amity University , Rajasthan

Prof(Dr.) Saroj Bohra

Supervision, Amity Law School, Amity University , Rajasthan

Abstract: Global awareness of female victimisation has increased over the past few decades. Studying the legal definition and criminal punishment of sexual assault on women in India's transitional society is an important part of this research. The four most common forms of sexual assault in India are all included, including rape, kidnapping, sexual assault, and prostitution. According to the findings of this study, which looked at criminal court cases from 1992 to 2002, new types of offenders and crimes and their associated penalties can be identified. Comparative studies have theoretical and practical implications. Here, the Indian judiciary's role in preserving the human rights of those who are harmed has been thoroughly examined. The research also covers a range of options for paying victims of crime.

Keywords: Victim, Human rights, Crime, Compensation.

Introduction

No matter how rare it may be, women's criminal victimisation is significantly more harrowing than that of men. The rape and sexual assault of women is far more common than that of men. Violence against women and girls over twelve is a common occurrence in the United States, according to the most recent data. One out of every six women has been the victim of a rape or attempted rape. 870,000 rapes occur each year. The majority of rapes occur between the ages of sixteen and twenty-four, when women are most vulnerable.

People close to a victim, such as a spouse or ex-spouse or even a family member or acquaintance, are generally the ones who commit crimes against them. Because of how they are committed, these sorts of assaults are the most challenging. Murders are committed by someone with whom the victim had a close relationship more than three-quarters of the time, compared to only 16 percent of rapes. The similar pattern of familiarity may be observed in a variety of crimes. Approximately 20% to 50% of women have experienced domestic abuse at some time in their lives. According to study, the violence increases when a woman tries to leave an abusive relationship. In general, research shows that women are more terrified of crime, and rape in particular, than males. As a result, victim law frequently focuses on the needs of female victims. To assist women who have been raped, stalked, or otherwise harmed by domestic abuse, Congress established the Victims of Domestic Violence Fund (VIPF) in 1994. In 1998, VAWA contributed \$172 million to women's programmes. According to a research published in the Journal of Criminal Justice Research, women are more likely to be victims of rape than men, and they are also more likely to be victims of other crimes as a fraction of the entire population (JCR). All countries have some form of criminal justice system to keep criminals from abusing their power and enforcing the law on those who violate their constitutional rights and liberties. The rights of the accused in a trial that is both fair and impartial have long been given top priority in the

criminal justice system. A variety of additional rights and safeguards have been granted to the accused under this method. Since crime has damaged many people, it looks to care little about the victims. This only applies to material evidence; in most cases, a victim serves as an informant by reporting an incident to the authorities. He or she is done after that, unless the cops still need him or her. After registering a case, conducting an investigation, initiating a prosecution, and delivering a punishment to an accused, the state's involvement has been highly debated as to whether or not the state has an extra obligation to the victim.

If justice is to be maintained, the state must sustain the judiciary's foundation. Even if the perpetrator is found not guilty, the victim may still be entitled to compensation. The existing criminal justice system does not require the identification of a victim if the court rules that no crime was committed. Even if the court finds that an offence has been committed against an aggrieved complainant or victim, an offender or accused may be acquitted or dismissed for one or more of these grounds.

- No proof was produced to link the accused to the crime despite the fact that the case was genuine.
- There was not enough evidence to convict the accused individual during the preliminary hearing.
- According to the Indian Penal Code, a person suspected of being a criminal could be shielded from prosecution under any of a number of particular situations.
- Deficiencies, insufficiency, madness, or the requirement of men's reason are all examples. Acquittals are possible in some cases where the prosecution of an offender requires clearance from certain authorities and there is a case of mistaken identification or confusion regarding the accused person's involvement as an offender.

Victims and complainants are not relieved when an offender is acquitted since the perpetrator walks away with no repercussions. Unless and until the prosecution proves otherwise, an accused person is presumed innocent until and unless prosecuted. Unfortunately, the victims are the ones who are shut out of the criminal justice system totally. Rehabilitating prisoners should not be done by neglecting the misery of those who were harmed by their actions. Victims have a right to justice and recompense even if no one is found guilty.

Compensation for Crime Victims: A Historical Overview

Traditional recompense for victims has been in place for decades. Ancient Babylonia's Hammurabi law refers to paying victims of wrongdoing for the first time. Anglo-Saxon rule was broadly established in England throughout the seventh century. Murder, assault, and theft were not just misdemeanours that could be recompensed, but were instead considered as crimes of society and liable by everyone, resulting in the differentiation of the criminal equity framework through time. As a result, the concept of state compensation was scrapped, as was the state's role in punishing wrongdoers. After a few months of discussion, the subject of state compensation came up again at this year's International Prison Congress, which took place in the latter half of the year. Although Penologists like Jeremy Bentham worked hard to promote victim compensation, many people were still opposed to the notion.

She advocated for victims to be given a fresh perspective on their situation and presented with viable options whilst working as an English correctional reformer in the 1950s. As a result, in both the United States and Europe, government compensation programmes have been

implemented. It was formed in 1964 and administered by the Criminal Injuries Compensation Board (CICB), which was ratified by the House of Representatives. Compensation for the victim was determined in the same manner as damages would be in a civil lawsuit. A tariff-based compensation mechanism was established for this programme with the Criminal Injuries Compensation Act of 1995. Care and dependability must be taken into consideration. A governmental compensation programme was first implemented in the Golden State in 1965. The Victims of Crime Act of 1984 was enacted by Congress in 1984 and established a Victims Fund inside the U.S. Treasury. Only individuals who have been wrongfully accused of horrific crimes or those who have been directly implicated in such crimes are eligible for this type of reparation.

Development in India

Criminal law in India is often linked back to the country's colonial period under British rule and the organization's heyday. The Law Commission of India's forty-first report, published in 1969, referenced Section 545 of the Criminal Procedure Code of 1898. The Criminal Procedure Code of 1898 does not specifically address compensation for victims, yet it acknowledges it in some manner. Since Section 545 (1)(b) of the Code of Criminal Procedure was enacted in 1898, any person who had incurred loss or harm as a result of the offence might be ordered to pay compensation by the court if sufficient compensation could be collected in a civil court pursuant to the court's judgement. CrPC mandates that a high fine penalty be imposed in order for the victim's claim to compensation to apply. According to the Law Commission's 154th report, a provision in the Code should be included that would provide equitable compensation for all victims. According to the Law Commission's recommendations, the Indian government introduced the Code of Criminal Procedure Bill, 1970, which sought to repeal Section 545 and reintroduce it as Section 357.

Section 357 had a substantial effect on the law. It was decided to eliminate a substantial section in favour of two new ones. Although the sentence does not contain a fine, subdivision (3) compels compensation, while subdivision (4) outlines the jurisdiction and power of relevant courts. An order granting compensation can be made if an associate tribunal, the tribunal, or the Court of Session exercises its revision powers.

When Section 357A of the CrPC was added, it stated that money should be set aside for victims or their heirs who were damaged as a consequence of an offence against the law and needed rehabilitation.

There are two options for determining a court's recommendation that compensation be paid: the District Legal Service Authority (DLA) or State Legal Service Authority (SLA). A victim's damages should be quantified by the Legal Services Authority, which comprises professionals in the field of law, because they are better suited to do so.

Restrictions

There is a three-year time limit for a victim or her family members to file a claim under Section 357A of Code for compensation. As long as an application is made and the reasons are recorded, the SLSAs/DLSAs may pardon delays of more than three years in good faith.

Women's Victims Compensation Fund

1. The State Legal Services Authority or District Legal Services Authority shall decide the amount of compensation to be granted to women victims or their dependents who have incurred loss or injury as a consequence of an offence and who require rehabilitation.
2. Women's Victims Compensation Fund' will include the following:

3. Donations to the CVCF Scheme were made in 2015.
4. Inclusion of SLSA's yearly budgetary allocations in the form of Grants-in-Aid; 3. Costs imposed by Civil/Criminal Tribunals.
5. For international, national, and philanthropic donations approved by the State or Central Government; recompense recovered from the perpetrator under clause 14 of the Scheme.
6. Corporations' CSR-related donations (Corporate Social Responsibility)
7. In this case the State Legal Services Authority will be in charge of managing the money (SLSA).

Survivors of domestic violence and their families are provided access to a variety of compensation programmes. For the purposes of calculating the compensation she is entitled to under this application, the compensation she has already received under Section 357-B of the Criminal Procedure Code shall be considered.

Important Factors to Take into Account When Issuing Compensation

When making a decision on a matter, the State Legal Services Authority/District Legal Services Authority may take the following factors into account:

Two things will impact a victim's emotional and physical well-being throughout an investigation, inquiry, or trial, including counselling, burial costs, and travel expenditures (other than diet money): (1) the seriousness of the offence; and (2) the extent to which the victim has been harmed, mentally or physically.

1. This includes absences from work, school, and other activities as a direct result of the crime, as well as those resulting from the investigation and prosecution of the offence.
2. Loss of employment as a result of the crime, including absences from work due to mental or physical stress or injury, medical treatment or the investigation and trial of the crime, etc..
3. whether the victim and the criminal have any familial links
4. As well as whether or not the victim became pregnant as a direct result of the abuse, whether or not she underwent an MTP, and whether or not she gave birth, it's critical to learn about the rehabilitative requirements of any children born to the victim.
5. Whether or whether the victim was infected with an STD or HIV as a result of the crime and whether or not this resulted in any disability is critical information to have.
6. To determine whether or not the victim need rehabilitation and reintegration services, consider the victim's financial condition.
7. When a loved one passes away, it's important to think about things like the deceased's age, monthly income, number of dependents, estimated longevity, and employment/growth prospects.
8. In addition, the SLSA/DLSA may take into account any additional criteria they feel necessary.

Victims' Rights and Humanitarian Law

As part of our human dignity, we are all entitled to the freedom to exercise our human rights. These rights, which are sometimes referred to as inalienable, are essential to human existence. One may say that they are all of these things and more.

On December 10, 1948, the United Nations General Assembly overwhelmingly approved the Universal Declaration of Human Rights (UDHR) as a standard for all nations and governments.

Nearly every human right is protected by the Universal Declaration of Human Rights, which has thirty separate articles. It was in 1966 that the International Covenants on Economic, Social, and Cultural Rights and Civil and Political Rights were signed.

On the basis of the Universal Declaration of Human Rights, all international agreements are predicated on the idea that all human beings are entitled to all of the UDHR's rights.

Art. 8 of the UDHR states that everyone who has had their fundamental rights violated is entitled to an effective remedy by a national tribunal.

Due to the fact that they address universal human rights, human rights are now of utmost significance to governments worldwide. Other than legal protection for human rights, victims of human rights violations are being compensated for their losses. Only approximately 46 percent of the people in India are convicted of crimes, according to the Indian Penal Code. As a result, our attention should be on the human rights of the victims. Is there an adequate system in place to ensure that victims of crime are compensated and perpetrators are held accountable?

Conclusion

Criminal justice is designed to protect the rights of people who have been injured as well as the rights of those who are accused of committing such offences. A crime must be proven beyond a reasonable doubt by the prosecution. This has resulted in a decrease in the number of criminal convictions. The state must pay the victims of a crime regardless of whether the offender is proven guilty or not. The current conviction rate in India is under 40%. Compensation must be provided to victims even if a criminal is acquitted of their crimes. Occasionally, the criminal is unable to pay the victim's damages because of a lack of funds. Hence The state should pay for the harm done to the victim's mind and body. The competence and desire of the courts to enforce the law is a major determinant of the law's effectiveness and the advantages it brings to society. A well-intentioned piece of law may be misinterpreted or ignored in practise, causing it to fall short of its stated objectives and outcomes. As a result, Section 357A should be put into effect if and when it is required. There must be no loss of the judge's discretion under victim compensation legislation.

The criminal justice system in India has to be retooled to take into account the type of crimes, the consequences they have on victims, and the social stigma they carry, as well as the features of international human rights law. To be responsible citizens, we must remind the justice system that it has a holy obligation to aid a victim in their healing. As a result, the criminal justice system should focus on improving the rights and remedies of victims.

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