



Mainstreaming victims of crimes

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Mainstreaming victims of crimes-It is time to make victim impact statements mandatory

- In Mallikarjun Kodagil (Dead) v. State of Karnataka (2018), the Supreme Court stressed the need to have a victim impact statement “so that an appropriate punishment is awarded to the convict”.
- This throws up many issues that are of interest to the victims of crimes.
- The term victim came to be defined in criminal law only in 2009 in India.
- The victim of a crime is never heard as a victim during the trial of a case, but as a witness.
- As the victim is represented by a prosecutor, her concerns as well as the impact of her victimisation remain unexpressed.
- By and large, the police, prosecutors and courts do not have any substantive legal obligation towards crime victims.
- Indifference to crime victims remains deep-rooted in the accused-centric criminal justice system.
- ‘Secondary victimisation’ takes place when the agencies of the criminal justice system treat victims of crime unfavourably, or marginalise them during the trial.

Marginalised during trial

- The trial process is organised in such a manner that the personal appearance of the victim at all the crucial stages is restricted.
- Crimes are registered in the form of sections of the Indian Penal Code (in numbers) which do not mean anything to the victims of crime in terms of their impact.
- There is no way to assess the impact suffered by a victim.
- And whatever little is tried in this direction is always through a third party, such as a prosecutor or judge, who is invariably incapable of registering the aftermath of victimisation.
- The UN 1985 Declaration of Basis Principles of Justice for Victims of Crime and Abuse of Power effectuated a movement for victim

empowerment.

- That led to significant reforms in the criminal process.
- It enabled victims to have rights and reasonable protections, and assistance and participation in the system.
- It also made a powerful plea to provide a voice to the victims of crime during the trial stage.

Deciding the quantum of sentence

- Hearing the victim in person or through a victim impact statement at the stage of sentencing could be crucial.
- After a criminal defendant is found guilty or pleads guilty and is convicted, a judge decides on the appropriate punishment.
- The decision about punishment is a complex one. The judge needs to consider the adequacy of the sentence as Indian laws do not follow a fixed punishment model. Instead, there is a scale of punishment and the court decides the quantum of punishment according to this scale.
- A victim impact statement will help the court take a balanced view at this stage.
- Hearing the victim during the sentencing will help the court decide the quantum of punishment as well as assess the amount of compensation to be ordered.
- The U.S., Canada, Australia, and many countries in Europe have made victim impact statements mandatory.
- It is time for India to do so too. The victim has a right to speak and the nation has a responsibility to listen.

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