

Active Victim Participation in the Criminal Justice System: The Indian Scenario

Authors : Narayani Sepaha

Abstract : In earlier days, the sufferer was burdened to prove the offence as well as to put the offender to punishment. The adversary system of legal procedure was characterized simply by two parties: the prosecution and the defence. With the onset of this system, firstly the judge started acting as a neutral arbitrator, and secondly, the state inadvertently started assuming the lead role and thereby relegated the victims to the position of oblivion. In this process, with the increasing role of police forces and the government, the victims got systematically excluded from the key stages of the case proceedings and were reduced to the stature of a prosecution witness. This paper tries to emphasise the increasing control over the various stages of the trial, by other stakeholders, leading to the marginalization of victims in the trial process. This monopolization has signalled the onset of an era of gross neglect of victims in the whole criminal justice system. This consciousness led some reformists to raise their concerns over the issue, during the early part of the 20th century. They started supporting the efforts which advocated giving prominence to the participation of victims in the trial process. This paved the way for the evolution of the science of victimology. Markedly the innovativeness to work out facts, seek opinions and statements of the victims and reassure that their voice is also heard has ensured the revival of their rightful roles in the justice delivery system. Many countries, like the US, have set an example by acknowledging the advantages of participation of victims in trials like in the proceedings of the Ariel Castro Kidnappings of Cleveland, Ohio and enacting laws for protecting their rights within the framework of the legal system to ensure speedy and righteous delivery of justice in some of the most complicated cases. An attempt has been made to flag that the accused have several rights in contrast to the near absence of separate laws for victims of crime, in India. It is sad to note that, even in the initial process of registering a crime the victims are subjected to the mercy of the officers in charge and thus begins the silent suffering of these victims, which continues throughout the process of their trial. The paper further contends, that the degree of victim participation in trials and its impact on the outcomes, can be debated and evaluated, but its potential to alter their position and make them regain their lost status cannot be ignored. Victim participation in trial proceedings will help the court in perceiving the facts of the case in a better manner and in arriving at a balanced view of the case. This will not only serve to protect the overall interest of the victims but will act to reinforce the faith in the criminal justice delivery system. It is pertinent to mention that there is an urgent need to review the accused centric prosecution system and introduce appropriate amendments so that the marginalization of victims comes to an end.

Keywords : victim participation, criminal justice, India, trial, marginalised

Conference Title : ICPLPP 2019 : International Conference on Penal Law, Punishment and Penalties

Conference Location : Tokyo, Japan

Conference Dates : December 04-05, 2019