

Provide Adequate Protection to Avoid Secondary Victimization: Ensuring the Rights of the Child Victims in the Criminal Justice System

Authors : Muthukuda Arachchige Dona Shiroma Jeeva Shirajanie Niriella

Abstract : The necessity of protection of the rights of victims of crime is a matter of concerns today. In the criminal justice system, child victims who are subjected to sexual abuse/violence are more vulnerable than the other crime victims. When they go to the police to lodge the complaint and until the end of the court proceedings, these victims are re-victimized in the criminal justice system. The rights of the suspects, accused and convicts are recognized and guaranteed by the constitution under fair trial norm, contemporary penal laws where crime is viewed as an offence against the State and existing criminal justice system in many jurisdictions including Sri Lanka. In this backdrop, a reasonable question arises as to whether the existing criminal justice system, especially which follow the adversarial mode of judicial trial protect the fair trial norm in the criminal justice process. Therefore, this paper intends to discuss the rights of the sexually abused child victims in the criminal justice system in order to restore imbalance between the rights of the wrongdoer and victim and suggest legal reforms to strengthen their rights in the criminal justice system which is essential to end secondary victimization. The paper considers Sri Lanka as a sample to discuss this issue. The paper looks at how the child victims are marginalized in the traditional adversarial model of the justice process, whether the contemporary penal laws adequately protect the right of these victims and whether the current laws set out the provisions to provide sufficient assistance and protection to them. The study further deals with the important principles adopted in international human rights law relating to the protection of the rights of the child victims in sexual offences cases. In this research paper, rights of the child victims in the investigation, trial and post-trial stages in the criminal justice process will be assessed. This research contains an extensive scrutiny of relevant international standards and local statutory provisions. Case law, books, journal articles, government publications such as commissions' reports under this topic are rigorously reviewed as secondary resources. Further, randomly selected 25 child victims of sexual offences from the decided cases in last two years, police officers from 5 police divisions where the highest numbers of sexual offences were reported in last two years and the judicial officers both Magistrates and High Court Judges from the same judicial zones are interviewed. These data will be analyzed in order to find out the reasons for this specific sexual victimization, needs of these victims in various stages of the criminal justice system, relationship between victimization and offending and the difficulties and problems that these victims come across in criminal justice system. The author argues that the child victims are considerably neglected and their rights are not adequately protected in the adversarial model of the criminal justice process.

Keywords : child victims of sexual violence, criminal justice system, international standards, rights of child victims, Sri Lanka

Conference Title : ICCJFL 2016 : International Conference on Criminal Justice and Forensic Law

Conference Location : London, United Kingdom

Conference Dates : October 17-18, 2016