

# Victim's need for restoration .....

## Reality unrealised in Criminal Justice System

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*Abstract*— Crime is not new and touches every section of society. Offender is 'Doer' whereas 'Victim' is 'Sufferers' of crime. Crime has deep rooted impact and poses physical, emotional, psychological, social, economic and legal challenges before victim without his fault. The Indian Criminal Justice system was devised more than a century ago to protect the rights of innocent and punish guilty. But has few provisions to protect victim. Victim activates system as a complainant and exit after giving witness, if needed. The focus of police, prosecution and court is on an offender, trial and punishment. The justice given commonly ends with acquittal or punishment to accused and has no correlation with loss suffered or needs of victim. The pain, plight and needs of victim remain unnoticed and unattended.

This study tries to map the impact of crime, challenges, needs of victim and the role of social worker in rehabilitation based on empirical study of 5 cases (heinous offences) randomly chosen from 10 police stations in year 2014 in Amravati districts of Maharashtra.

Crime is crisis for victim and get intensifies with his age, sex, caste, class, religion, political affiliation. Without information and help victim confront with his inner turmoil, police or court machinery and society. The present study attempts to focus the ample scope for social work intervention in criminal justice system in recognizing needs of victim, assistance required in order to achieve dignified life aftermath of crime.

*Keywords*— *Victim, impact of crime on victim, needs of victim, role of social worker in rehabilitation*

### **Introduction**

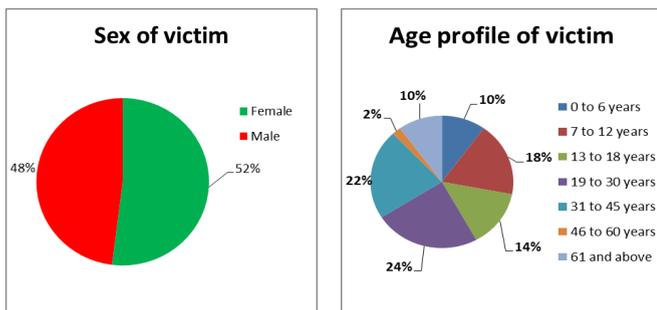
The United Nations (UN) Declaration of Basic Principles of Justice for Victim of Crime and Abuse of Power, 1986 defines "Victims" as a persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional

suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws. In Indian context though the criminal justice system is century old, the definition of 'Victim' is recently inserted by the way of amendment in 2008 in the Code of Criminal Procedure (CrPC), 1973. As compared to definition given in UN declaration, the definitions in CrPC is much narrow and define "Victim" as a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and the expression "victim" includes his or her guardian or legal heir. A like definition the position of victim in Indian criminal justice system is only of the 'informant' who activates the machinery of criminal justice system by reporting illegal acts. Crime is conceptualized as act against society; against state and therefore state prosecute offender on behalf of victim. The role of actual victim is only confined to report the incident, cooperate in investigation; give witness if needed in the court. But the rights that victim deserved as person on suffering end were not given much consideration. Victim irrespective of offense wait long for justice that ends in acquittal or conviction to accused. This justice given to victim fails to heal his loss or sufferings. Crime poses various challenges before victim. Immediate after offense interacting with police, society add on to trauma of victim. After crime, victim alone confront with his inner turmoil, justice delivery system and society. Lack of information, ignorance, fear, closeness of criminal justice system, lack of restorative support services lead to further

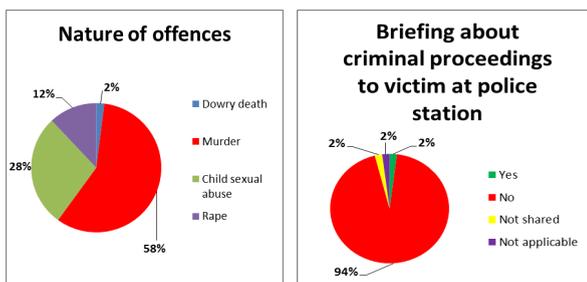
victimization of victim. Hence there is need of social work intervention to impart information, help to make informed decision to handle difficulties post crime and live impact-free life.

### Victim

As per definition ‘victim’ is a person who has suffered any loss or injury caused by the accused person. The present study has studied random cases of 50 victims of murder and rape across 10 police stations of Amravati district.



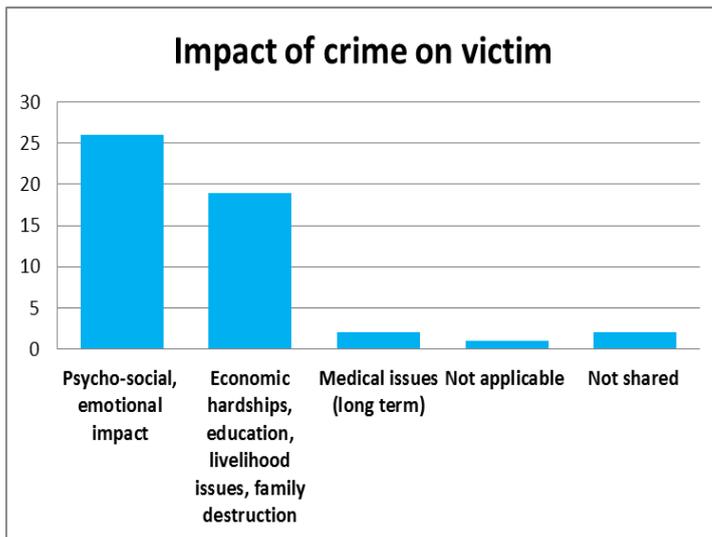
Out of total cases, 52% victims are female followed with 48% were male victim. The age profile of the victim implies that highest 24% victim is from age group 19 to 30 years, followed with 22% from the age group of 31 to 45 years. It means total 46% victim are from the age group of 19 to 45 years. This is the most productive part of human life where the victim lost their life, honour without their own fault.



The study reveals that the total 60% offences were of murder including dowry death, followed with total 40% offences of sexual assault or rape. Though the study is confined to violent crime, crime either of violent or economic has deep rooted impact on victim. The victimization of people at young and middle young age not only impacts them but also their families. Victimization leaves deep rooted impact on victims, families and community around them. The physical injury, financial loss, livelihood issues are very commonly attached with victimization. But the most painful part of victimization is emotional pain, trauma caused immediate after the crime and long term aggravation in due course of justice delivery at the hand of criminal justice system and society. The study revealed that the majority of victims were under immense trauma, shock, chaos, and ignorant, fearful about interfacing with police and court system. As shown in above graph, 94% of victim had no casual interaction or briefing about the functioning of police or court system, their role and the justice delivery process. It implies that there is scope for social work intervention to pacify scared and numb victim at the first interface with police system. The social work intervention at this stage will stabilize victim by assessing and addressing psychological needs and simultaneously police will focus on crime investigation. The stable victim will play much better role in criminal justice system.

### Impact of crime

Crime is crisis for victim and get intensifies with his age, sex, caste, class, religion, political affiliation. It affect victim in many ways and reaction of victim differ from case to case. Broadly feeling of numbness, disbelief, survival struggle is most common effect of crime on victim.

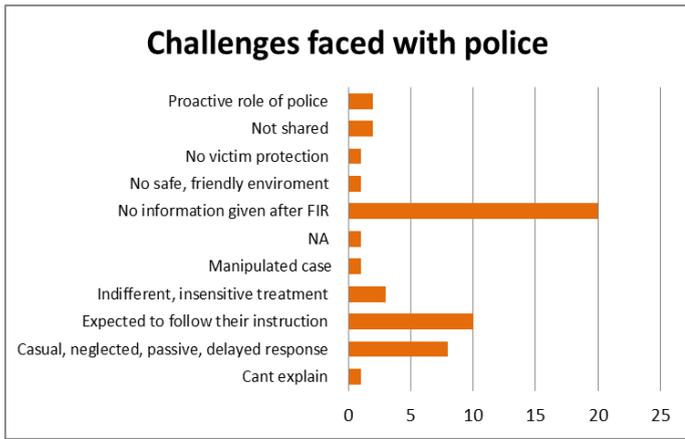


support and intervention in the aftermath of the crime. It is so because the victim's right and restoration are not clearly mentioned in criminal law. Therefore the social work intervention like short term counselling, assistance, referrals for immediate needs, information and guidance to family members, assistance during investigation process become even more important to help victim to cope with impact of crime.

### Challenges

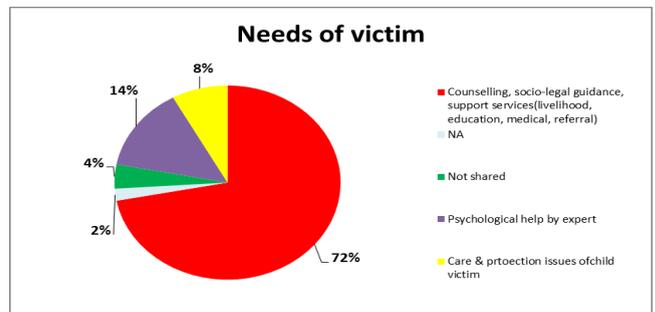
Victims are treated as 'bystanders' in the justice delivery system. The system gets activated because of complaint registered by the victim. The present study reveals in details the challenges faced by the victim with police, court and the community. As shown in the graph the highest and commonly faced challenge of victim is after the registration of FIR, no further information or update was provided to victim. The second most common challenge was the police expected victim to follow their instructions without explaining it in details. The questions of victims remain unanswered by the police personnel. The causal, neglected, passive and delayed working pattern of police was viewed as difficulty faced by the victim at the police station level. It created a barrier among victim and investigation agency. The insensitive handling, disrespect, treatment by the police, the atmosphere of the police station, lack of willingness to protect victim and witnesses, manipulation were viewed as challenges faced with police. Only in 2 cases police personnel worked proactively where there were special circumstances like mentally challenged or old victim or possibilities of public outrage.

As shown in the graph most of the victim stated to experienced psycho-social, emotional impact followed with economic hardships, disturbance in education, livelihood issues along with family destruction. There was some significant number of victims reported the long term medical issues due to crime like unwanted pregnancy, threat of sexually transmitted disease or HIV. After experiencing a crime, victim gets affected in different ways and responds in different ways depending upon his perception, nature of crime, experience and factual difficulties post crime. Some victims are able to resort back to routine lives, but some others still struggle with effect of crime. The families of murder victim though traumatize but commonly struggle more with income loss, hardships, livelihood issues. However the rape victim struggle with psycho-social, emotional outburst, stigma in the community. The victims and witnesses are forced to leave village due to feeling of insecurity and threat of accused person. The responsibility of rearing family forced victim to either take up easy money jobs most of the time turns to anti-social, legal occupation. Victim aftermath of crime has turned as an offender for self-protection. Moreover victim struggle with day to day problems, but feel abandoned and has not place to approach for their grievance redressal. It was shared by the victim that their experience state that whole system pose against the victim. The study revealed that all victims have suffered and not received appropriate



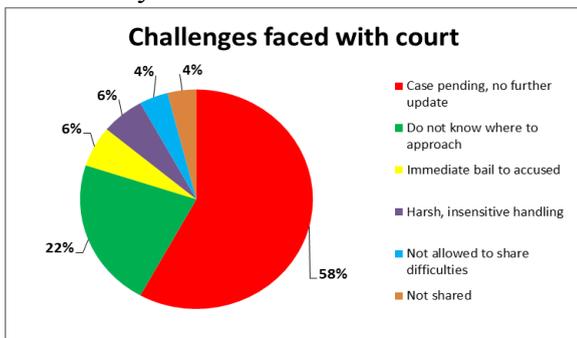
## Need of victim

Victims have range of service needs including short term counselling, emotional/ psychological help by expert, socio-legal guidance, referral services for rehabilitation, information and follow up with justice delivery system, government and other non-government departments. Victims commonly may have more than one need to cope with impact of crime. These needs may vary from case to case, type of crime and profile of crime.

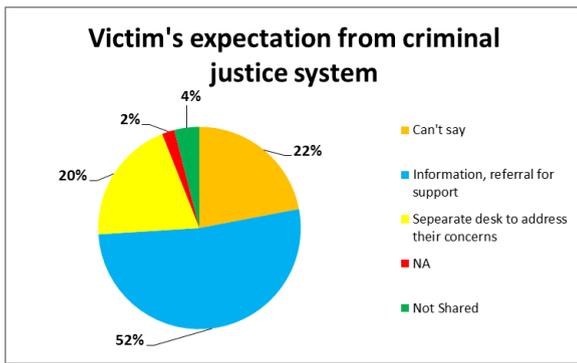


As shown in the graph, 72% of victim shared need of counselling, socio-legal guidance, and referral support services like livelihood, educational help, and medical help to cope with impact of crime. Out of total, 14% of victim stated that they felt need of psychological help by expert person. Thirdly 8% of victim stated the need to handle care and protection related issues of their children. It was further stated in the study that the tangible needs like disturbed education of child, loss of income or need of medical help has higher possibilities of getting fulfilled. But the intangible and most important needs like psychological help, socio-legal help, assistance is very difficult to receive. These intangible needs affect the life of victim, family members in short term and in long term.

The second most important machinery after investigation agency is court system. As shown in the graph, the present study implies that in 58% cases are pending before the court and no further update was shared with them in their own case. Many of the victim suspected that their case might have disposed of without any intimation given to them. Out of total cases, 22% of victim shared that they do not know where and who to approach for their difficulties. Due to this their difficulties remain unaddressed and go unnoticed in the process of justice delivery in the court of law.



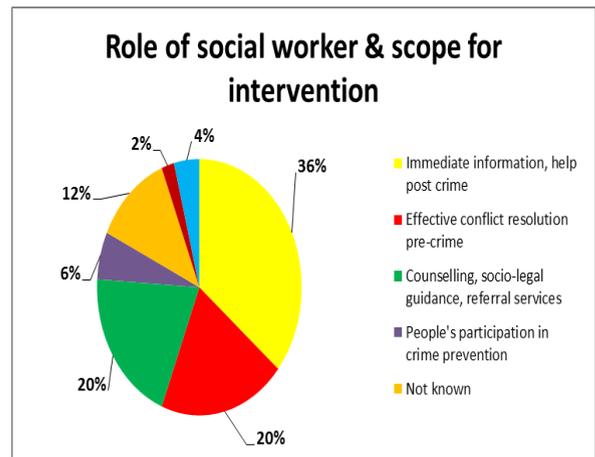
Total 12% victim stated that immediate bail was granted to the accused person without inspecting the grave condition of the victim. It was further stated victim has faced harsh and insensitive approach and treatment at the court of law. It generated the feeling of mistrust and anger among the victims. Out of total, 4 % of victim shared that they were restricted by the court when they were willing to share their difficulties, consequences of crime on their life. Victim felt re-victimized at the hands of police and court system.



Along with victim's need, his expectation from the system is important to realise while working for rights and rehabilitation of victims. The victim of any crime has certain expectation from the justice delivery system. The highest among them is 52% about information and referral services needs to provide victim immediate and as in when required by the victim. It was followed with 22% by asking a separate desk or wing to address their concerns, issues on regular basis. This desk will ensure the services to victim for their rehabilitation and prevention of re-victimisation. Thirdly with 20% victim states that they are so victimized and re-victimized that have no expectation from the system. The need, expectation of the victim is indeed very simple in nature but still hard to fulfill in given structure of criminal justice system.

### Role of social worker

The role of social worker starts with direct services to victim for providing help to meet the immediate needs created by victimization. These services are not only restricted to emergency needs but also applicable to long term needs required by the victim. The role of social worker is involved is more focused at counselling to victim and family with referral support services.



As shown in the graph, majority of victim 36% stated that social worker has role to play in immediate imparting information and help after the crime. It is followed with 20% stating that social workers role shall start much before the crime and effective conflict resolution has to be done at pre-crime stage especially in cases of marital dispute, property related disputes. Third is 20% with providing counselling to victim, socio-legal guidance, help, referral services for holistic rehabilitation to the victim. Rest 12 % states that they do not know what role social worker can play to help victim in criminal justice system. The role of social worker in victim's rehabilitation and restoration is multi facets. It must have the backing of law for effective demonstration of victim's right and restoration. It starts with number of innovative victim support services, victim assistance programme, advocacy for victim's right, creating awareness for safe neighborhood, crime prevention, effective conflict resolution with the help of village level 'Alternative to Dispute Resolution System' at village level, and even in passing a judgment in correlation with the victim impact statement.

### Conclusion

When faced with unexpected tragic circumstances or events, all human being requires support to cope with the situation. So true with victim; they require

information, guidance, and help to cope effectively with the consequences of crime. When emotional support, practical assistance, information and referral service for rehabilitation is provided, victim can sense relief, feel supported and restore back to normal life. If state takes responsibility to prosecute the accused person on behalf of victim, then state has to take responsibility to provide safety, rights, restoration to victim if infringed by anyone.

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