VI.

4) The scope of probation law was extended further by the legislation in 1923. Consequent to the Indian Jail reforms' committee report [1919 - 1920], the first offenders were to be treated more liberally and could even be released unconditionally after admonition. The first offenders were classified under two categories namely

i) Male adult offender over 21 year age.

ii) Young male offender under 21 of age and female offender of any age.

5) The release of offenders on probation could be extended not only to offences under IPC but also to the offences falling under special enactments. To cope up with extended probation a number of remand homes, rescue homes, certified schools and industrial schools were established in Bomby, Madras and Kolkata.

6) The Government of India in 1931 prepared a draft of probation of offender Bill and circulated it to then provincial governments for their views. However, the Bill could not be proceeded further due to the pre-occupation of government. Later the government of India in 1934, Central government were free to enact suitable laws of the draft bill.

VI] The probation of offender Act-1958 :-
The probation of offender Act elaborate the provisions relating to the probation of offenders which are made applicable throughout the country. If the Act provides few different modes of dealing with youthful and other offenders in lieu of sentence subject to certain conditions. These include;

1) Release after admonition [Sec 3].

2) Release on entering bond on probation of good conduct [Sec 4].

3) With or without supervision and on payment by the offender the compensation and cost to the victim if so ordered the court being empowered various conditions of bond and to sentence and impose a fine if he paid to absence. The conditions of the ~~bad~~ bond and to sentence and impose a fine if he fail to observe the conditions of the bond. [Sec 5]

4) Prisoners under 21 years of age are to be sentence to imprisonment unless The Court call for report from the probationer offences or records reasons to the Contrary in writing [Sec 6].

5) Sec. 11 of the probation of offender Act 1958 widen the scope of probation by adding and enabling provisions regarding competence of Court to make order under the Act in appeal

and revision and power of the appellate and revigional Court if higher courts have been empowered to ~~grant~~ grant probation in appropriate cases, which was denied to the accuse by the lower court. They may also cancle the probation granted by the trial court where is expedient in order to prevent the misuse of probation.

6) Person released on probation does not suffer disqualification attach to a conviction under any other law (Sec 12)

It must be stated that the provision of probation of offenders Act are not confined to juveniles alone but extends to adults also. Again the provision of the Act are not only confined to the offences committed under IPC but they extend to the offence under other special laws.

e.g Prevention of Corruption Act 1947, Prevention of Food Adulteration Act 1954, The custom Act 1962

VIII] Other enactments with respect to probation

1) [Sec 360] Code of Criminal Procedure 1973 :—
This provides rational of protection which is extended to young offender under the Indian law.

Firstly this section excludes certain types of offences from the perview of the probation of offenders Act;

Secondly section prescribes certain age limit for offenders to be admitted for release on probation.

Thirdly, the section explicitly provides that probation applies only to the first offender. It does evidence that the loss suggest selective application of the probation service to only those offenders who are likely to respond favorable the rehabilitative processes.

2) [Sec 27] of Code of Criminal Procedure 1973 :—
It provides that any offence not punishable with death or imprisonment for life committed by any person who at the date when he appears or he brought before the court, if under the age of 16 years ~~or~~ may be tried by the court of judicial magistrate or by any Court specially empowered or any other law for the time being enforce providing for the treatment, training or rehabilitation of youthful offenders. Now this age criteria is 18 year as per juvenile justice care and Protection Act 2000.

3) The juvenile justice Care and Protection Act 2000 lays down precisely the procedure to be adopted by the Juvenile Court with regard to the investigation and trials of juvenile. Before allowing a child on probation the Juvenile Justice Board may make suitable enquiry

VIII] Case Laws.

1) Ram Murthy v/s state of Karnataka

Supreme Court observed that it really resulting in suspension of sentence. at the person released on probation is required to execute a bond under the provision of probation of offender Act 1968 receiving maintenance of good conduct during the probationary period and failure to do so find the person concern in prison again.

2) Municiple Corporation Delhi v/s state of Delhi and others 2005

In this case Supreme Court held that the High Court before extending the benefit of probation of offenders Act to the accuse did not call for a report from authority to check upon the conduct of the accused as required by Section 4 of probation of offender Act, therefore Supreme Court declared that his release on probation without such report is wholly illegal.

3) Sanjay Dutt v/s state of Maharashtra 2013.

In this case Supreme Court observed that in release of offender on probation. Section 4 of the probation of offenders Act 1958 has a wider scope that section 360 of Cr. P.C.

Provision of section 4 of the Act applies to all persons convicted for any offence which is not punishable with death or life imprisonment.

5] Victimology.

I] Introduction :—

Crime affect a large number of victims who suffer physically, socially, financially and emotionally harm which needs to be promptly redress by providing them easy access to justice. Though the victims of crime have generally found support and assistance from their family, tribe or community they have, by enlarge remained "forgotten persons" in the criminal justice administration system. It is only in recent deceds that the impact of the victimization on crime affected persons due attention of criminal jurisdiction around the world and they were convence that victims needed to be treated with compasion and their dignity and fundamental right must be protected and preserved.

II] Definition :—

1) Victimology :—

Victimology may be defined as the scientific study of victimization ~~as~~ including the relationships between victims and offenders. The interaction between victims and criminal justice system i.e the police and Courts and correctional officials and also include connections between victims and other social groups and institutions such as media, business and social movements.

2) Victim :—

The term victim is generally refers to all those who experience injury, loss or hardship due to any cause and one of

such causes may be crime.

III] Victimological development in Indian criminal Law Jurispeudence :-

1) The seeds of victim justice and victimology can be historically stressed from the codes of Manu and other Smriti writers and Dharma shastras. In India sometimes the scope of victim justice was widen bringing within it even the family members of the victim.

2) In India in 1995 Indian Society of victimology was established in the University of Madras and during the first Conference which was held at National School of India University Banglore. A committee headed by Justice Krishna Iyer drafted a bill for victim compensation and victim justice.

3) The unsatisfactory situation with regard to the protection of crime. Victims right in Contrast to Global developments Government attention of law Commission of India as a result of which it made suggestions for introduction of provisions for Compensationey relief to granting victims under the Indian Law of crimes and procedure in its 152nd report 1994 and 154th report 1996.

4) Law Commission of India in its 154th report on Cr.P.C in 1996 devoted an entire chapter to "victimology". It growing emphasis on victims right in criminal cases was discussed extensively. the commission noted that increasingly, the

attention of criminologist, penologist and law reforms has been directed to victimology, control of victimization and protection of victims crime.

Needs and Rights of victims of crime should receive priority attention in the total response to crime.

In Suresh and another v/s state of Haryana 2015, The Supreme Court stated that one universally recognized method of protection of victims is the compensation to the victims of crime.

5) As a matter of fact the principles of victimology have their roots in Indian Constitution itself, fundamental rights mentioned under part 3 of the Constitution and directive principles of state policy part 4 form the work for new social order in which social and economic justice would blossom in national life of the country [Art 38, Art 39(b) & (c)] Art 51 A mandates that, it is fundamental duty of every citizen to have compassion for living creatures to develop humanism.

Justice Malimath Committee Report 2003

1) The attitude towards victim justice is reflected in recommendation of Justice Malimath Committee Report 2003 and for the first time in Indian legal field, this report spread awareness of victim justice concept in India.

2) Justice Malimath Committee Report 2003 was instrumental towards the Code of Criminal procedure Amendment Act 2008. Which identified and recognised victim in Criminal justice system of India. The rights recognized and incorporated in the said amendment Act clearly reflected the basic principles of justice of victims and Right of the victim, as postulated in the declaration of United Nation in 1985.

3) Section 357 of Code of Criminal Procedure was a very important provision from the angle of victim justice prior to the Criminal Procedure Amendment Act 2008. It allows payment of Compensation either from the fine [Sec 357(A)] that is imposed or even independent of it [Sec 357(3)].

4) The incopeation of sec. 357(A) of Criminal Procedure Code after the Amendment Act of 2008 provides for administrative measures through declaration of Compensation to them.

5) Within a span of 5 year majority of state have notified were respective Compensation scheme in persuation of section 357(A) of Cr.P.C.

6) Justice Malimath Committee in its report suggested that the rights of the victim to appeal against the order passed by trial court should be further extended and Right to appeal against acquetal to the High Court should not only be limited to the prosecution but should be available to the accused as well as where prosecution declines to file the appeal.

United Nations declaration of principles of justice for victims of crime and abuse of power - 1985.

1) Prior to 1985 United Nations declaration on victim right and victim justice some developed countries like Canada, Australia, Germany etc introduced concept of victim compensation and victim support services as part of welfare state function.

2) The significant development towards recognition of victim right or Justice and victimology at International level was 1985 United Nations declaration of basic principles of justice for victims of crime and abuse of power. This declaration recognized basic human rights of the victim.

3) The Contribution of Indian Judiciary towards the growth and recognition of victims rights can be witnessed even before the United Nations declaration of 1985. the Judgement delivered by the Madras High Court and later on approved by SC in Palaniappa Gounder v/s State of Tamil Nadu 1971 was the first significant judicial pronouncement which have subsequently turned to be the torch bearers of victim justice movement in India.

4) The liberal interpretation of Article 21 by the Supreme Court and High Courts in India and the impact of 1986 United Nations declaration has triggered various judicial pronouncement.

Fundamental victims rights :
(UN Declaration 1985)

1) Fundamental Right of dignified, respectful treatment for victims.

2) The Rights of victim to receive information.

3) The Right of the victim to provide information during the criminal proceeding through the authorities.

4) Right of victim to have adequate legal assistance.

5) Right of the victim to protection of privacy and physical safety.

6) Right of the victim to participate in any formal dispute resolving mechanism.

7) Right of the victims to social assistance.

8) Right of the victims to restitution by the offender.

9) Right of victims to state compensation.

10) Right of the victims that state should build partnership between government agencies, NGO's and civil Society to promote victims rights.

United Nation General Assembly declaration of 1985 [Definition of victim of crime]

Art (1) :-

Victims means those 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 omission that are in violation of criminal laws operative within member states including those prescribing criminal abuse of power.

Art (2) :-

A person may be considered a victim under this declaration regardless of whether the perpetrator is identified, apprehended prosecuted or convicted and regardless of the familier relationship between the perpetrator and the victim. The term victim also includes where appropriate, the immediate family or the dependant of the victims and persons who has suffered harm in intervening to assist victim in distress or prevent victimization.

Victims of crime :-

I] The expression of victim of crime refers to any person, group or entity who has suffered injury, harm or loss due to illegal activity of someone, such person may be called "primary victim" of crimes besides there may also be secondary victims who suffer injury or harm as a result of injury to the primary victim. eg- The childrens of raped woman.

II] Rights of victims of crime :-

i) Right to access to justice and fair treatment.
ii) Right to compensation.
iii) Right to restitution.
iv) Right to assistance.

III] Victims of abuse of power :-

The expression abuse of power denotes acts or ommissions that do not constitute violation of criminal law but are never less recognized to have been committed against the norms relating to human rights by persons or authorities in power. The persons who individually or collectively have suffered harm of their fundamental rights due to abuse of power by authorities are called victim of abuse of power.

II] Kinds of victims :—

1) victims of war.
2) victims of sexual offenders.
3) victims of honor killing.
4) victims of natural calamity.
5) victims of assault and domestic violence.
6) victims of Accident.
7) victims of abuse of power by lawful authority.
8) victims of Riots.
9) victims of food adulteration.
10) victims of terrorism.
11) victims of slaves and bonded labour.

• Police attitude towards the victim in India :—

I] Introduction :—

Police are insensitive towards the needs and problems of the common citizen. The role of the police sometimes is highly disappointing when it comes to assistance to the victims. The police are probably the first official machinery to whom the victims of crime approaches, but the general trend of the Indian police sometimes is to ignore the right of victim and look at the victim as a suspecious creature and sometime even casting doubt on the intigrity and character of the victim especially woman victims.

Lots of efforts were made since independance to reform the police and to make it more democratic in people centric, all the

efforts were fail due to lack of political will power. The police are important machinery in the hands of ruling party generally.

Some of the important recommendations of the administrative reform Commissions were made, but it went in vain. the national police Commission 1977 recommendations on Police reforms was also not given due Consideration by the Government. Even the salutory directives of the SC in Prakash Singh vs Union of India 2006 case to the states regarding implementation of police reforms did not there any result. Police Act drafting committee under the chairmanship of Soli sorabjee submitted its model police Act in year 2006, but it was not implimented.

After the crime is committed and victim approaches the police station for the assistance of the police. The secondary victimization of the victim starts which at a time much more agonising or painfully than the primary victimization. Further no training is given to the police regarding handling the criminals is Sometimes blindly applied on the victims also which multiplies the pain of victim.