

# SESSION 1: Criminal Justice System

Chair - **Professor (Dr.) G.S. Bajpai** Professor & Chairperson, Centre for Criminology & Victimology CCV)  
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## WRONGFUL PROSECUTION – A FACET OF ABUSE OF POWER

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**Abstract:** In keeping with the spirit of the UN Declaration on victims of crime and abuse of power, 1985 where most nations in the globe have introduced legislations in their domestic laws relating to various forms of abuse of power by the state actors. This has resulted into the criminalization of various forms abuses by the state. There is a growing trend which has been noticed in many nations about the people being wrongfully prosecuted. Wrongful prosecution is a situation where a person is arrested and prosecuted for the alleged violation of laws and subsequently found not guilty by a lower court or appellate court. In other words, the acquittal in connection with the alleged crime takes considerable time and the person is found to be not guilty. There are many sources in India which indicate that hundreds of people were arrested in connection with terror-related offences on flimsy grounds and they have been implicated by the police extorting forced confessions. Invariably, there were not enough evidence against these persons in these cases. However, the nature of terror laws provided for lot of discretion on the part of police and hence, people have also been wrongfully prosecuted. Their victimization experiences mainly flow from not only their agonies and sufferings inside the jail but also that they tend to experience tremendous social condemnation and stigmatization in the community that they live in. It is because of the fact that these people are perceived to be linked with terror offences, and ordinarily society does not differentiate between acquittal and conviction.

The present paper deals with certain cases to show the state of victimization in cases where the people were wrongfully prosecuted. The paper highlights the nature and dimension of victimization suffered by wrongfully prosecuted persons, the role of police and the helplessness of the Criminal Justice System in India regarding this issue. The paper also brings out the problems that get accentuated further as there is no legal framework dealing with the recognition of rights, protection and assistance to such forms of abuse of power in this country.

## CRIME VICTIMS IN BULGARIA–BETWEEN THE EUROPEAN UNION LAW AND DAY-TO-DAY CHALLENGES FACING THE INSTITUTIONS AND ORGANIZATIONS INVOLVED

**Professor (Dr.) Dobrinka Chankova**

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**Abstract:** The article explores the latest development of the legal status of crime victims in Bulgaria and the practical dimensions of the daily work of victim support organizations and institutions involved. Increasing victimization in society requires more effective legal actions and relevant measures in compliance with the most advanced European and global standards. The newest amendments in the Bulgarian legislation - a result of the transposition of Directive 2012/29/EU for Establishing Minimal Standards for Rights, Support and Protection of Crime Victims - are scrutinized. The follow-up activities of the specialized state authorities and the role of the non-governmental sector are critically analyzed. Outcomes of the latest European Project "Developing Directive-Compatible Practices for the Identification, Assessment and Referrals of Victims" with Bulgarian participation are presented. Best practices and needs for further actions for improved victims' assistance are offered. Specific accent is put on the protection of children and other vulnerable victim's groups. Due attention is paid to the public picture of crime victimization. The ethics code of the Bulgarian media does contain special provisions on victims of crime, providing for empathy and restraint in publicizing crime information. Media disclosure on crime victims, marked mainly by sensationalism and lack of understanding of their specific situation, is considered.

## VICTIM'S PARTICIPATION IN INTERNATIONAL CRIMINAL PROCEEDINGS

**Professor (Dr.) Wolfgang Form**

Research Director, University of Marburg, Germany

**Abstract:** The focus of this paper would be on the law perspectives on one hand, but more intensively on the individual perspectives on victims of mass crimes at the International Criminal Court (ICC) and the Extra Ordinary Chambers in the Courts of Cambodia (ECCC) on the other. At the ICC Victims may include individual people, but also organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes. For the first time in the history of international criminal justice, victims have the possibility to share their views and concerns in the proceedings, represented by a lawyer. Victims have a very complicated standing in international criminal proceedings. They could be a victim of a situation (as investigated by the International Criminal Court's Office of the prosecution) and furthermore a victim on a trial. Both sites are different. Equally different is the situation for victims in Cambodia. More than 35 years after the Pol Pot regime, many Cambodian victims haven't got any reparation or be a victim of the two cases at the ECCC. Since 2008 any person or legal entity who has suffered from physical, psychological, or material harm as a direct consequence of the crimes committed in Cambodia by the Democratic Kampuchea regime between 17 April 1975 and 6 January 1979 that are under the jurisdiction of the ECCC could considered to be a victim. But the status among ICC and ECCC victims is fundamentally different.

## FINANCIAL SUPPORT FOR CRIME VICTIMS AND ITS PROBLEMS IN KOREA

**Professor (Dr.) Jae-min Kim**

Professor, Kyungil University, South Korea

**Abstract:** There are various systems to financially support victim. A scheme for financial assistance to crime victims in South Korea includes the following: 1) Compensation System, 2) Restitution Order System, 3) Medical Expense and Emergency Cost Support System, 4) Housing Support System, 5) Employment Support System.

The Korean compensation system is to give victims the money, if they have suffered damages inflicted by criminal behavior or caused by testimony as a witness, or if they fail to get restitution from offender. The restitution order is to compel the perpetrators to pay the cost of victims' damages and to secure the realization of restitution process by state. On the other hand, the victim who has suffered injury and psychological damage to be treated more than 5 weeks and less than 9 weeks is designed to receive the living expenses, funeral expenses and student loans by Medical Expense and Emergency Cost Support System through screening the qualification by prosecutor's office. The housing support system was initially applied to the sexual crime victims and domestic violence victims in 2008 and it has been also used for the serious crime victim, recognizing that housing support system is inevitable for those victims to live an independent life. Employment Support System is necessary for victims who want to live a financially stable life. Ministry of Justice has supported the training fee for employment and other additional charge.

Conclusively, it is better to integrate Medical Expense and Emergency Cost Support System into Compensation System, under unified examination committee. Issuing Restitution Order should be activated by each court, through improving the current defects. To facilitate victim's recovery, Housing Support System and Employment Support System should be utilized more proactively than before by public organization and concerned authorities.

**Keywords:** *Financial support. Victim of crime. Compensation. Restitution*

# SESSION 2: Cyber Victimization 1

Chair - Mr. K. Jaishankar

## CYBER CRIME VICTIMIZATION AND EXPLOITATION OF CHILDREN- AN ANALYSIS

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**Abstract:** The internet is quickly becoming an important element on the lives of many people, especially children. However, along with all the advantages the internet provides, there exists a darker side that has created some concern. Approximately one out of every five youth who go online is sexually solicited in some behavior. These sexual solicitations are more diverse than initially thought, with many solicitors being other youth and children. One out of every four youth encounters sexual material on the internet when he or she does not want it or is not seeking it. Yet, where the internet poses qualitatively new perils for youth or whether these perils are similar to those perils already contributing to the problem to child maltreatment is still unknown. These crimes include various crimes such as harassing anyone with the use of a computer and Mobile phone and transmission of child – pornography. One of the most important cyber-crimes known today includes dissemination of obscene material including pornography, trafficking, distribution, posting, and indecent exposure, and child pornography. This paper explores and reduces the exploitation of children by Cyber Crime.

**Keywords:** *Cyber Crime, Exploitation, Child Pornography, Victimization*

## EXPLORE THE PSYCHOLOGICAL IMPACT OF ONLINE GAMERS IN CHENNAI CITY

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**Abstract:** In recent years the rapid development of information technology around the world has also harmed the human beings while using in the ways of exploiting the cyber world. More than three-quarters (76%) of all accused were men, with teenagers and young men most often accused of intimidatory and sexual cybercrime. The data reveals that the cyber world is highly noted and children are more attracted to the online games such as clash of clans, Pokémon go and blue whale. Due to the advancement of gadgets used by the children are now highly addicted. Very recently, children are highly affected physically, psychologically and financially victimized while playing the online games. It's a red alert that the world noticed that the "blue whale" (game) killed many children. The blue whale game is an internet game that is claimed to exist in several countries, and reportedly consists of a series of tasks assigned to players by administrators to commit suicide.

Objectives:

- To explore the knowledge of online games among the school children
- To find out how online gamers are psychologically manipulated
- To find out victimization from the online methodology

**Keywords:** *Cybercrime, blue whale (game), psychological manipulation*

## **BLUE WHALE GAME IN CYBER WORLD: A ROAD TO VICTIMIZATION THROUGH SELF –DESTRUCTIVE BEHAVIOURS IN REAL WORLD**

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**Dr. Rufus. D**

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**Abstract:** Of late, digital world has become an inextricable part of everyone's life. Cyber world is a part of digital world where people are trying to excel their proficiency to compete the creations of the nature. People have got into the trap of this cyber world, for which they have created the entrance.

The benefits of this technology are well recognized, but the hazards that it promotes is hardly understandable by people. With enormous advantages and perks cyber world is also serving a fertile ground for severe crimes. A recent form of cyber threat "Blue Whale Game" had caused death of many people, especially the teens and youths are found to be the most vulnerable group. Reported incidences revealed that participants of the game are expected to perform drastic self-destructive tasks and asked to share photos of the challenges/tasks completed by them. Considering for an adventure, few people get involved in this game. The severe consequences reported are suicides and self-harms.

The authors of this paper attempt to extract and disseminate some findings related to the victims of this game, such as characteristics of Victims, reported pre-victimization symptoms, modus operandi of this self-destructive behaviors, experts, opinions, etc., through different cases reported in the social and news media. Finally, few suggestions are offered which may play a role in curbing the devastating effect of the game.

**Keywords:** *Inextricable, Cyber World, Blue Whale game, Suicide, Modus Operandi*

## **POLICE RESPONSE TO VICTIMS OF ONLINE FRAUD**

**Ms. Pudji Astuti**

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**Abstract:** Online fraud often happens lately. The impact of online fraud can vary such as loss of property, depression, until the loss of life. The Victims often report their online frauds to the police as investigators, but what follows is the victims' efforts were in vain, because their cases are never followed up by the police. This makes the victims become desperate and pessimistic. The culprit becomes more daring and rampant. This paper will discuss and describe issues related to police response in appreciating reports of victims of online fraud. The police as the Investigator in charge of protecting the rights of the victim should be alert in accepting the victim's report. They have the responsibility of handling and conducting the initial process to settle a crime. The responsibility of the police is very important to discuss, because the police are in charge of initiating the process of settling the crime, if the police are negligent in carrying out their duties then the criminal proceedings will not work. In this case the Victim is a party who suffered losses due to the crime and entitled to get state protection that should be implemented by the police as law enforcement officers. In fact, the police response is very disappointing and detrimental to the community even more victims and their families.

**Keywords:** *victim, online fraud, police response*

## **THE ONLINE GRAVEYARDS: "YOU START THE GAME, THEY END YOUR GAME"**

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**Abstract:** The human brain has developed and we are advancing in all the fields including media, communication and technology. No doubt that this advancement has radically changed our lives. But hand in hand, it is becoming a curse in our lives. We have witnessed cybercrimes in recent years. Another platform has been introduced recently in the field of cyber victimization, i.e., by victimizing people through deadly online games. Among them the blue whale game has become the heating matter among the media and people. Not only blue whale but other deadly online games like cinnamon challenge, choking game, chubby bunny, and gallon challenge are victimizing lot of innocent children and youths by their intelligent modus operandi. This paper analysis the above mentioned problems and suggests guidelines for tackling them.

**Keywords:** *victimization, modus operandi*

# SESSION 3: Role of Media and Technology in Dealing with Crime Victims

Chair - **Dr. Jacki Tapley** Principal Lecturer, Institute of Criminal Justice Studies,  
University of Portsmouth, United Kingdom

## 'FACILITATING PROCEDURAL JUSTICE THROUGH THE DEVELOPMENT OF NEW TECHNOLOGY – DOES USING TECHNOLOGY IMPROVE COMMUNICATION WITH VICTIMS OF CRIME OR INCREASE A SENSE OF ISOLATION?'

**Dr. Jacki Tapley**

Principal Lecturer, Institute of Criminal Justice Studies, University of Portsmouth, United Kingdom

**Abstract:** In response to media criticism, a Police Chief Constable in the UK recently defended the increasing use of emails and the internet as a response to victims of crime, stating that 'working smarter allowed officers and staff to achieve more, providing quality services effectively and efficiently... [by] prioritizing victims when there is the greatest risk of threat or harm.' In a world of technological advancements, where we have become accustomed to communicating via various online platforms, this paper explores whether the increasing use of technology by the police to communicate with victims improves their ability to engage and connect with victims, or whether it only serves to increase a victim's sense of isolation. In particular, it draws upon the findings of a pilot study using new technology to keep victims of crime updated and informed about the progress of their case.

**Keywords:** *Cyber Crime, Exploitation, Child Pornography, Victimization*

## CHILD SEXUAL ABUSE IN DIGITAL SPACE: BLAMING AND SHAMING AS TOOLS OF VICTIMISATION

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**Abstract:** Child abuse is a state of emotional, physical, economic and sexual maltreatment meted out to a person below the age of eighteen and is a globally prevalent phenomenon. The sexual abuse of children and young people is a phenomenon that predates the arrival of the Internet by many, many centuries. However, it can be said that the Internet is helping to create new pathways to the old forms of abuse, and how it is also helping to create new forms of abuse.

The Internet, mobile phones and other electronic media provides us with unhindered access to information, culture, communication and entertainment impossible to imagine just 20 years ago. The arrival of the Internet has almost certainly led to an increase in the volume of child pornography in circulation and to an increase in the overall level of sexual offences against children and young people. Once on the Internet, images can be easily transmitted and distributed to a huge number of recipients without the knowledge or consent of the individual depicted. Potential abusers are able to communicate, and share images and other materials, across the world with others of like mind and interests.

Blaming and shaming the sexual assault victims by documenting and posting online is more dangerous and shocking. 'Shame storming' is used as a weapon to make the victims feel inferior and guilty for their circumstances. The threat of publication alone may be a form of coercion used by child sexual abusers, allowing them to continue long-term abuse. The victims go through ongoing trauma because these recordings or photographs can be repeatedly viewed and shared by a large number of people. The ubiquity and stability of digital photographs create new concerns for victims of sexual violence. This conceptual paper attempts to look at Child Sexual Abuse in light of the ever growing digital space in our lives, as this leads to not only making such content widely available but also leads to the blaming and shaming of its victims through various digital platforms. These images will always be present in some form on the Internet and will continue to haunt the victim for life.

**Keywords:** *Sexual Abuse, Child, Digital Space, Blaming and Shaming*

# SESSION 3: Role of Media and Technology in Dealing with Crime Victims

Chair - **Dr. Jacki Tapley** Principal Lecturer, Institute of Criminal Justice Studies,  
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## RECENT TRENDS IN MEDIA AND CYBER VICTIMISATION: A CRITICAL STUDY

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**Abstract:** As we witness the evolution of Technology, we cannot fail to acknowledge its implications in the fields of Law and Justice. With Privacy being addressed in a more detailed way through our Judiciary and by its mandate of proposing for a Cyber Security -Privacy Policy, the stakeholders must make sure that aspects of Media and Cyber Victimization are considered. This paper reviews the present conditions and relations between the Trio: Victim, Media and Cyber Space. An attempt has been made in the paper to address the ideologies of all three entities and suggest a sustainable solution to problems that exist, through a Victim logical perspectives. As we have not yet arrived at consensus for a universally accepted definition of Cyber Victimization and more often rely on its effects to define it, the paper has in its content: Research methodologies, Current Trends and future prospects.

**Keywords:** *Media, Freedom of expression, Journalism, Cyber Space, Victimization*

## ROLE OF PRINT MEDIA IN DEALING WITH CRIME VICTIMS

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**Abstract:** The media plays an important part in the lives of crime victims. They help in victim assistance, survival of the victim in the society but in contrast, the media report the crime in an inappropriate manner that may lead to secondary victimisation, isolation from the society and even labelling. Due to the deviation from the protocol to be followed by some media, the ill effects of crime reporting in lives of victims are considered to be increased in a considerable amount. In light of this, it is proposed to carry out content analyse to understand role of print media in dealing with crime victims in terms of reporting and secondary victimization. For the purpose of this research the newspaper clips reporting on crimes relating to women, child, property and human body will be collected from the print media (newspapers) for a period of four months (June 2017 – September 2017) will be analysed. The findings would help the researcher to understand the prevalence of crime reporting and position of victims. Findings and suggested measures will be shared with the selected media.

**Keywords:** *Crime, media, newspapers, victims, report*

# SESSION 4: Gender Based Violence- I

Chair - **Professor Dipa Dube** Associate Professor, IIT Kharagpur, India

## VICTIMS OF VIOLENCE AND THE MARIA DA PENHA LAW

**Professor (Dr.) Valéria Diez Scarance Fernandes**

Professor, PUC University, Public Prosecutor, Coordinator of Gender Prosecutor's Office, São Paulo, Brazil

**Ms. Luiza Brunet**

Actress and National Representative of the Avon Institute, Brazil

**Abstract:** Maria da Penha is the woman that gave the name to the Gender Brazilian law, considered by the United Nations one of the three best laws in the world. Her husband tried to kill her two times. After two trials for attempted homicide, he was convicted, but he spent only a few years in prison. She appealed to the OEA and Brazil was obligated to create a new law, compatible with gender violence. In August 2006, the Maria da Penha Law was born.

But why is this law so important? And how can this law prevent violence, save victims and change the aggressors? The law is based on a concept of gender that means violence committed against women just because they are women. This category includes the submission, domination and perpetuation of violence in a family. Gender approach is a first step to prevent the violence, but it is not so common in victimology and the Justice System.

All the articles, including protection orders, can be applied to women in relationships between men and women and also to the homosexual relationships between women. Nowadays, this law can be applied to female transsexuals, independent of surgery. This is the position of the National Commission of Prosecutors, named COPEVID.

## PROTECTION AND RECOVERY OF THE VICTIMS OF DOMESTIC VIOLENCE IN INDONESIAN LEGAL SYSTEM

**Mr. Ani Purwanti**

Lecturer, Faculty of Law, University of Diponegoro, Indonesia

**Abstract:** Sexual, physical, moral, patrimonial and psychological are the categories of violence in Brazilian law. These forms of violence have generic descriptions and they do not refer to specific crimes. This is important, because criminal law can change anytime and for many reasons, but the Maria da Penha Law will be relevant forever.

The goal of this law isn't only the punishment. Anyone who says this, does not know the law or is a liar. Our law has a specific chapter about assistance, that should be provided by the government integrated with the family and society that includes protection measures, restitution and specific programs for the aggressors.

With this law, why can't we change reality? This is our approach. Focus on victims of violence, aggressors, challenges, projects and positive results.

## LEGAL PROTECTION FOR TEMPORARY MARRIAGE VICTIMS IN INDONESIA

**Dr. Henny Nuraeny Kuswandi**

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**Dr. Kuswandi Djenal Asikin**

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**Abstract:** Marriage is the inner bond between a man and a woman in order to form a happy and harmonious family, which is carried out in accordance with the prevailing rules. The reality is that not all marriages are carried out in accordance with applicable legislation, because there are marriages with other purposes, such as temporary marriage contracts. The temporary marriages of contracts are done in various ways, with the excuse of avoiding adultery, and are one of the modes of trafficking in persons. This will have an impact on the victims, therefore it is necessary to prevent and minimize the occurrence of temporary marriage. On that basis, the victim needs to be protected, both from the side of the law and the social side as well.

The problem that arises is what impacts to the victims of the temporary marriage, how to ensnare the married offender of the contract in order to be subject to legal sanctions, how the form of legal protection for victims. Legal protection for the victims, not only from the physical side, but also from the physical and environmental/social side, which is manifested in the form of regulation or law regulation, in order to have binding power and cause deterrent effect for the perpetrator. In the end it will be achieved legal objectives, namely justice and welfare of the community.

**Keywords:** Human Rights, Trafficking, Contract Marriage, Impact of Contract Marriage, Legal Protection.

## LEGAL PROTECTION OF VICTIMS OF HUMAN TRAFFICKING A CRIMINAL OFFENCE AND CRIMINAL LAW INDIGENOUS BATAK (NORTH SUMATRA)

**Ms. Mety Rahmawati**

Lecturer, University of Trisakti, Jakarta, Indonesia

**Abstract:** The location of the region of Indonesia which is a strategic area, as well as the population, causing many human trafficking occurs. This is corroborated by the large number of cases of human trafficking happening in the borders region of Indonesia, Malaysia, and Singapore. The crime of human trafficking victim protection under law No 7 year 2007, and No. 31 of the year 2014 regarding changes to law No. 13 year 2006 on the protection of witnesses and victims. The Government can provide legal protection for victims of crime, in a preventive manner, resolve the matter, the Government is cautious in decision making, in order to make the Freedom Act that exists in a society still awake; The second principle (protection of repressive) that underlie the legal protection of the State is the principle of the rule of criminal law. In the customary law of indigenous and chairman of Batak, indigenous Batak had a moral obligation to defend the rights of victims of violations of the customs. If this is the case in the area of indigenous peoples located in the village of Batak, Batak customary law apply then, regardless of the position of the person. The victim must be defended its rights, including getting an apology from the offender.

## LEGAL PROTECTION FOR TRAFFICKING VICTIMS, ESPECIALLY WOMEN AND CHILDREN

**Yenny Aman Serah**

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**Nurfitriawati**

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**Abstract:** West Kalimantan Province, as one of provinces in Indonesia which has specific geographical condition is bordering with East Malaysia through official Cross-Border Post between Entikong and Tebedu, Badau and Lubuk Antu, Aruk and Biawak, and no less than fifty path ways (not official) can be passed to get in and get out to and from East Malaysia region. This geographical encouraged trafficking improvement to abroad with various modes. In fact, trafficking was affected by many factors, including stigma, poverty, lack of education, family resilience, and other factors, where women and children are the victim. The aim of this research to reveal how is the legal protection for the victim. Although there were many studies had been done about it, but the focus of this research is the obstacles face to give legal protection for the victims of trafficking in West Kalimantan border, where the top of the problem is victims role, some times they don't realize that they are the victims, so legal protection effort as stipulated in Trafficking Rules was not optimal. Through socio-legal research found an interesting thing, the lack of victim realized they were victims who have to get legal protection, so complicated a legal assistant for legal effort. Beside of that, trafficking as transnational crime and organized, it is complicated for legal enforcement, because of trafficking perpetrators are in the state border cross.

**Key words:** *legal protection, victim, trafficking, women and children*

## EMPOWERMENT AS AN INSTITUTIONAL CONSTRUCTION WHICH IS ORIENTED TO THE PROTECTION OF WOMEN

**Dr. Anastasia Reni Widyastuti**

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**Abstract:** Empowerment is often used in the context of the ability to improve the economic state of the individual, which is the prerequisite of empowerment. In addition, empowerment is also a concept that contains the meaning of struggle for women. Empowerment strategies can be through individual, group or collective approaches by mutually empowering fellow women in groups or organizations, particularly women's organizations. While the strategy of empowering women as male equivalent partners using a two-pronged approach, women and men who respect each other as human beings, listen to each other and appreciate the wishes and opinions of others. In the process of empowerment, it is important to note that women do not intend to dominate or seize power, but in the sense of self development and self-determination by democratic means of sharing power on the basis of togetherness, equality and tolerance.

Empowerment begins with each of us, where education is a key factor that is supported and complemented by economic empowerment, psychology, social culture and politics. The growing consensus is that education is the key to empowering people, both men and women, because education can increase income, health, and productivity. In addition, if women who receive education will gain some benefits, among others: (1) can raise a healthier family; (2) tend to have fewer children; (3) more productive so as to benefit his family; (4) tend to make more independent decisions; (5) tend to encourage their children to be educated.

**Keywords:** *Empowerment, Institutional Construction, Protection of Women.*

# SESSION 5: Religion and Victimization

Chair - **Wolfgang Form** Research Director, University of Marburg, Germany

## VICTIMS OF CULTURE AND RELIGION

**Mr. Sadeep Kharel**

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**Abstract:** Nepal is a country of diverse cultures and religions. There are 123 different Nepalese languages spoken in Nepal. Being a small country with such a diverse ethnic and religious community we are relatively tolerant and accommodating however tensions do arise at times and violence does occur. Particularly when traditionally well-established conservative social boundaries are broken. With the spread of modern education and mass communication people from all sections of the society are becoming more aware of their civil rights and as such the oppressed feel that they need to break the shackles of tradition and end discrimination based on caste and religion. And when the privileged class do not see the need for change and want to maintain status quo the result is violence and oppression. The constitution of Nepal forbids discrimination, inter alia, based on caste, class and religion. The laws of the country also prescribe punishment for those who commit discrimination and violence on these grounds as an offence. However, there is a distinct gap in the system for victim redressal. The main approach and emphasis of the system to curb discrimination and violence on these classes of people appears to be that of deterrence and retribution. The law appears to be inadequate towards compensating and helping such victims recover from what they may have suffered. The paper seeks to address this need for making the laws more sensitive towards the needs of victims of culture and religion.

## TERRORISM, COUNTER TERRORISM AND DERADICALIZATION PROGRAM IN INDONESIA: PROBLEMS AND CHALLENGES

**Dr. Heru Susetyo**

Senior Lecturer, Faculty of Law, University of Indonesia, Depok - Indonesia

**Abstract:** In the aftermath of Bali Bombing 12 October 2002, which is considered as the biggest terrorism attack ever in Indonesia, the Indonesian government launched so called 'war against terrorism'. Laws on terrorism were soon enacted and applied retroactively. Special Police to Combat Terrorism, namely Detachment of 88 was formed. Special Agency to coordinate counterterrorism measures was soon established, namely Badan Nasional Penanggulangan Terorisme (BNPT) or National Anti-Terrorism Agency.

Since early 2010's the BNPT has conducted special program to combat terrorism namely deradicalization program while the Detachment of 88 has launched more massive manhunt for suspected terrorism all over Indonesia, supported by Indonesian military.

Deradicalization program targets former terrorism suspects and former inmates. Also, it targets schools, universities, and other academic institutions suspected as being an agent for radical ideology dissemination in Indonesia.

Both deradicalization program and massive manhunt have created problems. At one side the Agency claimed that they have prevented terrorism, but on the other hand, they have victimized innocent people such as family of terrorist suspects and violated civil rights of former inmates. In addition, by targeting specific academic institutions, the agency has been accused as arbitrarily labeling people as terrorist or future terrorist, which is a clear violation of human rights.

This research, therefore, is a study of deradicalization program in Indonesia which is conducted in Java Island where many terrorism attack took place. It tries to describe the dynamic of the program between the need of law enforcement in the name of law enforcement and its impact to human rights and civil liberty. The result of this study will contribute to the amendment of the prevailing Indonesian Anti-Terrorist Law No. 15/ 2003 which is currently under review.

**Keywords:** *Deradicalization, Terrorism, Indonesia, Human Rights*

## **CULTURAL RELATIVITY IN BLASPHEMY LAW: THE KENYA CASE**

**Dr. Charles A. Khamala**

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**Abstract:** The purpose of this paper is to construct a normative framework to demonstrate the nexus between repressive counter-terror responses and the exacerbation of terrorism. This spiral effect is shown by Stanley Cohen's (1972) "moral panics" theory. The objective is to identify gaps in Kenya's counter-terrorism strategy, both legislative and practical, with the aim of proposing reforms. The question is whether weak blasphemy laws combined with highly repressive counter terror strategies fail to take the causes of terrorism seriously. They instead backfire, thus partly reducing the potential for minority communities to cooperate with the police. I analyze Kenya's weak blasphemy provisions. Sections 134 (insult to religion) and 138 (uttering with intent to wound religion) of the Penal Code (Chapter 63 Laws of Kenya). They create misdemeanors imprisonable for 6 months and one year.

I compare the responses by different liberal democracies to genocide denial. North America has no genocide denial law. It privileges freedom of expression above claims to human dignity. Conversely, many European countries punish genocide denial. This is because Jews feel offended by denial of the Holocaust. Like the US and Canada, Rwanda is a post-colonial society. Yet given its own Holocaust experience, it enacted a genocide denial law. Such cultural relativity suggests that Kenya need not necessarily mimic European countries (most recently Denmark) which privilege freedom of expression by repealing blasphemy laws.

## **A THEORETICAL PROPOSITION FOR 'STRUCTURAL VICTIMOLOGY': PROBLEMATISING DALIT VICTIMISATION AND ACCESS TO JUSTICE**

**Dr. Vinod Kumar**

Assistant Professor, NLU- Dwaraka, Delhi, India

**Abstract:** Numerically speaking, Dalits are about 19.7% i.e. about 230 million of the total population of India. Dalits have historically been considered socially untouchables and culturally inferior. Dalits are the most oppressed and victimised community in India. The extent of victimisation, hate and injustice can be understood from the fact that according to the recent govt. statistics total 39,408 incidents (ranging from gang rapes to massacres) of Dalit victimisation were reported in 2015. The statistics say that 676 Dalits were murdered and 2073 Dalit women were raped in the same year. It significant to note that registering complaint is the first step to set the criminal justice system in motion. Complaint enables a victim to have access to justice system. If complaint is not registered, no investigation is conducted. If no investigation, there will be no arrest of the culprits. If no arrest, culprits will not be put to justice. It ultimately means that 67% Dalits victims have no access to justice system. Supreme Court of India admitted in State of Karnataka v. Ingale case that more than 75% cases of violence against victims end up in acquittal, precisely for faulty investigation or faulty trial. That means, justice system for addressing victimisation of Dalits is largely unresponsive. Massive victimisation of Dalits is historical in India. Dalit victimisation can be theorised by way of proposing a separate epistemology i.e. Structural Victimology. From the theoretical perspective of Structural Victimology Dalit victimisation is actually a structural victimisation. The theory perceives this victimisation as a product of the social structure and cultural construct. Dalit victimisation is not only structural but also institutional victimisation, in the sense that it has been institutionalised by the social institutions i.e. religion and caste. In another sense this victimisation is a culturally normalised phenomenon as it has been culturally internalised in day to day social behaviour of people. Dalit victimisation is also a sanctified victimisation as the roots of the victimisation are traced to the 'sacred' theological scriptures of Hindu religion which have created the institution of Caste.

The traditional and the modern approaches to victimology have failed to flag and address the issues of structural victimisation. However, the proposed Structural Victimology has potential to unearth hitherto un-flagged issues of structural victimisation. The theoretical formulation of 'Structural Victimology', its structural components and functional dynamics will be discussed in the full paper.

## **SACRED PROSTITUTION: AN EXPLOITATIVE RELIGIOUS RITUALS AND VICTIMS OF DEVADASI PRACTICE IN INDIA**

**Dr. M. Priyamvada**

General Secretary, Indian Society of Victimology and Senior Assistant Professor, Department of Criminology,  
University of Madras, India

**Abstract:** Devadasi system and related religious rituals are found all over India as a socio-cultural practice from ancient period. Devadasi means 'at the feet of god' and refers to the class of women who through various ceremonies of marriage dedicated themselves to the temple deities and other ritual objects. It's a practice that is widely believed to have been abandoned decades ago. The National Commission for Women in its recent statistics reported that Andhra Pradesh has 16,624 devadasis and Karnataka has 22,941 devadasis. Districts bordering Maharashtra and Karnataka are known as "Devadasi belt" where the system still continues. This study attempts to conduct a socio-cultural and religious exploration and comparison of devadasi system in contemporary Tamil Nadu, Andhra Pradesh, Telangana, Karnataka and Maharashtra. The main objective of this study is to determine the factors contributing to the prevalence of Devadasi system in the above mentioned states despite strong legal intervention by the Central and State Governments. The sample of the present study includes the stakeholders who have prevented rescued and rehabilitated devadasis. Thus the stakeholders are health workers, social workers, government officials, NGOs, representatives from judiciary, law enforcement agencies and correctional administrators. Based on the continuous reports by media on devadasis system the National Human Rights Commission has taken suo motu cognizance and given directions to Andhra Pradesh and Tamil Nadu State Governments to submit a report within one month. This paper will also include the government's response towards the NHRCs direction.

# SESSION 6: Restorative Justice

Chair - **Elmar G.M. Weitekamp** Professor, University of Tübingen, Germany

## A STUDY OF ALTERNATIVE DISPUTE RESOLUTION SYSTEM DEALING WITH VICTIMS OF DOMESTIC VIOLENCE IN DELHI AND DARJEELING

**Dr. Swikar Lama**

Assistant Professor in Criminology and police studies, Sardar Patel University of Police, Security and Criminal Justice, Jodhpur, India

**Abstract:** Many a times, women victims do not approach the Criminal Justice system because of various socio-economic compulsions. In such a scenario, Alternative Dispute Resolution systems are often the choice for women victims who are looking for a solution to end their problems. This study has looked upon the reasons for women victims choosing the ADR and their expectations from these ADRS. The study has analyzed the ADRS i.e. Mediation centers and Samaj/Samiti in Delhi and Darjeeling respectively through case studies based on observation and semi-structured interviews. Looking through a restorative justice perspective, the entire resolution process is studied in order to examine the pros and cons of the mechanisms of these ADRS in order to improve these ADRS, so that these ADRS provide the adequate assistance and relief to these victims of domestic violence.

## JUSTICE SERVICE: POSITION OF VICTIMS IN THE MECHANISM OF COMPLIANCE SETTLEMENT OF CRIMES IN INDONESIA

**Ms. Dewi Setyowati**

Law Faculty of Hang Tuah University, Indonesia

**Mr. Ufran**

Law Faculty of Mataram University, Indonesia

**Abstract:** This article discusses the position of the victim using the logic of social control. As is known, during this time the victim is always in an inferior position in the criminal justice system in Indonesia. The various policies that were born have not fully guaranteed the protection and fulfillment of the rights of victims. The regulation is still heavily oriented towards the penal control approach, which is to place the punishment of the offender as one of the prominent focuses. Though this approach emphasizes the use of power by the state and its apparatus. Way of completion was impressed rigid and convoluted. This pattern of approach does not solve the problem, but in practice it raises new issues that seriously threaten social order. Crimes are born from the community then the remedies or settlements must be returned to the community itself. Starting from that awareness, it is necessary to emerge various alternative discourses that have been out of the hustle and bustle of state domination in settling crime. One of the alternative discourse is to discuss the institution of crime resolution in Bayan Lombok society. This community has a unique mechanism in solving crime problems, including processes, procedures, parties involved as well as promoted values that approach the pattern of punishment using a restorative model in its social control.

**Keywords:** *Bayan, crime, victim*

## RESTORATIVE JUSTICE IN THE PENAL SYSTEM IN INDONESIA

**Dr. Henny Saida Flora**

Lecturer, Faculty of Law, St. Thomas Catholic University, Medan, Indonesia

**Abstract:** The criminal punishment system in the Criminal Code in essence still retains the retributive paradigm, which is to provide appropriate retribution for crimes perpetrated by the perpetrator and still focus on the prosecution of the perpetrator of the crime, has not paid attention to the recovery of losses and the suffering of the victims lost due to the crime. Retributive paradigm with the aim to provide a deterrent effect for the perpetrator not to repeat the crime again and prevent the community from committing the crime. The use of retributive paradigm has not been able to recover the losses and suffering experienced by the victim. Although the perpetrator has been found guilty and sentenced, the victim's condition cannot return to normal. With this weakness, came the idea of a punishment system that was oriented to the recovery of victims' losses and suffering, called restorative justice, because the victim was the most disadvantaged party due to the crime. The purpose of this research is to know the settlement of crime through restorative justice in punishment system in Indonesia. By using the normative juridical method, it can be concluded that the settlement of crime with restorative justice can accommodate the interests of the parties, including the victim because the victim is involved in the determination of sanctions for the perpetrator. Restorative justice returns conflicts to the most affected parties - victims, perpetrators, and communities, and gives priority to their interests.

**Keywords:** Restorative Justice, Penal System

## PERCEPTION OF VICTIMS OF PROPERTY OFFENCES ON RESTORATIVE JUSTICE

**Mr. Syama R.**

Postgraduate Student, Department of Criminology, University of Madras, India

**Mr. E. Navin Kumar Shyam Sundar**

Postgraduate Student, Department of Criminology, University of Madras, India

**Mr. S. Thirumalai**

Postgraduate Student, Department of Criminology, University of Madras, India

**Abstract:** Victims suffer harm or loss due to crime. The objective of restorative justice is to reduce the suffering through the involvement of victim, offender and other stakeholders. It gives equal importance to the rights of victims as well as the offenders. But it is not sure that victims are satisfied with the methods of restorative justice as a mode of delivering justice. A study has been proposed to examine the perception of the victims of property offences on the restorative justice. Data has been collected from a sample of victims of property offences in Chennai city through questionnaire. The data thus obtained has been analyzed and the findings are incorporated in this paper.

## RESTORATIVE JUSTICE, FOR THE SAKE OF VICTIMS OR PERPETRATORS?

**Ms. Mia Kusuma Fitriana**

Lecturer, Universitas 17 Agustus 1945, Samarinda, Indonesia

**Abstract:** Restorative Justice in Indonesia just takes place on Criminal Justice System since the enactment of Law Number 11 Year 2012. Although it has been regulated within Indonesian Legal System, the implementation of the restorative justice didn't meet its purposes as a whole. In some cases, adults took advantages in order to avoid the trial and prison by using juvenile as 'their puppets' to conduct criminal acts. On the other hand, a juvenile might be treated 'mens rea' as adults and they know as a juvenile they won't be jailed with the restorative justice as a compulsory way has to be done. When the purposes of restorative justice are misused then it is come to a new discussion whether this settlement is for the sake of victim or perpetrator. By using juridical analysis, data that has been gathered will be the base component to conclude of how this settlement supposes to be done for the sake of victims, otherwise the right of a juvenile perpetrator is protected without eliminating his obligation resulted from this settlement.

Knowing how restorative justice works on both victims and perpetrator will be useful in order to evaluate this settlement. Through the arguments and data, it is our aim to eliminate any matters that can cause any misuse in implementing this settlement in current and future time of Indonesian Criminal Justice System.

**Keywords:** *Restorative Justice, Juvenile Justice System, Diversion, Criminal Justice System*

# SESSION 7: Direct and Indirect Victimization within Families

Chair - **Professor Dobrinka Chankova** Professor, South-West University, Bulgaria

## THE FORGOTTEN VICTIMS OF THE OFFENDING CYCLE: FAMILY MEMBERS

**Prof. Dr. Peter Schäfer**

University of Applied Sciences, Niederrhein, Germany

**Abstract:** The role of family members of offenders in public is ambivalent. They are frequently classified rather as co-offender or confidant than as victim. Recent events as in the case of Anders Behring Breivik, who bombed government buildings and carried out a mass shooting in Norway in summer 2011, have one more time pointed out that when talking about victims, it is crucial to broaden the perspective: The so-called significant others in the offender's social system need to be acknowledged and taken care of in their ambivalent psychological role as both co-victims and co-offenders. The level of research to this subject is different, in Germany for example is minor. Analysis of the Max-Planck-Institute in Fribourg, for instance, basically refer to the role of family members of prison inmates and their necessity of aid and support.

For relatives of victims a fragmented and confusing number of services exist by welfare commissions, self-help groups and health insurance companies etc. Special help services for the family members of offenders rarely exist. Psychosocial coping strategies of specific social impacts from family members of offenders and their potential effects on identity of family members are focused in this conference contribution. To a greater extent than so far, restorative justice must encompass compatible psychosocial intervention strategies to help and support all individuals close to the offender experiencing negative consequences and repercussions by the crime.

## VICTIM PRECIPITATING IN ELIMINATION OF LIFE

**Dr. Trini Handayani**

Lecturer, Suryakencana University, Indonesia

**Abstract:** Eliminating life in-between; Homicide, Euthanasia, Suicide and Assisted Suicide cause many controversial in the world, because of so many victims. To preventing eliminating life, knowing precipitation of the cases. Precipitation is a trigger someone to make a crime. Whether it murdering others, or end his/her life. 26% of homicide cases analyzed and come to a conclusion that the percentage numbers fit into category homicide precipitated by the victim. Euthanasia cases usually occur in health issue. It should be remembered that euthanasia is motivated by mercy or compassion that someone provides to end unbearable suffering by result of incurable or irreversible disease. Assisted suicide occur when a person profound suffering and need someone in committing suicide. That would be a hard mission to preventing suicide, because the attempt usually closed with others. Established by the cases of eliminating life, the victims also became the triggers in attempting the murderous, euthanasia, and suicide.

**Keyword:** Elimination of life, precipitation, victims

## **CHILDHOOD VICTIM PRECIPITATION AND IMPACT ON VICTIM'S PERSONALITY: AN ANALYSIS OF SELECT CASE STUDIES IN AHMEDABAD CITY**

**Reena Sharma**

PhD Research Scholar, Department of Criminology, Raksha Shakti University, Ahmedabad, Gujarat

**Professor (Dr.) K. Jaishankar**

Professor and Head, Department of Criminology, Raksha Shakti University, Ahmedabad, Gujarat

**Abstract:** The study is an attempt to highlight how the childhood victim precipitation can have an impact on the personality of the victim, which can influence their later life. Some case studies (Selective victims in the age group of (13-55) have been taken from the police cases, Ahmedabad, Gujarat. The purpose of this study is to elucidate the typical features in those cases, where, the initiation of the acts was associated with the victim's precipitating behavior. These manifested themselves in visit made to the offender on the victim's own initiative. The victim had more often known the offender in these cases. Also, the victims became the objects of the offences more than once and lasted for several years and violent in nature in most of the cases. This study will highlight the issue of victim precipitation behavior, which is least studied or understood.

**Keywords:** *Victim Precipitation, Personality, Victims, Victimization.*

## **A STUDY ON FEAR OF CRIME IN JODHPUR (RAJASTHAN)**

**Arun Joshi**

Postgraduate Student, Sardar Patel University, India

**Anil Choudhary**

Postgraduate Student, Sardar Patel University, India

**Abstract:** Crime is one of the many social problems that surfaced on the face of social disorganization. Human behaviour is always influenced by surrounding environment and in this era, when crime is occurring frequently, people are afraid of being victim of crime. People always try to escape from being a victim of crime and gradually they become victim of fear of crime in which they are not actually victimized but they are afraid of being a victim every time. Fear of crime means to the fear of being a victim of crime. Fear is an emotional reaction characterized by sense of danger and anxiety at any time or place. Fear of crime also differs within the population with gender, age, profession, location/area being important factors in the level of concern and the degree to which this can alter people's ability to go about their daily lives, activities, routes, way, timings etc. In the paper, fear of crime in Jodhpur is discussed. Public interviews were taken to find out about fear, type of crime, crime prone areas, hotspot, and critical time. In this interview, different groups like students, day and night professionals, senior citizens, public transporters, taxi drivers, city bus drivers) at different places of Jodhpur. Females were also included to find out the level of fear in females. Finally, this paper will discuss various results came out as conclusion of the study conducted at various places in Jodhpur (Rajasthan).

# SESSION 8: Victims of Environment and Land Conflict

Chair - **M. Srinivasan** Professor & Head, Department of Criminology, University of Madras, India

## ENVIRONMENT CONFLICT RESOLUTION TO THE KARST TOPOGRAPHY EXPLOITATION WITH STRICT LIABILITY PRINCIPLES

**Dr. Yeni Widowaty**

Lecturer, Faculty of Law, Universitas Muhammadiyah, Yogyakarta, Indonesia

**Dr. Fadia Fitriyanti**

Lecturer, Faculty of Law, Universitas Muhammadiyah, Yogyakarta, Indonesia

**Abstract:** In conducting mining activities, the community of Gunung Kidul is less concerned about environmental aspects. There are also companies that do it with large tools, thus causing the environmental damage and also a conflict between them. This research is socio-legal research. The type of data used in this research is primary data and secondary data.

The result of the research shows that 1) the current regulations are Government Regulation No 26 of 2008 on National Territorial Layout Plan and the Regent of Gunung Kidul Circular Letter No 540 of 2011 about the prohibition of mining in karst area not going well. The latest Regulation is the Governor of the Special Region Yogyakarta No 31 of 2015 on The Procedures of Granting Mining Business License, where the mining sector which previously was the authority of the district government, was changed to the authority of the provincial government. 2) Despite some regulations that prohibit the mining of karst areas, mining by some parties are still ongoing. Each has a different interest. The author argues that the principle of strict liability should be strictly enforced. 3) Article 88 of Law No. 32 of 2009 has regulated the strict liability but until now there are no rules of implementation, so it is not easy to apply.

**Key words:** *conflict resolution, Karst, Strict Liability*

## VICTIMS OF LAND CONFLICT

**Mr. Piatur Pangaribuan**

Lecturer, Balikpapan University, Indonesia

**Mr. Susiswo Ismail**

Lecturer, Balikpapan University, Indonesia

**Abstract:** Indonesia's budgeting revenue and the expenses was 80% obtained from taxes. East Kalimantan Province is the second biggest tax contributor that is 12.39%. After West Java 16.76% year 2015 to the government. The taxes obtained from mining consist of oil and coal. The coal mining particularly in East Kalimantan is bounded with the central government, local government, communities, organizations and the law enforcement, caused variety of conflicts. The conflict between company and communities arise, each one claimed owned the letter over the disputed land, issued by different institutions. Obviously the hierarchy of the establishment of law regulation in Indonesia has been set up on chapter III Article 7 paragraph (1) and article 8 paragraph (1), the law number 12 year 2011 about the establishment of the regulation of the legislation. Based on the legal hierarchy prevailing in a country using Stufen theory to test the validity of a rule.

The village chief's and the neighborhood heads' regulation are not included in the order of this rule, so that if local communities bring the case in court it will be lose. Victims of defeat resulting from discrimination of laws and regulations. Communities aware of potential litigation in court will lose, then the community will directly control the land dispute. The result of conflicts in the disputed land may result in casualties. Conflict resolution between employers and communities is more effective using progressive legal approach

**Key words:** *Victim, discrimination of legislation, progressive law, dispute and legal hierarchy*

## **ENVIRONMENTAL CASUALTIES DUE TO STATE POLICY IN INDONESIA'S NATIONAL DEVELOPMENT: A PORTRAIT OF JATIGEDE INDIGENOUS PEOPLE STRUGGLE**

**Dr. Ismelina Farma Rahaju**

Lecturer, Tarumanagara University, Indonesia

**Abstract:** State policy in the development of the environment has a good impact on people and the environment in which they become victims of the life environment. Such portrait suffered by society in Jatigede, where construction of the reservoir has led to social, economic and environmental issues.

The problem is exacerbated by the rule of law that is impartial to Jatigede society and the environment where environmental law takes side more on the utilization of living environment rather than the preservation of environmental functions and welfare of society.

## **DISCRETION OF POLICE IN HANDLING SOCIAL CONFLICT: THE POSITION OF THE POLICE INTERNAL REGULATIONS ON HANDLING CONFLICT IN LEGISLATION**

**Dr. Eva Achjani Zulfa**

Lecturer, Faculty of Law, University of Indonesia, Indonesia

**Dr. Sri B Praptadina**

Lecturer, Faculty of Law, University of Indonesia, Indonesia

**Abstract:** A central role in social control is held by the state as an institution has the authority to regulate, through direct action and to develop a series of policies and regulations in carrying out social control. Government in such matters, this includes the president and with the local government governors, regents, mayors and local devices. In addition, Law No. 7 Year 2012 on Social Conflict Management (Social Conflict Management Act), states that the police also have a central role in resolving the conflict. The law asserts that the police is a tool of the state in charge of maintaining security, public order, enforcing the law and providing protection, shelter and community services. The use of discretion as a means of handling and settlement of a dispute society, let alone carried out by law enforcement is essentially a matter of policy as authorized by law to officials. How discretion possessed by the police in handling conflicts in society. In reality discretion in many forms. One is through edicts Chief of Indonesian Police Central Sulawesi number NAK / 04 / I / 2013 on the prohibition of carrying weapons and other dangerous objects. Regional Leadership kemudain issued edicts Chief of Indonesian Police Central Sulawesi number NAK / 04 / I / 2013 on the prohibition of carrying weapons and other dangerous objects It is issued in order to dampen the unrest in the county Sigi year 2013. It is interesting to examine notch regulations made by the police in handling conflict if the associated discretion possessed by the police.

## **MEDICAL ASSISTANCE TO THE SEXUALLY ABUSED CHILD VICTIMS**

**Mr. Jayesh Kumar**

Postgraduate Student, Sardar Patel University, India

**Abstract:** This study is about how sexually abused children are treated in India and what are their requirements. They are vulnerable target in society. Currently in India there is not a single guideline about the medical assistance for the sexually abused children. Paediatricians are generally the initial point of contact of children with the health system. According to worldwide studies it shows that there is lack of knowledge about child abuse recognition and management in medical care practitioners, still there is no uniform guidelines for pediatricians regarding the appropriate response to child abuse in India.

Child neglect is the most common form of maltreatment. Negligence is generally known as the failure of a parent or the state. The law requires that a child suspected of being sexually abused be reported instantly to the child service providers. Suspected abuse child should not be discharged from the clinic or office without consulting the CWC and Police (SJPU). Hospitals caring for children should have a team of professionals who are trained & skilled in child abuse recognition, reporting and services. This team should include a pediatrician, a hospital social worker, a pediatric nurse, a psychologist or psychiatrist and a data coordinator.

The consequences and appropriate therapy of sexual abuse vary, depending on the type of abuse; the age and other physical and emotional factors in the victim. The therapist may recommend that the victim of incest be returned home.

# SESSION 9: Theoretical Victimology

Chair - **Gerd Ferdinand Kirchhoff** Professor, OP Jindal Global University, India

## A CROSS-CONTEXTUAL ANALYSIS OF THE INTERRELATIONSHIPS BETWEEN VICTIMISATION AND THE IDENTITY PROCESSING STYLE OF THE ADOLESCENT

**Robert Peacock**

Professor, Dept. Of Criminology, University of Free State.

**Abstract:** The type of attributes adolescent utilize to define their sense of self varies with the identity processing style employed. The scientific measures introduced to enhance resilience in the advent of victimisation experiences need therefore to be context specific as the same adverse event or condition may be experienced differentially across adolescent populations. Not only is the victimisation vulnerability of the adolescent across multiple contexts, but cognizance needs to be taken of the cumulative effects of trauma. This would not only require an understanding of lifespan development together with an appreciation of the uniqueness of this heterogeneous group, but also of the pervasive and cross-context nature of adolescent victimisation.

## PROFESSIONALISM, INTEGRITY AND VICTIMISATION

**Ms. Jehanne Hulsman**

Lawyer, Director Hulsman Foundation, the Netherlands.

**Abstract:** As we would know from personal experience, there is a difference between the mission and vision, the original aim of an institution or an organisation and the pragmatic work daily performed by people working in such institutions and organisations. There are many sound reasons why not every issue that needs to be addressed will get the time and the profoundness of attention that would be needed to fulfil the aims intended. Lack of budget is one of them, the vastness of issues to be addressed could be another one, and choices will be made leaving some issues unattended. A lack of knowledge in certain areas can be another cause of difference, as can be the fact that many layers in an organisation can result in a division of a problem in slices and there is a chance that nobody is capable of overseeing the actual effects of the combined actions. Lack of evaluation can be a reason an institution is unaware of its actual functioning and the influence that will have on results. Professional interests and/or vulnerability can make a huge difference. There is a considerable risk of inequality when professionals are interacting with supposedly non-professionals within the context of their institution or organisation. How we deal with that inequality, respecting the right of those we as professionals interact with, to direct their own lives and make their own choices, reflects on our own integrity. That is what I would like to address in this conference, how to seek for prevention of kinds of victimisation by professionalism.

## REVISITING VICTIMOLOGY, BEYOND VICTIM SERVICES: A CASE FOR SCIENTIFIC VICTIMOLOGY

**Professor (Dr.) Dick Daniel T. Andzeng**

Professor, Criminal Justice and Victimology, Director, Justice Research Center, School of Public Affairs,  
St. Cloud State University St. Cloud, Minnesota, USA

**Abstract:** The development of Victimology as a discipline that is focused on victims of crime, abuse of power and other forms of social, economy, violence and other types of human suffering, has done an excellent job of calling attention to victims that were easily ignored or overlooked. By calling attention to needless suffering and abuse, individual, regional and international organizations have evolved to address these. Some changes include the introduction of laws that suffer injury and loss. Although Victimology started as a science focusing on understanding the nature and contexts of victimization; which emphasized the typology of both victims and offenders, the degree of victimization and the role of all parties involved in victimizing situations, support, protection and validation of victims rather than full the understanding of the contexts of their victimization. Much of this development is a result social and political advocacy, rather than scientific understanding of victims, perpetrators and actual contexts of victimization. The author argues that this approach has resulted in the failure to understand both the victims and the circumstances and hence limited service options to victims. Furthermore, the author suggests that not understanding actual victimization might fail to provide some needed service, victim empowerment and might actually create more victims. Using his background in the health services as a Registered Nurse, the author argues that Scientific Victimology should be predictive, diagnostic and research based, requiring the understanding etiological and factual contexts of victimization. The author argues that this approach will reduce victimization and empower victims to be partners to their rehabilitation and related services.

## **DRUG PRECIPITATION THEORY OF VICTIMIZATION: A CONCEPTUAL FRAMEWORK FROM VARIOUS CASE STUDIES**

**Dr. J. Sasikumar**

Assistant Professor and Head, Department of Criminology and Police Administration, JHA Agarsen College, Chennai, India

**Abstract:** The present theory on drug precipitation of victimization is originated from the concept of victim precipitation and it explores the new dimensions of precipitation theory. It gives a conceptual framework of various means of victimization of one person when they are in inebriated conditions. It analyzes that how a drug is used as a tool to make a person an easy prey to victimization and assist perpetrators to execute their crime easily without having any physical force raised from both side. According to this theory, a drug is defined as a chemical substance which caused partially or merely, physical or psychological incapability on users. It may be taken by voluntarily or forcefully or spiked. Most probably, when a person is under the influence of alcohol or other drugs he or she is at the risk of being a victim of certain crimes like robbery, assault, murder and rape. The present articles explore three forms of drug precipitation based on the knowledge of victim in taking drugs, time of generation of criminogenesis and criminal intention. There are victimizations of post impulsive intoxication, victimization of pre impulsive intoxication and victimization of drink spiking. For establishing this theory, various case studies had been analyzed.

**Keywords:** *precipitation, drug, robbery, criminogenesis, intoxication.*

# SESSION 10: Gender Based Violence- II

Chair - **Jehanne Hulsman** Lawyer, Director Hulsman Foundation, Netherlands

## ELIMINATION OF VIOLENCE IN HOUSEHOLD (UU PKDRT) BETWEEN THE EFFORT TO UNIFY THE PERPETRATOR AND THE VICTIM OR TO DIVORCE THE FAMILY

**Ms. Dewi Setyowati**

Lecturer, Law Faculty of Hang Tuah University, Indonesia

**Ms. Emilia Rusdiana**

Lecturer, Law Faculty of Hang Tuah University, Indonesia

**Abstract:** Domestic violence should be viewed as an ideological problem, therefore the root of the problem is not only seen in the perspective of its violent behavior, but the fundamental cause of domestic violence stems from the inability of a man with a woman, in building and forming a happy family and eternal. The emotional, psychic, physical, and spiritual maturation of a man with a woman in the building of an inner bond, which is the theological spirit in a household, is more important to be the basis for looking at domestic violence issues. Domestic violence is the result of the inability of a man and a woman to interpret the inner bond in forming an ideally happy and eternal family. The ideological perspective in viewing domestic violence, focuses on the prevention aspect of domestic violence. The biological perspective in viewing domestic violence prioritizes aspects of repression in the event of domestic violence. The ideological paradigm in viewing domestic violence, will give priority to the integrity and happiness of the household, while the biological paradigm in viewing domestic violence, will give priority to repression as a repressive means. The ideological paradigm considers that the main cause of domestic violence is the basis and direction in maintaining the integrity and happiness of the household, the sanction of suffering is the last resort used in order to maintain the unity and happiness of the household. The ideological paradigm prioritizes recovery in preventing and cracking domestic violence. The biological paradigm, viewing tough sanctions as the most important way of combating domestic violence, to be vigilant and reciprocate in domestic violence is the most important choice. The provisions in UUPKDRT, contain conflict of norms, where in principle declared non-discrimination, but in consideration still affirm discrimination. Consideration as a philosophical foundation UUPKDRT should be the direction and basis in formulating the principle. The principle is born from the philosophical foundation, so that the philosophical foundation becomes the guide in formulating the principle in UUPKDRT. Conflicts between the preamble, article 1 and article 3 of the principle, render the Domestic Violence Law unable to guarantee legal certainty in preventing, prosecuting and protecting, which is the promise of the state in ensuring the elimination of domestic violence. The conflict of norms is the main cause of the ambiguity of the paradigm of meaning used in seeing domestic violence. The ideological paradigm in viewing domestic violence is more consistent with the principle of non-discrimination, justice and gender equality, whereas the biological paradigm sees domestic violence as a gender issue, giving the discriminatory spirit that women are the main victims and men as the main perpetrators. The conflict of norms not only does not guarantee legal certainty, but the conflicts of the norm become the determinant factor in the paradigm problem of the formulation of sanctions in the domestic violence crime. The ideological paradigm sees sanctions against domestic violence, prioritizing prevention that promotes restorative efforts. The biological paradigm sees severe sanctions in cases of domestic violence as a major effort by promoting retributive efforts.

**Keywords:** *Elimination, Violence, Household, Perpetrator, Victim*

## RELIGIOSITY AS A PANACEA TO MITIGATE DOMESTIC VIOLENCE IN INDIA

**Dr. G. Karunanithi**

Professor, School of Social Sciences & Languages, VIT University, Vellore, India

**Professor. M. Manoharan**

Finance Analyst, School of Mechanical Engineering, VIT University, Vellore, India

**Abstract:** The rising rate of crimes in the world societies has become one of the major issues of great concern. Particularly an increasing number of adolescents and youth are getting oriented to a series of unethical practices. Some of them tend to indulge in violent activities in the absence of religious practices, values and morals in their life. They are often misguided by their bad peer groups and eventually trapped into emerging delinquent subcultures, which are contrary to the popular culture of society. They prefer to spend more time with their peer groups than with their parents and other family members. Unlike parents, the peer group would pressurize them to drink, use narcotic drugs and to get experience with other such unhealthy practices. Consequently, an overwhelming majority of them in India alarmingly commit different types of crime. Besides several external as well as internal factors, one significant factor is their level of religiosity that makes them respond violently or friendly to different people in different social situations. For instance, those who attended frequently different forms of religious services are less likely to commit an act of violence against their partners than those who attended such services rarely.

An attempt has been made to study as to what extent the high level of religiosity of husbands would reduce their act of violence against their partners in Vellore City, headquarters of Vellore District of Tamil Nadu. The findings are arrived at by analyzing both quantitative and qualitative data collected from a stratified random sample of 100 married men in the age group of 25-50 with the help of interview schedule supplemented by a few case studies.

# SESSION 11: Victims of Abuse of Power

Chair - **Dick Daniel T. Andzeng** Professor, School of Public Affairs, St. Cloud State University,

## BLOOD ON MY HANDS: CONFESSIONS OF STAGED ENCOUNTERS

**Mr. Kishalay Bhattacharjee**

Associate Professor, Jindal School of Journalism and Communication, OP Jindal Global University, India

**Abstract:** This anonymous confession by an army officer splits wide open the anatomy of staged encounters in India's northeast, and explains how awards and citations are linked to a body count. Speaking to investigative journalist and conflict specialist Kishalay Bhattacharjee, the confessor tells of the toll this brutality has taken on him. An essay by Bhattacharjee and a postscript that analyses the hidden policy of extra-judicial killings and how it threatens India's democracy contextualize this searing confession. An explosive document on institutionalized human rights abuse.

## "DEMOBILIZATION" AND "DISARMAMENT" WITHOUT "REINTEGRATION": COMPARATIVE EXPERIENCES OF NON-STATE ARMED GROUP DEMOBILIZATION FROM INDIA'S NORTHEASTERN FRONTIER

**Dr. Samrat Sinha**

Associate Professor and Assistant Director, Centre for Study of Political Violence (CSPV),  
Jindal School of International Affairs (JSIA), OP Jindal Global University, India

**Abstract:** The Northeastern Region (NER) of India (comprising the frontier states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura) has experienced decades of insurgency, that have involved multiple non-state armed groups fighting for a range of political claims. These include claims for secession, separate provinces and autonomous homelands. Whereas several of these insurgencies have gradually been suppressed through protracted counter-insurgency operations, a number of innovative models for the non-violent demobilization of members of non-state armed groups have emerged. One of the key instruments used by the federal and provincial governments in the complex counterinsurgency environment of the NER is the reliance on "Surrender and Rehabilitation" (S&R) policies that enable individual members of Non-State Armed Groups (NSAGs) to abjure the pathway of violence and avail standardized rehabilitation packages. The S&R template has covered nearly 32000 former insurgents in the NER since 2005. Despite the extensive use of the S&R template, there is minimal attention being drawn to the nature of rehabilitation and reintegration of former insurgents. The paper is thus an exploratory work that provides an initial comparative evaluation of the S&R policy and describes its linkages with other models of non-state actor engagement in the region. The key finding of the paper is that the S&R policy leads to a tradeoff between livelihood reconstruction and psychological reintegration. In other words, the existing model does not take into consideration the psychosocial impacts of participation in violence, but rather uses livelihoods and skills development as the primary pathway for rehabilitation. Contrary to international practice, the Indian approach to Demobilization, Disarmament and Reintegration (DDR) points to an alternative pathway, whereby measures for violence reduction are substantively shaped by the instrumental concerns of counterinsurgency; and, occur in the absence of a political settlement. The existence of S&R policies also creates a new bargaining space (and incentive structures) for individual members of these groups. The cumulative impact is a gradual erosion of the organizational structures of the NSAGs and dilution of their political aims. The paper also argues that there is a need to examine other examples of endogenously developed DDR mechanisms that are outside the purview of international supervision to gain a richer understanding of non-state armed group engagement.

## BREAKING THE MYTH OF FALSE CLAIMS IN DOMESTIC VIOLENCE

**Dr. Dipa Dube**

Associate Professor, IIT Kharagpur, India

**Abstract:** The offence of domestic violence has come to occupy a dubious place in criminal justice dispensation. Over the last five years, rising concerns over false allegations of domestic violence by disgruntled wives against their husbands and relatives have drawn the attention of the apex courts, so much so that the courts have laid down stringent guidelines for the police to act on such complaints. The latest judgment in this regard has made it even more complex directing the States to establish family welfare committees to look into such claims. The author argues that the growing clamor towards false allegations is more a myth, generated by popular views and sentiments, rather than a reality. The figures published in the government records do not indicate alarming figures of false reporting. Further, as opposed to general view, the high rate of acquittals in domestic violence cases is indicative of anything but falsity of allegations. It is important to demystify the popular opinion and understand the implications of disbelief on the victims. The judicial decisions also need to be revisited in light of the larger effect they may have on the justice dispensation.

**Key words:** domestic violence, victim, false cases, acquittals.

## CLOSED CIRCUIT TELEVISION (CCTV) SURVEILLANCE AND ITS EFFECTIVENESS IN VICTIMIZATION PREVENTION: AN ASSESSMENT OF TAMIL NADU CAMPUSES

**Mr. Rameshkannan, R.**

M.Phil Scholar, Department of Criminology, Raksha Shakti University, India.

**Mr. S. Manikandan**

M.Phil Scholar, Department of Criminology, Raksha Shakti University, India.

**Prof. (Dr.) K. Jaishankar**

Professor and Head, Department of Criminology, Raksha Shakti University, India

**Abstract:** The main objective of the study is to find out the effectiveness of CCTV's in preventing victimization in academic institutions. Data was collected in five major districts (Chennai, Madurai, Coimbatore, Tirunelveli and Virudhunagar) in Tamil Nadu. 60 samples from each city was collected adopting purposive sampling technique (totally N=300). Data was entered using MS excel and exported the database into the SSPS version 20.0 for the analysis of the data; both descriptive statistics as well as inferential statistics were used to explain the data from various aspects. In addressing the main objective of the study, the researchers found that the majority of the respondents strongly acknowledged that CCTV surveillance cameras help in prevention of crime/victimization, help students to behave well, prevent unauthorized intruders, deter sex offending (eve-teasing/sexual harassment) and also prevent bullying/ragging. This finding makes it evident that CCTV surveillance cameras were effective in victimization prevention. On the other hand, the researcher found that CCTV surveillance cameras invade privacy and also made the respondents un-comfortable. The researchers feel that there should be a balance between the use of CCTV surveillance cameras and the violation of privacy rights.

**Keywords:** CCTV, victimization prevention, campuses, academia, surveillance.

## **VICTIMIZATION OF NORTH-EASTERN STUDENTS STUDYING IN REST OF INDIA- A CASE OF ARUNACHAL PRADESH**

**Dr. Arindam Chakrabarty**

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**Mudang Tagiya**

Research Scholar, Department of Humanities and Social Sciences. North Eastern Regional Institute of Science and Technology, India

**Mr. Sumit Dutta**

Professional Counselling Psychologist & Mental Health Trainer empanelled at Tata Institute of Social Sciences

**Abstract:** India is a country with unity in diversity. Multiculturalism, multilingualism, secularism and fusion of diversified ethnic identities are the essence and fragrance of this great nation. As different rivers coming from diversified regions assimilate into the ocean likewise India is the grand reservoir of these diversified cultures, caste, creed, religions, languages, knowledge systems maintaining high order of mutual respect, harmony and peace. The North-Eastern states of India are mostly inhabited by the indigenous people with different ethnic identity, culture and heritage. In recent past, there were significant instances of discrimination of North-Eastern students who came to mainland India or some pockets in the central and northern India. Of late, in some southern states the similar incidents have been experienced. People from the North-East are victimized in various ways by people in other parts of India in the manner that they are not a part of the nation. The sense of alienation is perceived by the people of the region. Impact of victimization tends to be more among the young minds of students from the remote eastern state, pursuing dreams of higher education and careers in other parts of India.

The intensity and the impact of the discrimination were significantly high when it transformed into life threatening brutal attack. Even the innocent girls were not spared. They were also tortured, humiliated both physically and psychologically. As students of social science, it is really important to understand such behavioral pattern. It is to be unearthed to identify the root cause of such obnoxious behavioral discourse. There is a serious need of measuring the intensity of hatred mindset. This paper would attempt to identify the nature, types, root causes, perceptual severity and the tantamount stress associated with the phases of victimization. This would be an empirical analysis from considerable samples from a well-defined population set belonging to the state of Arunachal Pradesh who have studied higher education programmes outside northeastern states.

## **VICTIMS OF POWER HIERARCHY: THE GUT-WRENCHING PREDICAMENT OF LOWER-RANKING POLICE OFFICERS IN TAMIL NADU**

**Mr. Michael L. Valan**

Assistant Professor, Dept. of Criminology and Police Administration, D.G. Vaishnav College, Chennai, India

**Abstract:** It is regrettable that the role played by Lower-Ranking Police Officers in the state of Tamil Nadu is still largely unrecognized, and they are forced to bear the brunt of criticism and hostility from the general public and the media. They are the backbone of the force and constitute 99% of the total police force, yet it is the 1 percent comprising the remainder that holds them in check and controls the running of the whole. As a result of such stringent administrative controls, these lower-ranking police officers have lost several of their rights, including the right to financial benefits and leave, as well as the right to form an association and speak up against exploitative practices. Consequently, they are almost always stressed and have little job satisfaction. In light of the above, this paper attempts to explain the predicament of lower-ranking police officers in the state of Tamil Nadu. For the purpose of this paper, discussions were conducted in a focus group constituting lower-ranking police officers actively working for the welfare of all such officers in Chennai, Tamil Nadu. The findings have revealed that these police officers often face such issues and challenges as those highlighted above. The implications of the present study are discussed in detail.

**Keywords:** *Lower-Ranking Police Officers, issues, challenges*

# SESSION 12: Special Topics

Chair - Priyamvadha M

## LEGAL PROTECTION AGAINST PARTIES AS VICTIMS DUE TO THE NEGLIGENCE OF TRADITIONAL PEDICAB DRIVERS IN INDONESIA

**Dr. Elfrida Gultom**

Faculty of Law, Trisakti University, Jakarta, Indonesia

**Abstract:** Pedicab is a three-wheeled motor vehicle for transporting passengers and / or goods. Pedicab vehicle is a traditional Indonesian vehicle that is often used by the public, not only by the women to go to the Market, but also the men and children to go to the nearest destination. The problem discussed in this paper is How is the Legal Arrangement on the Existence of Becak in Indonesia? And How is the legal protection for Parties as Victims of Negligence of Pedicab Driver? The method used is normative legal research method with secondary data that is book and journal with conceptual approach. The conclusion is Law no. 22 of 2009 on Road Traffic and Transportation does not regulate the operation of Pedicab's Pedestrian transportation, but in every area there is a permit for the operation of two-wheeled (motorcycle and bicycle-motorcycle) and tricycle (bajaj and bemo) based on local regulations Each in accordance with the needs and the existence of Pedicab as part of maintaining the traditional culture. Legal protection for the victims of both consumers and third parties resulting from the negligence of pedicab drivers is If the case of accidents caused by negligence of drivers Becak causing both material and immaterial losses for the Consumer and Third parties submitted to the police, the Police may do the Discretion, and if brought to the Court, the Judge may refuse or can make legal discovery to fill the legal void and Make rules about sanctions or matters relating to accidents to provide legal certainty and protection For drivers of Pedicab, Consumers and Third Parties that are materially and immaterially damaged.

**Keywords:** *Legal Protection, Victims, Pedicab, Negligence, Indonesia*

## VICTIMS OF MEDICAL MALPRACTICE IN INDONESIA

**Dr. Sutarno Hardjodirjo**

Lecturer, Hang Tuan Univeristy, Indonesia

**Abstract:** In Indonesia, the health law is still new developed, but its development is quite fast. The term medical malpractice has not been included in the positive law, the knowledge of medical malpractice has not been widely understood by the public. Often, people easily judge a doctor to do malpractice to his/her patient, when in fact it is not. Conversely there are doctors who do not understand how the law works, so in terms of patient doctor relationship more to remember the noble profession ethic. The medical professional ethic is very good, but in the certain condition doctors can actually be harmed for maintaining their professional ethics when they must be opposite of positive law.

This information illustrates the opinions of the author, it's not the formal opinion of any government, aimed only for educational materials, that is knowing the various victims of malpractice medic and proof that occurred in Indonesia.

Doctors can be considered guilty when dealing with patients whose treatment does not cure the patient. The result of a patient in a medical treatment depends on many factors that support and otherwise may occur a medical risk that harms the patient even though the treatment process has been in accordance with Standard Operating Procedures. Doctors can also make mistakes either intentionally or because of negligence that can harm the patient or even a sense of community justice.

Victims of medical malpractice can vary, from clear or unclear, making it difficult to prove that they are victims of medical malpractice. In addition, the grade of a person's role so that he himself becomes a victim of medical malpractice also vary. With the high complexity of medical science, ordinary people are often still difficult to understand and often make mistakes in implementing the treatment process so that self-harm.

In the litigation process, several ways of proving can be used either in proving a doctor has malpractice or otherwise that someone is a victim of medical malpractice. The handling of malpractice cases still often uses general laws and regulations (*lex generalis*).

**Keywords:** *Medical malpractice, doctor's error, victim, proof*

## JURIDICAL ANALYSIS OF CRIMINAL ACTS OF NARCOTICS ABUSERS IN THE PERSPECTIVE OF HEALTH LAW IN INDONESIA

**Dr. Siska Elvandari**

Lecturer, Law Faculty, Andalas University, Indonesia

**Abstract:** Basically, the human existence by nature is a gift from the Creator. The nature of a rule or norm is that it has the power of regulating, forcing, and is integrated with the existence of punishments, while the punishment itself should gain its legitimacy from citizens and be recognized as Law. This was in line with the adagium "Ubi Societas Ibi Ius", which means when there is a society, there is law. This adage indicates that law is not created but grows and develops in social life. The rule of law in social living is referred as to respect and to protect the human beings. The Constitution has been amended four times. In the original text of the 1945 Constitution (before the amendment process), there was no written word for "health". After the amendment process, the word "health" came in Article 28 H and Article 34.

The government's effort in Health development can be more clearly seen with the release of Act No. 23 of 1992 of Act Number 36 Year of 2009 on Health. The release of this Act is a proof that health laws started to gain ground in the development of law in Indonesian Law, and The Act No. 35 year of 2009 about Narcotics. Indonesia has become a major target in narcotic abuse by foreign countries, they even think that Indonesia as a "heaven" for narcotics circulation. Another phenomenon case that became public attention was the case of Fidelis Ari On February 19, 2017 Fidelis Ari had been arrested by BNN, for planting marijuana that he used to treat his wife who suffered from a spinal cyst. A month after Fidelis Ari was arrested, his wife was declared dead. His wife had died because the wife cannot access the drugs she usually consumed to maintain her life, since the medication were made from potions or concoction of marijuana leaves manufactured by Fidelis Ari himself.

The phenomenon strongly indicates that there is a decreasing sense of legal awareness of the community to achieve the right to health, the effort to achieve the optimal health level, which is based on the respect and protection of human rights: the right to live. In relation to Article 28 of the Constitution, it is stated that the right to live and sustain a life and a living is the right of everyone. According to Article 4 of Act no. 39 of 1999 on Human Rights, states that: The right to life is a human right that cannot be reduced under any circumstances and by any person. As for the right to life, it is stated under Article 29 Jo Article 1 Paragraph 3 Third Amendment of the Constitution, in which written that life does not belong to man. Life is a gift from God to everyone who must be guarded and defended until the end (when it is retrieved) without limit. The phenomenon is not only limited to the right to vote or the right to have an option to do something or to Pro Choice, but also to see the phenomenon as a right to live and sustain life or Pro Life, an effort to keep the human as a whole person, as an effort to manifest the humanity and humanity itself.

**Keywords:** *Juridical Analysis, Criminal Acts of Narcotics Abusers, Health Law*

## LEGAL INTERVENTION IN HIV/AIDS VICTIMS' MENTAL HEALING: A STUDY IN THE PERSPECTIVE OF PROGRESSIVE REASONING

**Dr. Nanik Trihastuti**

Lecturer in International Law, Faculty of Law, Diponegoro University, Indonesia

**Abstract:** AIDS is a deadly disease that evokes fear among the society, but in fact the number of the victims is increasing. The stigma attached to HIV/AIDS victims, resulting in discrimination, may exert an influence on the victims to refuse to be open to their spouses or intentionally change their behavior in order to avoid negative responses. The moral judiciary that violates the human rights requires to be re-examined as law and ethics in health care also support this matter. Based on the study conducted using a juridical-normative approach, the finding showed that to protect HIV/AIDS victims by making the status of their disease unrevealed had disregarded other people's rights, that is, their sexual partners including wives or husbands. By using a model of progressive reasoning and exempting the traditional concept, the re-formulation of the stipulations regarding the obligation to conceal patients' information might need to be addressed by protecting doctors from a lawsuit against patients since doctors might be required to reveal patients' medical records, which are supposed to be treated confidentially, in order to prevent the transmission of HIV/AIDS. In addition, the victims who either deliberately or unknowingly conceal their disease from their sexual partners, which may lead to the spread of HIV/AIDS, should be given criminal sanctions.

**Keywords:** *Legal Intervention, Mental Healing, HIV/AIDS Victims, Progressive Reasoning*

## LEGAL PROTECTION FOR PATIENT AS VICTIMS OF MEDICAL MALPRACTICE

**Dr. Sri Putri Handayani**

Batanghari Jambi University, Indonesia

**Abstract:** The right of health is a fundamental right of every human being, therefore efforts to improve the quality of health must be implemented comprehensively. On its implementation, still found many health services that harm patients. Lack of knowledge and awareness of rights and obligations as a patient is one of the causes of patient ignorance when faced with a mistake in medical action (malpractice). How is the legal protection for patient as victim of medical malpractice? Protection for victim of medical malpractice that can be given directly by law are preventive in the form of legal protection to not become victim of criminal act and repressive in the form of protection to obtain legal guarantee/compensation for suffering/loss of someone who has become victim of crime. The legal basis of medical action includes the Criminal Code (Penal Code), Law no. 29 of 2004 on Medical Practice, Law no. 36 of 2009 on Health, and Law no. 44 of 2009 on Hospital. Criminal acts in medical action (medical malpractice) is a mistake in taking medical action performed by medical personnel either intentionally or unintentionally or the medical practitioner performs a bad practice. Efforts to provide legal protection against victims are urgently needed to avoid or minimize the harm caused by medical malpractice.

**Keywords:** *Legal protection, patient, victim, medical action, medical malpractice*

## THE PROBLEMS FACED BY THE RESEARCHER IN CONDUCTING RESEARCH ON

**Dr. Vibha Hetu**

Assistant Professor, OP Jindal Global University, India

**Abstract:** The discussion is set against the backdrop of the problems faced by the researcher and some observations. The rape is a sensitive issue and also a universal phenomenon. The common people would dread discussing this topic let alone rape victims who have been ghastly devastated. The researcher faced numerous problems in interacting with victims of rape, their family members, neighbors, etc. The neighbors particularly created obstruction as they were not interested in giving private time to the victim to answer questions even, family were too hesitant not to disclose the truth about rape. The FIR forms were filled by the Police in his own handwriting and the case details mentioned in the police register. Some of the handwriting was neat and case details mentioned cleanly, but, some was hardly readable. The researcher got photocopies of many FIRs but some she had to write it in the Police Station as there was no photocopy machine in the police-station or nearby. Locating the houses thereafter consumed much of her time. Getting thorough details on the case was not only difficult but some of the details also changed in the second meeting with the victims. Much of her time was also consumed in seeking appointment with doctors, public prosecutors and judges and thereafter conducting interviews with them.

## PLENARY SESSION 2

Chair - **Prof. Dr. Sanjeev P. Sahni** Principal Director, Jindal Institute of Behavioural Sciences

Speaker - **Mr. Michael O'Connell** Commissioner for Victims' Rights, South Australia, Australia.

# SESSION 13: Secondary Victimization

Chair - **Robert Peacock** Professor, University of the Free State, South Africa

## CRITICAL ANALYSIS ON THE RE-VICTIMIZATION OF RAPE VICTIMS

**Ms. Ritvi Dhakar**

LL.M Student, Institute of Law, Nirma University, India

**Abstract:** The victim constitutes the most important as well as the most aggrieved entity in any criminal justice system. The Indian Legislature and Judiciary have not defined 'Victim of Crime' anywhere in the statutes. In, India it is widely believed that victims do not have sufficient legal rights and protections and hence they are considered to be the marginalized and forgotten entity in the entire criminal justice administration.

Disclosure of a criminal incident by the victim to others sometimes constitutes a stress inducing experience in itself. The victim of sexual offenses requires better psychological environment to make a new beginning in life. But, the Victim Assistance infrastructure is very poor in India and the government failure at rehabilitation of the most serious factor contributing to the pain and plight of the victim.

This paper proposes to examine the problems faced by the rape victims including the deprivation of their right to life and personal liberty. Forcefully undergoing uncomfortable procedures and inquiries both inside the court as well as from the people outside. Exploitation by Media and the people concerned by making her a public figure. Interference of various political parties into the matter or changing it as a political issue.

Irresponsive behavior of the legal, medical and mental health systems for assistance depriving the victims from certain rehabilitative and after care treatment. These negative instances have been termed as Second Rape or Secondary Victimization. This psychological harm and inappropriate responses leaves the victim feeling re-victimized or re-raped.

This paper also notices the relevant Judicial Dicta that are sought to render victims the right to rehabilitation and suggests changes that are required in order to make the system respond effectively to the needs of victims of crime.

## PREVENTION OF SECONDARY VICTIMIZATION IN CRIMINAL JUSTICE

**Prof. (Dr.) Lyane Sautner**

Department of Criminal Law and Legal Psychology, Johannes Kepler University Linz, Austria

**Abstract:** Criminal proceedings frequently give rise to secondary victimization of victims of crime. That means they are a source of repeat victimization as a consequence of onerous situations that can result from the victim's contact with the law enforcement authorities and the courts. They range from victims being reprimanded when submitting reports or in subsequent hearings to their being exposed to unnecessary encounters with the accused in court buildings, their having to endure long waiting periods before hearings in which they are interviewed, their being obliged to reveal intimate details of their family life in their role as witnesses, and their being compromised by the manner in which the accused person is defended.

There is, in contrast, a modern conception of criminal proceedings in which the procedure also serves to fulfill the legitimate interests of the victim. These include the injured person's interest in the recognition of his (her) victim status, the clarification of the case and the punishing of the offender. Above all, they include an interest in making sure that the victim does not sustain further damage as a result of the criminal proceedings.

There are various possibilities for designing criminal procedural law in a manner that assures that the victim receives protection and is not compelled to endure unnecessary stress. Protective mechanisms of this kind have already been implemented in the criminal law systems of many European nations. The EU Directive Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime (2012/29/EU of 25 October 2012, OJ L 315, 14.11.2012, p. 57) does at least establish basic standards for EU member-states. Austrian criminal procedural law goes even further in some respects. For example, the participation of victims in criminal proceedings is a fundamental principle of Austrian criminal procedure – one that is mentioned in the same breath as the requirement for objective official investigations, the presumption of innocence and other fundamental principles. As a result of this procedural principle, victims enjoy extensive rights to information, as well as rights that limit their obligations to testify as witnesses or render the manner in which witnesses are examined less onerous. They are also entitled to psycho-social support and legal aid.

The present paper provides insight into the rights of victims in Austrian criminal proceedings. It shows how the rights of victims fit into the triadic structure of continental European criminal proceedings. Besides that, it reveals the extent to which those rights can come into conflict with the basic principles of fair criminal proceedings that are in accordance with the due process of law.

## ALTITUDE OF RE-RAPE IN INDIA

**Ms. Amulya Nigam**

Postgraduate Student, Nirma University, India

**Abstract:** Rape is one of the most heinous crimes against mankind. No other crime includes all the costs i.e. transaction cost + social cost + psychological cost in one. A victim of rape suffers social stigma as well as psychological trauma. Primarily the rape victim is victimized by the offence of rape. Secondary victimization of rape victim is done by the institute and society; police, medical hospitalities, attitude of individual like family and friends; which is termed as "second rape" which causes mental trauma as this is the stage where victim need assistance. Society itself re-rape the rape victim by the abuse of power. In the criminal procedure, role of victim is not as much as victim have substantial interest of participating in criminal proceedings. The phrase "Access to Justice" generally means individual who has suffered harm or his legal heir get convenient justice. The neglecting effect by the institution changed the meaning of phrase, "Access to justice" into "Access to Injustice"

## VICTIM BLAMING ATTITUDES AND REPORTING SEXUAL VICTIMIZATION: A PERCEPTIVE ANALYSIS OF RAPE MYTHS

**Ms. Amrutha Karayil**

Assistant Professor & Head, Department of Criminology & Police Administration, D. G. Vaishnav College, Chennai, India

**Mr. Arsh G.**

Undergraduate Student, D.G. Vaishnav College, Chennai, India

**Abstract:** The dynamics of sexual victimization of women can be holistically understood when they are examined alongside the cultural values or perception towards victimization of women. One such cultural factor that contributes the promotion of tolerance towards victimization of women is Rape Myths. The adherence of rape myths promotes a hostile environment for the victims through victim blaming attitudes and excusing or justifying male aggression towards women. This attribution of responsibility of victimization on the victim leads to their secondary victimization at the hands of stakeholders of the justice system and the society. The fear of such re-victimization affects the social perception on whether or not a victim should report their victimization. This curbs the very opportunity for a victim to access any available redressal mechanism. Interestingly, this research amongst a sample of working age population in Chennai city reveals that a majority of the respondents adhere to rape myths and upholds victim blaming attitudes. It also highlights that major samples feel a victim should only report their victimization if it is brutal or fatal to an extent. Adherence to such values necessitates an intervention program that can develop a positive and rehabilitative environment for victims of rape.

**Key words:** rape myths, victim blaming attitudes, reporting rape victimization, working age population, Chennai city

## RELIGION AND POLITICS OF VIOLENCE: RELOOKING RELIGIOUS LAWS FROM THE LENS OF VICTIMOLOGY

**Dr. Nazia Khan**

Assistant Professor, Department of Political Science, Jamia Millia Islamia University, New Delhi, India

**Abstract:** Religion has played a very significant role in the lives of individuals. The practice of religious laws however, is based on power relations on the lines of gender stratification. This propitiates violations of basic rights of individuals within communities, especially of those who are powerless and dominated by the ones who wield power. Such power relations and violence against the powerless often goes unquestioned, as they are held under the garb of religion. State also remains silent many times, as the communities are involved and the government do not to lose their vote banks.

There are many cases under the religious laws where women under the religious communities have been victimized and have faced violence. These violations go unnoticed and unquestioned in the name of religious laws, customs, traditions or rituals. There is a need to bring attention to this side of victimization, where the rights are violated and the doors of justice remained closed. The paper explores the various religious laws and violence faced by women, looking at these issues from the lens of victimology.

# SESSION 14: Victim Assistance

Chair - **Peter Schäfer** Professor, University of the Free State, South Africa

## ROLE OF NGOS IN ADDRESSING THE VICTIMIZATION OF WOMEN

**Ms. V. Vaishnavi**

UGC-Senior Research Fellow, Department of Criminology, University of Madras, India

**Professor (Dr.) M. Srinivasan**

Professor & Head, Department of Criminology, University of Madras, India

**Abstract:** Different categories of NGOs work among different sections of the society. The authors of the present paper identified the NGOs working among women in general and women victims in particular. We established contact with 9 NGOs located in the city of Chennai. From those 9 NGOs, 149 activists/staffs of the NGOs were included as sample for the study, and data were collected from them using a structured Interview Schedule. This is a part of the major research with several variables on the legal literacy among the women working in unorganized sector. For the purpose of the present paper, data relating to the objective of the study was culled out and used. The key objective of the study was to analyze the role of NGOs in addressing the victimization of women. The analysis revealed that the NGOs which participated in the study intervene in various issues such as violence in the private domain, sexual assault/harassment by the local rowdies etc. The respondents of the study have also said that whenever such victimization is brought to their notice, they meet both the perpetrator and the victim and try to resolve the problem. If the violence or victimization is of serious nature they facilitate the reporting the same to the police. They also follow it up with the concerned law enforcement agency for suitable legal action. Various other findings have also been included in the paper.

## ROLE OF THE NGOS IN VICTIM ASSISTANCE OF SEX TRAFFICKING VICTIMS IN CHENNAI: CURRENT SCENARIO

**Mr. R. Prabhakaran**

Undergraduate Student, Department of Criminology and Police Administration, JHA Agarsen College, India

**Mr. M. Maheshwaran**

Undergraduate Student, Department of Criminology and Police Administration, JHA Agarsen College, India

**Ms. V. Vaishnavi**

Assistant Professor, Department of Criminology and Police Administration, JHA Agarsen College, India

**Abstract:** Over the past few decades many organizations; Governmental, Non-governmental and Inter-Governmental have introduced several programs in addressing the issues of women, who is being trafficked for exploitation, particularly for sexual exploitations. The victims often have to be dealt with the other immediate practical problems women may face such as housing, food, medical assistance and safety other than psychological counselling offered by the organization. As soon as the basic need of victims is dealt, the next immediate assistance should be offered is legal advice, with respective law enforcement institution on woman's behalf. In this paper, the researcher will be focusing on the following objectives; (1) To find out the socio-demographic details of the survivors and the perpetrators of sex trafficking; (2) To identify the types of assistance provided to the victims by the NGOs; and (3) To examine the safety measures and legal assistance available to the victims of sex trafficking when decided to testify in court. The present study will be conducted using a structured interview schedule with the respondents as NGOs workers or activists working for the welfare of women who is being trafficked for sexual exploitation.

**Keywords:** *Non-governmental Organization, Victim Assistance, Sex Trafficking*

## THE "ALOHA-INTERVENTION-MODEL"

**Dr. JanneFengler**

Professor, Alanus University of Arts and Social Sciences, Germany

**Abstract:** Meeting the Target to Really Address Victims' Needs in Victim Assistance and Support in trying to address victims' needs in the range of emotional, practical, informational or regarding criminal proceedings (ten Boom & Kuijpers, 2012), professionals in victim assistance often find themselves between conflicting priorities for their intervention such as target-oriented vs. process-oriented, standardized vs. Individualized, conceptual vs. flexible. Real life experience of professionals shows though: Assistance and support need to be dynamic in a spread of

approaches beyond the bipolarity of “versus”, respectively “either-or”; furthermore, they require more of an alternation between the three main tasks “assessment”, “definition of goals”, “support” than intervention theory insinuates. No concept so far takes these challenges explicitly into account and offers methodical help to achieve the objective of shaping interventions “tailor-made” and still professionally appropriate to victims' needs. On the basis of both established theoretical and methodical concepts, an innovative, according model that applies to social work support in general and to victim assistance in particular was developed (ALOHA-Intervention-Model); Fengler, 2016; Fengler, 2017). The model enables professionals to seize the abovementioned tasks methodically well aligned to victims' actual needs. By that, victim assistance can proceed in a both target- and process-oriented, standardized and individualized, conceptual and flexible way. Key criteria for successful application of this “tool” are circumspect decisions of professionals and their clients regarding six possible alternatives for feasible sequences of the tasks mentioned as well the dynamic-dialogic alternation between them on behalf of process regulation. As a result, victim assistance can be substantiated in both theoretical and methodological regards.

## **ROLE OF NGOS IN VICTIM ASSISTANCE: A CASE STUDY IN CHENNAI**

**Ms. Kruthi. J. Kumar**

**Mr.B.HaemanthKumar**

**Mr. R. Arulraj**

Postgraduates Students, Department of Criminology, University of Madras, India

**Abstract:** Non-governmental organizations are an important constituent of the civil society, with the power to give voice to the victims by providing victim assistance. While government offers standard services to majority of victims, NGOs follow up specific needs which each victim has. Several NGOs render an array of services such as material, medical, legal, psychological and social assistance. The preliminary study shows that NGOs such as Prevention of Crime and Victim Care (PCVC), Acid Survivors Foundation India(ASFI), International Justice Mission (IJM) and Tular provide assistance such as counseling, referrals, emergency shelters, legal advocacy, assistance in treatment and rehabilitation, justice and support during their reintegration, crisis intervention, employment, sensitization, skill building, holistic caring, healing process and many more to mainly women and children who are victims of crime. This paper attempts to study the NGOs in Chennai city and the type of assistance provided to various victims of crime such as victims of domestic violence, acid attack victims, victims of human trafficking, children being victims of sexual abuse to list a few. This paper also encompasses the challenges and issues faced in providing assistance to the victims of crime such as implementation of victim oriented programmes.

## **VICTIM ASSISTANCE IN BANGLADESH: A FUNCTIONAL STUDY**

**Mr. Tawohidul Haque**

Assistant Professor, Institute of Social Welfare and Research, University of Dhaka, Bangladesh

**Abstract:** Victim assistance in Bangladesh captures a position in the aspects of government roles to serve the victim for expected re-integration in the community. The Bangladesh government has launched some Victim Support Center (VSC) involving the GO officials as well as taking the support of development activists to provide the need based support for victim(s) following the community based livelihood pattern. The study has been conducted in the early stage of 2017 highlighting some pertinent objectives such as know the victim dimensions which are reported in VSC, trace out why the people of Bangladesh are being victimized in the socio-cultural perspectives, and how the VSC is followed the functional paradigm to mediate the victim case(s). The findings of the study present the GO (government) performance through victim support institution(s) towards victim and surrounding partners who are taking the stake to re-shelter in the community level. The study has been conducted by following the mixed methods using a semi-structured interview schedule focusing the objectives of it. By conducting the study, a theoretical as well as practice frame is come out that will be supportive for the agencies which are working in the quest of victim management. In Bangladesh, there is a need for Victim Support Policy (VSP) to develop the victim support agencies how to continue the functions within the community settings for making a tolerated conflicting society. The present study maintains the functional dimensions of VSC cause of how to provide a social support with human dignity and progress.

## **BOOTS ON THE GROUND RESPONDING TO VICTIMS FROM A CLINICAL PERSPECTIVE: DEVELOPING AN EXPERTISE AS A PROFESSIONAL VICTIM SERVICE PROVIDER**

**Ms. Donna Watson-Elliott.**

Manager Ottawa Police Service Victim Crisis Unit

**Abstract:** In order to situate one's self as a victim service professional it is important to develop knowledge and skills based from research from fields of psychology, social work, criminal justice, public health and medical disciplines among others. This presentation will identify the necessary skills required to assess and intervene with victims and survivors of crime in order to make decisions and complete tasks and activities that is the essence of early intervention. When we look at the skills utilized to intervene clinically with a victim of crime we can see why this is a challenging topic to address. Experience and knowledge of research to practice is what is needed. While it takes many years to accumulate the necessary experience it is important to provide a conceptual foundation and to identify skills necessary for intervening with professional competence with crime victims and survivors. Drawing from years of experience the presenter will identify key research that has influenced clinical practice.

# SESSION 15: Victimization of Minorities

Chair - **Heru Susetyo** Senior Lecturer, Faculty of Law, University of Indonesia, Depok, Indonesia

## ISSUES AND CHALLENGES OF DIFFERENTLY ABLED COLLEGE GOING STUDENTS IN TAMIL NADU

**Mr. Suresh Kumar N**

Undergraduate Student, Criminology and Police Administration, D.G. Vaishnav College, Chennai, India

**Abstract:** Differently abled persons are considered as excluded part of the main stream society owing to the presumed physical and mental incapacities. Studies have found that they have been facing so many issues and challenges such as social, education, crime victimization. To the knowledge of the researcher limited studies have been conducted among these vulnerable population, in general and among college going students in particular. In this connection it is proposed to conduct a research to explore the nature and extent of social exclusion, educational needs and various forms of abuse and exploitations among the college going differently abled students in Chennai city. For the purpose of this present research college going differently abled students in Chennai city will be identified by using purposive sampling technique and data will be collected. The expected outcome would help to understand their various issues and challenges being faced by these vulnerable populations. Further, measures will be suggested to reduce the issues and challenges and for better policy making with respect to victim assistance.

**Keywords:** *Differently abled, college students, issues and challenges, victimization*

## PROBLEMS AND DIFFICULTIES FACED BY THE TRIBAL COMMUNITIES IN SUB- URBAN AREAS OF CHENNAI: VICTIMS PERSPECTIVE

**Mr. C. Venuprasad**

Undergraduate Students, Department of Criminology and Police Administration, JHA Agarsen College, India

**Mr. K. Bishal Kumar**

**Ms. V. Vaishnavi**

Assistant Professor, Department of Criminology and Police Administration, JHA Agarsen College, India

**Abstract:** The term 'Tribe' refers to a social group with definite territory, common name, district, common culture, behaviour of an endogamous group, common taboos, existence of distinctive social and political system, full faith in leaders and self-sufficiency in their distinct economy. 'All human beings are not born equal' according to the Hindu religious belief. As a result, the Scheduled Tribes are open to various forms of atrocities committed against them. They are considered as lesser human beings and therefore were denied the rights to be human. The Government of India enacted 'The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989' to prevent the atrocities against SC and ST, but not implemented effectively in different parts of our country. For the past several decades, tribal communities are facing many problems and difficulties, especially in the areas of education, employment, health and particularly they are easily exploited for sexual abuse. The present paper focuses on the socio-demographic details of the respondents; to identify the education and employment opportunities available to the respondents; to find out whether the ACTs and policies are benefited to them; to identify the nature of sexual abuse against women STs and to examine the health related issues faced by them. For the present study, the researcher will be collecting data from 100 respondents using a structured interview schedule from the Scheduled Tribes community from sub-urban region

## **STIGMA, DISCRIMINATION AND VICTIMIZATION OF PEOPLE WITH DIFFERENT SEXUAL ORIENTATION (PDSO): AN EXPLORATORY STUDY**

**Ms. Anjali Mehta**

Postgraduate Student, Department of Criminology, Raksha Shakti University, India

**Mr. Mahesh Tripathi**

Assistant Professor (Psychology), Department of Forensic Science, Raksha Shakti University

**Prof. (Dr.) K. Jaishankar**

Professor and Head, Department of Criminology, Raksha Shakti University, India

**Abstract:** Homosexuals and sexual minorities have become an influential part of our population. With rising worldwide debate on LGBTQ (Lesbians, Gay, Bisexual, Transgender and Queers) rights, they have started coming out of their closets. It is common for them to still experience stigmatization in the face of social ramifications, legal considerations, approval from peers and family. They are vulnerable for victimization. In this study, an attempt is made to identify and explore the key characteristics and victimization experiences that people with different sexual orientation (PDSO) undergo. The main objective of the study is to measure the level of stigma and discrimination faced by PDSO. Data is collected from 25 participants using the fish bowl technique. An interview questionnaire was prepared by the researchers on the basis of "Sexual Stigma Scale" developed by Logie and Earnshaw (2015). The results reveal the unfavorable effects of the stigma, discrimination and victimization, faced by PDSO and their life revolves around negative emotions and prejudices put forth by heterosexuals.

**Keywords:** *LGBTQ, Stigma, Discrimination, Victimization, Victims*

## **THE VICTIMIZATION OF MIGRANT WORKERS IN NEPAL**

**Mr. Sunil Sigdel Sharma**

Research Scholar, Kathmandu University, Nepal

**Abstract:** The purpose of this paper is to find out the labor migration from Nepal and its victim. This paper will explore the nature and extent of labor migration and its effect in women and children who left behind in Nepal. The paper is basically in personal interviewing with the individual women and children whose guardian was in labor migration in Gulf and other western countries. This paper combined with ethnographic observation with content analysis of the database of findings subsequently conducted.

Nowadays, migration from Nepal is developed as culture and we can find in every village there is lack of human resources because of high labor migration rate. This is for the sake of better life for their family. By the money which they have sent will be invested in education of their children and other basic requirements. Migration is said to be the easiest way to earn money as this is the common phenomenon among the Nepali youth. But the result of this migration brought negative in Nepali homes as well. There is not even a single opportunity to the youth as one of the past study shows that the mind of the youth is fixed on going abroad and Nepal is said to be one of the cheap labor selling country in the world

Migration rate is very high in rural area than urban. This is because of push factor and rest the victim left behind it is also a serious problem nowadays. Especially the women and children had no security due to such. Mainly girl child trafficking and drug abuse has been on the increase due to such migration. Apart from this many criminal activities like kidney rackets and prostitution has increase and most of victims are from labor migration too. The main challenge is the system of migration is persistent rather than stable; work is available in natural resource extraction or processing facilities and urban environments. The result of this migration brought more and more complicated problem and this paper mainly focus the trend and its victims behind the migration scene especially in context of Nepal. The sample size is taken in one of the village near by Dakshinkali Municipality ward no 3 chaimale where many youth, migrate every month for the golf country and the women who left behind has faced many problems like social harassment and they feel unsecure due to migration of their husband children feel lonely due to such. Some of the women committed suicide due to harassment by the society itself.

My research shows that the many injustices and high potential for abuse of earlier programs may be avoided. I also show good reason to alternative outcome migration and victims in main stream as well.

**Keywords:** *immigration, labor workers labor migration, globalization, justice, immigrant rights, ILO*

## SESSION 16: Criminal Justice System- II

Chair - **Vesselin Popovski** Indonesia

### "PROBATION IN SAARC COUNTRIES: A STUDY WITH SPECIAL REFERENCE TO THE SCOPE FOR VICTIM PARTICIPATION"

**Dr. Habeebul Rahiman**

Assistant Professor, Department of Social Work, UGC Center for Advanced Study, Faculty of Social Sciences, Jamia Millia Islamia, New Delhi, India

**Abstract:** Probation and other community based correctional options have gained growing acceptance in the recent years owing to various benefits attached to it. When the offenders are placed on probation, the state saves resources and the offender is able to seek employment and maintain ties with his / her family and community. However, the victims remain as a forgotten chapter in the system. Their concern and security aspects are not addressed properly. From the victims' perspective, probation could prove to be of possible advantage provided that the offender is made to pay compensation to the victim. In appropriate circumstances, a probation order might also facilitate restorative objectives of acknowledgement and reparation of the harm done to the victim. On the other hand, for many of the victims, the presence of the offender in the community may cause additional sufferings. This concern is left un-attended in the present Criminal Justice System.

The present paper is an attempt to explore the victims' position and concerns which are being ignored and sidelined in the process of over emphasizing on the reformatory philosophy to reform and rehabilitate the offender back to the society, especially in the context of Probation of Offenders Act, and suggests that while the reformation is important, it is also important to listen to the victims' concerns and make them partner in the reformatory effort for success and sustainability of the effort.

While the study would focus of the victimological perspective of probation with reference to India, with first hand data collected from key stake holders, it will also reflect on the practices corresponding to this in the SAARC countries, and suggest possible measures for improvement. It would also reflect on the recent legislative reforms and court directives which give more scope for victims' voice in the context of probation.

### THE DEATH PENALTY AS A PUNISHMENT MAKES A NEW VICTIMS

**Mr. Bayu Wicaksono**

Jenderal Soedirman University, Indonesia

**Abstract:** Contemporary debates on capital punishment involving a number of important arguments Based on moral principles or social welfare considerations, it is seen as "the single most important consideration for both parties in the controversy of the death penalty." The deterrent effect of a definite death sentence. An important consideration for some countries now considering a moratorium on execution. Undoubtedly today, the death penalty is seen by many people and the Society as well as the state, civil society, international organizations and nongovernmental Organizations, as a practice that does not adequately reflect the progress and reality of humanity.

The application of capital punishment is inseparable from the purpose of crime, the basis of criminal prosecution is based on several criminal theories, namely: retributive theory (retaliation), Doel Theorien (objective theory), and Vereniging theorien (combined theory). Criminal imposition is also closely related to the philosophy of punishment. Some perspectives of capital punishment still have a place and give hope that people think thousands of times to commit serious crimes that are threatened with capital punishment, among others, drug crime, terrorism, corruption, premeditated murder and robbery.

In Indonesia, capital punishment is still included in the Criminal Code (KUHP) and the Law outside the Criminal Code also still formulate the threat of capital punishment in its criminal sanction. the application of the death penalty can create a new victim of a convicted family, so that this will create new problems that are not only a problem for the family but also for the state as the party responsible for enforcing the law.

## **VICTIMS' RIGHTS: ENHANCING CRIMINAL LAW RESPONSES AND REBALANCING JUSTICE TO BETTER MEET THE NEEDS OF VICTIMS OF CRIME IN CANADA**

**Ms. Audrey Monette**

University of Ottawa, Canada

**Ms. Shannon Fournier**

University of Ottawa, Canada

**Abstract:** Sexual violence in its many forms is a major issue across Canada. Many survivors of this type of violence experience immediate and lasting physical and psychological consequences. Our understanding of this type of violence has increased significantly over recent years, due in part to a growing discussion surrounding sexual assault. Despite the extremely low levels of reporting (less than 5% of sexual assault cases) and lack of research in Canada, we know sexual violence is a major issue due to the demand being placed on our support services and a high need for our scarce resources across the country. Victims have a right to access assistance and service providers have a responsibility to be prepared for these incidences. Unfortunately, we are not allocating sufficient funds to victim services for this to be achieved in Canada and victims' rights and needs are continuously being ignored and overlooked- leading to constant re-victimization and a lack of progress in implementing appropriate policy to protect victims in Canada. Indeed, while the Canadian criminal justice system is particularly focused on offenders' rights, the question that remains is: what about victims? In 2015, the Canadian Bill of Rights Act came into force, providing statutory rights at the federal level for victims of crime for the first time in Canada's history. However, the implementation and enforcement of these rights still contains gaps, and victims are granted with more duties than rights throughout the proceedings. In light of the above, our paper aims to highlight the importance of the enforcement of victim policies, and we wish to share concrete recommendations as to what actions legislators can take to provide more services, more reparation, and a more balanced justice for victims of crime.

## **A STUDY ON THE ENFORCEMENT OF THE VICTIM COMPENSATION SCHEME (UNDER SECTION 357(A)) IN TAMIL NADU**

**Ms. Itishree Mishra**

Postgraduate Students, Department of Criminology, University of Madras, India

**Mr.S.Sriram**

**Abstract:** The UN Declaration on Basic Principles of Justice for Victims of Crime and Victims of Abuse of Power, 1985 provides victims the right to be compensated for his or her victimization. Taking a step towards the same, Section 357(A) was inserted in the Code of Criminal Procedure in the year 2009. Since its enactment there have been several disparities between the states with respect to the enforcement of the law, setting up of Victim Compensation Fund, minimum amount of compensation to be paid to the victims of crime, etc. Although there has been significant improvement in the enforcement of the law, there are several areas that still needs work. This study is an attempt to identify such areas. This will be achieved by knowing the experiences of the victims with the State/District Legal Services Authority, the agency which decides the quantum of compensation to be given to the victim. The decision-making and disbursement of compensation process/mechanism of the State/District Legal Services Authority will also be under the purview of the study. By the end of the study it is expected to know where the law is lagging behind and how the services rendered can be more victim-friendly. It also would check for secondary victimization of the victims in the process of being compensated.

## **THE CONSIDERATION OF VICTIM PRECIPITATION ASPECT BY JUDGE ON COURT RULING**

**Mr. Angkasa**

Lecturer of UNSOED Purwokerto, Indonesia

**Abstract:** This draft discusses about the consideration of Victim Precipitation (VP) aspect by judge on court ruling. VP in victimology study can be accepted as the victim involvement, in other words, victim helps precipitating a criminal offense to happen. Some references mentioned: Victim precipitation is a criminology theory which analyze about how the interaction between victim and doer probably giving a contribution in the incident of criminal offence. It means that in the tragedy of criminal, it's hard to distinguish between doer and victim, as black and white, so grey area may exist on both.

Examining the criminal law doctrine that has been developing, there's a tendency that VP aspect is not considerate. The implication can be happened during the criminal justice process which is implemented by The Criminal Justice to be linier, and implied to the verdict made in Justice Court without considering victim's error. However, on its further development, this doctrine perspective changes within victimology development. VP aspect seems to be considerate in verdict and becomes a demulcenting aspect for "the doer" so that the verdict can conclude a real justice.

In victimology theory perspective, this VP consideration aspect toward verdict in justice court can be mention as a part of the resurrection of victim interest. It can be seen from the observation of verdict which is made through empirical research at some district court in Banyumas Regency, Central Java, Indonesia

## BAIL SYSTEM IN INDIA AND NEED FOR REFORMS

**Mr. Abhinav Mehrotra**

Undergraduate Student, OP Jindal Global University, India

**Abstract:** My aim to write this article is to evaluate the Bail System in India and suggest reforms so as to make it more humane and effective procedural provision of the criminal justice delivery system. Penal laws in India are primarily based on certain cardinal principles of human rights jurisprudence, which are, right to fair trial and presumption of innocence. A person is presumed to be innocent till proved guilty. In any democratic country like ours the fundamental rights of a person are of utmost importance. One such right is right to life and personal liberty as enshrined under Article 21 of the Constitution of India. The freedom guaranteed under this article can be enjoyed so long a person is free and not confined in prison. Once any person is deprived of his personal liberty by way of legal confinement for the commission of an offence, his freedom from confinement before his conviction for the offence charged can be restored through grant of bail to him by the court. Provision of bail facilitates pre-conviction release of any accused till formal pronouncement of his guilt by the court. Therefore, the fundamental right to personal liberty of a person and presumption of innocence of an accused make statutory provisions relating to bail under sections 436 to 439 of the Code of Criminal Procedure (CrPC), 1973 very significant. Through this article I try to explore bail as a concept and to make available its intended benefits to the needy. I recapitulate the historical context through which the concept of bail came into existence and establish its importance by referring to various judicial pronouncements which is supplemented by its recognition at international forums. I conclude the article by suggesting some reforms so that the law not only exists in statute books but its impact is visible. The reforms focus on a wide array of issues like for example the need for active involvement of judicial officer's post judgement, fair compensation being paid to the victim for undue harassment and measures to combat the financial hardships faced by any accused.

**Key words:** *evaluate, reforms, humane, effective & deprived*

## SESSION 17: Gender Based Violence- III

Chair - Donna Watson-Elliott

### CONSENT, ELOPEMENT AND RAPE: ARE SOME RAPE OFFENDERS, THE VICTIMS OF THE CRIMINAL JUSTICE PROCESSES?

**Mr. Sarthak Rathod**

Doctoral Research Fellow, Department of Criminology, Raksha Shakti University, India.

**Prof. (Dr.) K. Jaishankar**

Professor and Head, Department of Criminology, Raksha Shakti University, India

**Abstract:** Most often the knowledge on rape cases in India is obtained from the rape victims and not rape offenders and hence there is a lack of information as what really motivates some individuals to commit rape. Notably, some of the cases of rape are actually consensual sexual relationship, which later are converted to rape cases. In India, there are fewer researches that are conducted to understand rape from the perspective of the offenders. The main objective of this study is to explore that how many rape cases are actually consensual elopement cases and not the gruesome ones. Data is collected from 50 rape offenders from the Sabarmati Central Prison of Gujarat, India. An Interview schedule was prepared by the researchers and purposive sampling method was adopted to collect data. This study found that, not all rape cases are as heinous as the Nirbhaya case. Some of them are generally elopement cases which are turned as rape cases due to the flaws in the criminal justice processes. This study emphasizes that not all rape offenders are really offenders, but victims, who are converted as offenders due to the misinterpretation of laws on consensual elopement cases. This study is meant to fill the gap of knowledge about rape cases from the perspective of offenders, so that, control and preventive mechanism can be learnt for reducing such offences. The study suggests that Rape victims' assistance cell and strict punishment laws for the rape offenders alone are not just enough to deal with the issue.

**Keywords:** Rape crimes, elopement, rape offenders, consent, Criminal Justice System

### FEMALE GENITAL MUTILATION: OUR COLLECTIVE BLINDSPOT

**Ms. Divyani Auti**

Undergraduate Student, Maharashtra National Law University, Nagpur, India

**Abstract:** A recent petition filed in the Supreme Court has put the spotlight on the practise of Female Genital Mutilation (hereinafter FGM/C). Research has outlined four reasons for the prevalence of the practise: curbing of a girl's sexuality, religious requirements, fear of being excommunicated, cleanliness and purity. FGM/C affects the health and social development of girls and women. It has no health benefits or religious backing.

This research paper emphasises the impact that FGM/C has vis-à-vis its short term consequences such as bleeding, swelling, infection and in some cases death, while the long term consequences include painful sexual intercourse, perinatal risks, urinary, vaginal, menstrual and sexual problems along with debilitating psychological consequences like Post Traumatic Stress Disorder (PTSD) and depression.

The researcher further attempts to study the validity of FGM/C with respect to principles of equality as enshrined in the Indian Constitution (Art. 14, 15, 21 read with Art. 25), Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and India's international obligations under Convention on the Elimination of all forms of Discrimination against Women, 1979 CEDAW, United Nations Convention on the Rights of the Child, 1989 (UNCRC). The prohibition of gender discrimination is also supported in numerous international and regional human rights instruments including Universal Declaration for Human Rights, 1948 (UDHR), International Convention on Civil and Political Rights (ICCPR) and International Convention on Economic, Social and Cultural Rights (ICESCR) amongst others.

Further, the researcher also attempts to study the role of medical professionals in curbing the practice and how FGM/C can be categorized as a disability. It also emphasizes on the point that the present context necessitates legislation that strikes a balance between attaching culpability to illegal and infringing acts and restoring the hard fought human rights to dignity.

## WHY DOES UNDERREPORTING OF SEXUAL HARASSMENT CONTINUE TO PREVAIL IN THE WORKPLACE IN THE 21ST CENTURY?

**Shayani Sarkar**

Apne aap womens worldwide, New Delhi, India

**Abstract:** The Research Question for this dissertation is "Why does underreporting of sexual harassment still continue to prevail in the workplace in the 21 century. Results of A Survey done by the Bar Association in 2017 said that 70 percent of women did not report sexual harassment in India (Chachra Manish, 2017). According to Statistics conducted by Canada General Social Survey 472,000 women have been reported of sexual assault. Yet data collected by the police showed that only 27000 women have been victims of sexual assault, only 7,951 persons were convicted. A poll done by the Global News found that one in 5 women have reported cases of sexual harassment (Anna Mahler Papery, 2015). The question that one needs to ask is why even in the 21 century do women hesitate to report cases of sexual harassment. Is it because of the patriarchal culture which constantly engages in the practice of victim blaming, is it because that in most institution it is the women who is mostly penalized for reporting sexual harassment or is it because the women is uncomfortable in reporting issues of sexual harassment because she feels her reputation will be tainted .the thesis seeks to understand the Issue of sexual harassment in the workplace , primarily focusing on analysis of reasons and circumstances that leads to underreporting of sexual harassment in the workplace and providing policy recommendations for the same.

## HIDDEN SEXUAL VICTIMIZATION OF WOMEN IN BANGLADESH: A STUDY ON VICTIMS OF FEMALE STUDENT

**Md. Omar Faruk**

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**Noushin Anjum Azad**

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**Abstract:** This study examines to risk factors associated with experiencing and committing hidden sexual violence among a sample of female adolescents in Bangladesh. The purposes of this study to identify the relationship between victim and perpetrators and to explore the various causes and consequences of hidden sexual victimization. About 67.7% Victim have experienced sexual violence victimization before the age 14 and 56% victims more than two times sexual assaulted by perpetrators. This study found that majority victim of hidden sexual victimization belongs to single family group (48.3%) in their own house group (46.7 %) who faced physical sexual assault (75%) from the known perpetrator (78.3%) which includes relatives (35%). Besides, perpetrators for hidden sexual victimization belonged to maximum age (41.7%). In addition, victims were still fearful for their future victimization (81.7%) but they do not take any initiatives for preventive measure (36.7%). Moreover, the respondents of Sexual violence victimization can have harmful and lasting socio psychological consequences for victims like as fear, depression. anxiety disorder, low self-esteem, eating disorder and shame. The study was based on both quantitative and qualitative nature through the triangulation of survey method and case studies. For survey, data had collected from 150 women respondents using structured questionnaire following clustered sampling from the three educational institution of Jabalpur district, Bangladesh. And respondents for case study were selected by purposive sampling.

**Keywords:** Hidden sexual victimization, Sexual assault, Sexual victim, Perpetrators. Female Student

# SESSION 18: Victimization and Rights of Children

Chair - **Michael O'Connell** Commissioner for Victims' Rights, South Australia, Australia

## MEDICAL ASSISTANCE TO THE SEXUALLY ABUSED CHILD VICTIMS

**Mr. Jayesh Kumar**

Postgraduate Student, Sardar Patel University, India

**Abstract:** This study is about how sexually abused children are treated in India and what are the requirements. They are vulnerable target in society. Currently in India there is not a single guideline about the medical assistance for the sexually abused children. Paediatricians are generally the initial point of contact of children with the health system. According to worldwide studies it shows that there is lack of knowledge about child abuse recognition and management in medical care practitioners, still there is no uniform guidelines for pediatricians regarding the appropriate response to child abuse in India.

Child neglect is the most common form of maltreatment. Negligence is generally known as the failure of a parent or the state. The law requires that a child suspected of being sexually abused be reported instantly to the child service providers. Suspected abuse child should not be discharged from the clinic or office without consulting the CWC and Police (SJPU). Hospitals caring for children should have a team of professionals who are trained & skilled in child abuse recognition, reporting and services. This team should include a pediatrician, a hospital social worker, a pediatric nurse, a psychologist or psychiatrist and a data coordinator.

The consequences and appropriate therapy of sexual abuse vary, depending on the type of abuse; the age and other physical and emotional factors in the victim. The therapist may recommend that the victim of incest be returned home.

## LEGAL PROTECTION OF CHILDREN AS VICTIMS OF NARCOTIC ABUSE

**Dr. Ferdricka Nggeboe**

Magister Hukum Universitas Batanghari Jambi, Indonesia

**Abstract:** Children are expected of the family, as the next generation of the nation. Growth and development both physically and spiritually is a shared responsibility, parents, society and government. Parents take responsibility to love children. Parents provide daily needs and control children activities. The involvement of children in narcotics abuse cases constitutes a weak control from the parents, community and government. A lot of children involved in narcotics abuse proves that these children are indirectly already victims of illicit drug trafficking. What is the legal protection of children as victims of narcotics abuse? The protection for children is a series of activities which is an effort to create comfortable and safe conditions for each individually. This effort aims to keep peaceful condition for children. Consequently, children can get their rights and obligations in accordance with human dignity. Law no. 35 Year 2009 on Narcotics does not have a specific qualification of how to treat and punish the child as a victim of narcotics abuse. Similarly, Law no. 13 of 2006 which has been amended by Law no. 31 Year 2014 on the Protection of witnesses and victims. Narcotics abuse will undermine the social norms that underlie life and social order and create conflicts within society. but the child must be protected by rights and future.

**Keywords:** *Legal Protection, Children, Victim of Narcoticus Abuse*

## IMPLEMENTATION OF THE RIGHTS OF THE CHILDREN AS VICTIMS IN THE JUVENILE CRIMINAL JUSTICE SYSTEM IN INDONESIA

**Dr. Nur Rochaeti**

**Dr. Pujiyono**

**Dr. Lita Tyesta ALW**

Lecturers, Faculty of Law, Diponegoro University, Indonesia

**Abstract:** In the 1945 Constitution of the Republic of Indonesia, Article 28 B Paragraph (2) states that every child is entitled to survival, growth and development and to protection from violence and discrimination, meaning that the state, society and parents have an obligation to give respect and protection to children without any discrimination. Based on The Act No.11 of 2012 on the Juvenile Criminal Justice System described the judicial process against children facing the law, as well as require restorative justice efforts as a form of protection for children, which emphasizes on recovering losses caused or incurred by criminal acts. This research aims to answer the problem of how the implementation of the rights of children as victims in the justice of restorative criminal justice system in Indonesia. This research is a qualitative research with Socio Legal Research approach. The results of the research indicate that the characteristics of law and culture, moral values, religion are able to solve problems in a forum manner, and their resolution mechanisms in accordance with the process of customary law, in a forum mediation to obtain an agreement between the victim, the offender, the victim's family, as well as the parties concerned with the case.

**Keywords:** *Children's Rights, Victims, Restorative Justice, Juvenile Criminal Justice System*

## LEGAL PROTECTION FOR CHILD WORKERS

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**Abstract:** This paper presents the results of research or study of the prohibition of employing children. But the Government is aware of the existence of the law is no/culture/traditions of communities in Indonesia where children participate responsible for economic problems of families, thereby causing the presence of child workers. On the issue of legal protection for child workers, the Government understands this and for that, child workers are still not able to protect themselves need to get legal protection from the Government in the form of legislation to be met employers or employer in terms of child workers would use. With such pedestal, then it will be made the object of research is How legal protection of child workers, according to the Indonesia legislation? And what factors led to the emergence of child workers? Further research will be done by the method of normative legal research through a statutory approach and look at the case. The type of data in this research is the form of primary data and secondary data. The materials collected are analysed qualitatively. The results of this research relates to the Ministry of manpower and transmigration to function optimally to give legal protection to children workers by dropping sanctions for employers who do not complete the conditions for employing children as written such as, permission from the parent/guardian and working time of 3 hours and is aiming at the improvement of education and welfare society.

## VICTIM VULNERABILITY OF INSTITUTIONALISED CHILDREN IN CHENNAI CITY

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**Abstract:** Children have been known to be vulnerable to various forms of victimisation. Orphaned children are even more vulnerable due to lack of proper guidance and support. Several children are admitted into child-care institutions every year. There can be several reasons for this, including the characteristics of the children themselves like age, gender, economic background, literacy, etc. This study aims at understanding the relation between these characteristics and vulnerability to victimization of orphaned children in an institution. This can be done by analyzing the background of the children in the institution and looking for possibility of victimization. The end result of the study is expected to give a clear picture if the personal characteristics of the children (vulnerable characteristics) are resulting in them being victimized. It will also provide suggestions as to improve the conditions of the children and provide them with a safer place to grow in.

## A LEGALISTIC REDEFINITION OF THE TERM PEDOPHILIA IN INDIA: A COMPARATIVE STUDY WITH THE UNITED STATES ON THE TREATMENT OF PEDOPHILES

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**Abstract:** The term Pedophilia denotes a condition where an adult male/female desires or finds a pre-pubescent or early pubescent child sexually appealing. This description makes it apparent that the aforesaid is a clinical description of a disorder which requires requisite treatment to be cured. However, the narrative surrounding pedophilia rarely if ever takes on this role. What we find is the painful and automatic association that pedophilia is believed to have with the heinous act of child sexual abuse

The persecution and stigmatization of those who suffer from this affliction and their inability to seek help regarding the same, is what I seek to reflect upon. At the same I would like to reflect upon the possible approaches that can be taken to combat this in the Indian context. The biological basis for the arousal of pedophilic elements amongst individuals has been attributed to "cross wiring" in the brain's anatomy which is responsible for controlling an individual's desire. While this idea is still relatively new, it hasn't stopped the arisal of questions, questioning whether the underlying basis behind pedophilia is genetic. Or like other expressions of sexuality, it is entirely reliant on the individual's choice.

The answer for the above, has often lead to skewed responses but more has often has been the former than the latter. Concurrently, instead of using the term 'sexual orientation' to describe the condition, they have opted to use the term 'age orientation' The 5th edition of the DSM created a distinction between paraphilia (deviant sexuality) and paraphilic disorders. This distinction recognizes the former term as the scenario entailing recurrent, intense sexually arousing fantasies, sexual urges, or behaviors being experienced over a sustained period. While the latter is instead recognized as the condition in which the individual acts on said urges with a non-consenting person or alternatively causes severe impairment to social, occupational, or other important areas of functioning.

This distinction is important for it lays down that merely meeting the conditions of paraphilia does not amount to it being a disorder. Instead fulfilling the latter mentioned criterion amounts to a disorder. Which begs the question: when a heterosexual man walks on the street and finds a woman to be attractive, is that wrong. The obvious answer would be no, for it would be wrong on both legal and moral grounds, only if he coerced her to engage in any sexual act with him.

A similar understanding to the DSM prescribed affliction of Pedophilic disorder would do well to sensitize the approach towards individuals suffering from such an affliction. For it is one thing to possess an organic desire to do something, it is quite another to act on it. Furthermore, an understanding of this problem in such a schematic manner, would in the long run, prevent acts of child sexual abuse from transpiring.

With this basis established I attempt to examine the basis behind the psychological disorder which has often terrorized many. I seek to present my research not just in light of the recent Ryan International School Incident or the Sunil Rastogi incidents from earlier this year. But of the characterization of a disorder as a crime and how scientific understanding of the same might help in alleviating this disease once for all and truly save children in the Foucauldian fashion of things.