

ABSTRACT

Victims of crime are persons with rights and to be protected as a vulnerable group since they have already been subjected to same. When we consider about the secondary victimization issues which may arise upon child victims of statutory rape, it seems pathetic so that they are deprived from enjoying many rights including right to dignity, privacy, education which are more relate to right to life of a child. However, contrary to the well accepted international norms, standards and even for the natural law principles, child crime victims' rights are being violated as reported for many years all over the country. It is clear that, International and National Human Rights documents are mostly apprehended with the rights of accused i.e. right to freedom from arbitrary arrest and detention, right to legal aid and to be represented, right to a public trial etc. However, over the years, the concept of child as a person needs special protection is enshrined in number of international human rights instruments, both at universal and regional level i.e Universal Declaration of Human Rights, International Convent on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child etc;. Therefore, this study examines the adequacy of current Sri Lankan law to ensure the rights of child victims of sexual violations on the special focus on the **Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015** apart from the existing statutory provisions including the Code of Criminal Procedure Act No.15 of 1979 and it's amendments. This research examines **whether the rights of child victims subjected to statutory rape are adequately protected under the laws which govern the criminal justice administration system in Sri Lanka?**

This study's main objective is to examine the importance of strengthen the Victim's Rights in the Criminal Justice Administration in Sri Lanka and submit recommendations analyzing the provisions set out in USA law and International Human Rights Conventions. Main recommendations of this research study include; Strengthening the Crime Victim's Rights at the investigation, trial and appeal process, provide reparation for victims, Creation of a state institution to provide comprehensive care to Crime victims, and Implementation and developing country level actions to protect Crime victims taking community-based efforts etc;

Key Words: Crime Victims' Rights, Criminal justice administration, Re-victimization, Crime Victims' protection

CHAPTER 1

INTRODUCTION

1.1 BACKGROUND

According to the general meaning of crime, it is an act or an omission which constitutes an offence punishable under public law or criminal law.¹ Each and every state has a responsibility to set up its criminal administration system in order to protect the citizen from crimes and criminals. Therefore effective measures should be included in to the said system as to secure people and maintain the law and order in the society while reducing the degree of further commission of crimes. And also a state has a duty to protect the rights of the victims of crime throughout the criminal justice administration process and ensure the fair and speedy disposal of justice to them as to improve the sense and confidence of the society towards the country's criminal justice system.² However, it should be noticed that there are certain issues still remains in the criminal justice administration system of Sri Lanka when it is analyzed from the crime victims' rights perspective.

Victims of crime have to be subjected to secondary victimization through their participation in the criminal justice process. It can take place through their interactions with law enforcement officials/agencies as well as their treatment during the investigation and trial process³. Issues relating to the secondary victimization of crime victims made many socio – economic problems not only for them but also for the entire country too.

Adversarial approach of criminal justice which is practiced in Sri Lanka for centuries has paved the way to push the victims of crime away from the criminal justice administration process considering him only as a witness and to treat their interests and right is subservient to the offender. This situation led to get away crime victims from the justice process and impunity of accused.

¹ A Marckwardt, Cassidy Fredrik and McMillan James, Webster Comprehensive Dictionary, International Edition, Vol I, (Pioneer House 1995) 360

² Niriella M.A.D.S.J.S. *Thinking for New Horizon in Criminal Justice: Moving from Retributive to Restorative Justice in the Treatment of the Offender in Sri Lanka*. In: Liu J., Heberton B., Jou S. (eds) *Handbook of Asian Criminology*.(Springer, New York, 2013) 284, available at https://link.springer.com/chapter/10.1007/978-1-4614-5218-8_18#citeas (accessed on 20 May 2019)

³ Aruni Jayakody, *Victim and Witness Protection –The Need For Further Reform*, (South Asian Centre For Legal Studies, 2016) 02