

# Chapter 7

## Casual or Casualty?

### Victimless Crime's Socio-Economic Impact in Indian Context

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#### **ABSTRACT**

*The ultimate goal of society is to maintain social order. This can be attained by restricting the menace of crime. Within crime, there is a category of 'victimless crime' – which may sound oxymoronic. The victimless crimes cover those crimes where victims are not identifiable, or the illegal activity that occurs with the parties' consent. For decades there has been debate on whether victimless activity should be criminalized or not. The argument by the modernized world is in favor of decriminalization due to the lack of harm to others and freedom of the individual. This chapter hypothesizes that 'victimless crimes have victims – society as a whole, hence the term victimless is a façade. The chapter will attempt to establish the correlation between Mill's Harm Principle viz-a-viz modern victimless crimes. Thereafter, the chapter will discuss the various victimless crimes prevalent in India & their impact on the subcontinent. Lastly, the chapter will summarize the arguments with concluding remarks on the criminological aspect of victimless crimes.*

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## **INTRODUCTION: CRIMES WITH 'NO' VICTIM**

One of the most debatable issues of the 21<sup>st</sup> century is that of '*crime & morality*' (Fuller, 1942). Due to evolving society with time & modern advancement, the rigidity of the moral norms has faded. The victimless crimes come under the *malum prohibitum* (evil acts that are prohibited) under the criminal code. Does the question arise on what basis few actions are not permitted? The answer to this lies in the 'morality' & 'other satellite crimes' associated with such crimes (Stewart, 1999) (Gross, 2012) (Silver & Silver, 2020).

Some of the victimless crimes prevailing in India are drug abuse, pornography, prostitution, gambling, etc. Even though such acts are usually consensual and rarely cause harm to any individual. The repercussions of such actions are quite persuasive on the social order. The satellite crimes or acts above stated victimless crimes harbors include human trafficking, rapes, theft, and even white-collar crimes. Notwithstanding the penalized crimes, these acts can even affect the GDP and Economy of the nation with the creation of the dependent nature of the offender on the resources of the state (National Research Council 2101 Constitution Ave Washington Dc 20418 & National Academies 500 Fifth Street Nw Washington Dc 20001, 1999) (Tankersley, 2021). The more the state's human resources indulge in the vicious cycle of gambling or drugs, the more the chances of the state progressing towards vulnerability due to non-efficient human resources.

This paper significantly deals with the societal impact of various victimless crimes. It deals with the latent costs incurred by the society, which penologically is not considered "victims" directly. The outbreak of the global pandemic has just increased the frequency of such crimes. Generally, harm in such crimes is borne by the offender himself; therefore, administration, due to lack of complainant, regards it as victimless. However, data & statistics of drug & gambling dependency (Kryszajtyś et al., 2018) show the path of delinquency, which damages the societal order (victim herein).

The primary utilitarian concept inculcated in numerous criminal statutes across the globe is that of John Stuart Mill's *Harm Principle*. The paper will attempt to dissect the applicability of the harm principle on victimless crimes in today's world. Therefore, the issue of demand for the decriminalization of such crimes is to be pondered upon due to the absence of harm principle directly. Whether the Mill's Harm Principle justifies the criminality of victimless crimes? The criminological facet of the harm principle develops the responsibility of the offender towards the society only when the act affects others & the moment it concerns himself, he's not answerable (Ripstein, 2006).

Lastly, in the Indian scenario, illicit acts are already banned as per the special statutes, be it drugs, human trafficking for prostitution, pornography, or gambling.

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