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Reconceptualising Victim Rights under India's New Criminal Law Regime

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Abstract

Victim rights have experienced a tremendous change of being neglected in the past to being gradually appreciated in the contemporary criminal justice systems. Historically, the criminal law has been largely offender-centric in the sense that it has concentrated on the prosecution and punishment of the accused and the victims have been placed in the periphery as mere witnesses. This essay is a critical analysis of the development, extent and the modern applicability of victim rights, especially in the Indian legal system. The paper examines the conceptual premises of victimology and the need to integrate victim-centered justice into the legal framework. A particular focus is made on legislative changes including victim compensation plans and procedural changes to provide fair treatment of victims. Moreover, the paper also points out the challenges that persist, including poor implementation, ignorance, delays in the process and institutional indifference that persist in frustrating the actualization of these rights. A comparative approach is also deemed to learn about the international best practices in victim protection and rehabilitation. The paper ends with a call to a more balanced criminal justice system that would balance the rights of the accused and the legitimate interests of the victims and the importance of structural changes, more effective enforcement mechanisms, and a transition to restorative justice practices.

Keywords: Victim Rights; Victimology; Criminal Justice System; Access to Justice; Restorative Justice; Criminal Law Reforms

The criminal justice system in India has long been made to be based on the relationship between the State and the accused with the victim taking the peripheral and very passive role in the legal system. Traditionally crimes were not seen as the offences to the individual, but to the State, which led to the situation when the role of the victim was confined to the status of an informant and a witness. This method did not usually do sufficient justice to the physical, emotional, and economic damages to the victims. However, with the recent years, it has been gradually changing towards the acknowledgement of victims as key stakeholders in criminal justice administration. This change has led to the introduction of the new Indian criminal law, that is, The Bharatiya Nyaya Sanhita, 2023³, The Bharatiya Nagarik Suraksha Sanhita, 2023⁴, and The Bharatiya Sakshya Adhiniyam, 2023⁵, which are aimed at the re-orientation of the system towards a more victim-oriented approach⁶.

The emergence of victimology as a separate study as a field has played a great role in this change. Internationally, there has been an increased focus on guarding the rights and interests of the victims especially by the use of tools like the United Nations Declaration of Basic Principles of Justice to the Victims of Crime and Abuse of Power, 1985. This statement acknowledges the right of the victims to access justice and be treated fairly and get restitution and compensation and be given needed support⁷.

The development of the rights of the victims in India has been a slow process characterized by the legislative changes, judicial declarations, and policy suggestions. The victims under the previous legal system enjoyed very few rights. They were also mostly limited to making complaints and even being witnesses during trials with few or no influence in the process. Even though, there was a provision of compensation to victims under the Code of Criminal Procedure under Section 357⁸, it was not mandatory and required application of fines on the accused. As such, victims were not always paid and their holistic needs were not taken into consideration⁹.

One of the major strides towards identifying the rights of the victims was made through what the Law Commission of India recommended. The inefficiencies in the criminal justice system to deal with the needs of victims were brought to the fore at the 154th Report of the Law Commission (1996) and it was recommended that a total overhaul should be provisioned in the development of the victim compensation scheme¹⁰.

This was further strengthened by the Justice Malimath Committee on Reforms of the Criminal Justice System (2003), which extensively recommended on how to increase the participation of victims in the criminal proceedings. The Committee suggested that the victims would be identified as parties to the proceedings and were to be given an opportunity to participate at different points of the trial. It further suggested that victim advocates should be introduced and restitution should be one of the aspects of sentencing policy. The recommendations were instrumental in the formulation of subsequent revision of the legislation and the need to balance the rights of the accused and the victims¹¹.

The code of Criminal Procedure (Amendment) Act, 2008, that led to considerable changes in the criminal justice system acted as a legislative answer to these recommendations. Among the most significant changes that could be given was the introduction of Section 2(wa) that defined the term victim and Section 357A that introduced the Victim Compensation Scheme. This plan subjected the State to an obligation of compensating the victims even where the perpetrator was not identifiable or convicted. It also offered short-term relief thus charging the urgent needs of the victims. This was a great change in the offender-based approach to a victim-based one¹². This changing jurisprudence which comes as a result of an increasing awareness of victims as stakeholders and not just witnesses¹³.

Conceptual Foundations of Victimology

The study of victimology represents a significant shift in the orientation of criminal justice from an exclusively offender-centric framework to a more balanced approach that acknowledges the role, rights, and experiences of victims. Victimology, as a distinct discipline within criminology, emerged in the mid-twentieth century through the pioneering work of scholars such as Benjamin Mendelsohn and Hans von Hentig, who sought to analyze the relationship between the victim and the offender, as well as the broader socio-legal implications of victimization. Initially, victimology focused on understanding the victim's role in the commission of crime, often examining patterns of victim precipitation. However, over time, the discipline has evolved into a more comprehensive field concerned with victims' rights, compensation, protection, and participation within the criminal justice system.

At its core, victimology seeks to challenge the traditional marginalization of victims in legal processes. Historically, criminal law has been primarily concerned with the identification, prosecution, and punishment of offenders, with the State assuming the role of the aggrieved party. In such a framework, the victim is often reduced to the status of a mere witness, whose primary function is to assist in securing a conviction. This approach neglects the physical, emotional, and economic harm suffered by victims, thereby creating a gap between the formal objectives of justice and the lived realities of those affected by crime.

A key aspect of victimology is the classification and understanding of different types of victims. Scholars have developed various typologies to categorize victims based on their degree of involvement, vulnerability, and relationship with the offender. Another important conceptual element is the notion of victimization itself, which extends beyond direct physical harm to include psychological trauma, financial loss, and social stigmatization. Victimization can be primary, affecting the direct victim of the crime, or secondary, impacting family members and close associates. Additionally, the concept of tertiary victimization has been introduced to describe the broader societal impact of crime.

The evolution of victimology has also been influenced by the development of human rights jurisprudence, which recognizes victims as rights-bearing individuals entitled to protection, participation, and redress. International instruments such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power have played a crucial role in articulating these rights and encouraging States to adopt victim-centric policies. The Declaration emphasizes access to justice, fair treatment, restitution, compensation, and assistance, thereby providing a comprehensive framework for the protection of victims.

In the Indian context, the conceptual foundations of victimology have gradually gained recognition through judicial interpretation and legislative reforms. The expansion of the right to life and personal liberty under Article 21 of the Constitution has been instrumental in incorporating victim rights within the broader framework of fundamental rights. Courts have increasingly acknowledged the need to provide compensation, ensure fair treatment, and protect the dignity of victims, thereby aligning domestic law with international standards.

Thus, the conceptual foundations of victimology represent a paradigm shift in the understanding of crime and justice. By foregrounding the experiences and rights of victims, victimology challenges traditional legal frameworks and advocates for a more humane, inclusive, and balanced system of justice.

The theoretical insights provided by victimology have significantly influenced legal and policy reforms across jurisdictions. However, the practical recognition of victim rights did not emerge overnight. To appreciate the contemporary victim-centred framework in India, it is necessary to trace the historical

evolution of victim rights and the gradual shift from State-centric justice to victim-oriented justice.

Historical Background of Victim's Right

The history of victim rights in India shows a gradual yet positive change of a system where most of the victims were not addressed to a system where their rights and interests are being factored. When the Indian criminal justice system was in its initial stages and especially during the time of the colonial rule, it was not so much about ensuring law and order but more about providing full justice to the people who had fallen victim to the crime. The legal system regarded crime as an offense against the State and thus placed the State as the main aggrieved party and victims as just objects in carrying out prosecution on offenders. This practice did not allow much space when giving consideration to the suffering, needs, and rights of victims in the justice delivery mechanism¹⁴.

In the traditional system of law that was regulated by the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973, the victims were afforded few procedural or substantive rights. Their functions were mostly limited to the instigation of criminal proceedings by means of filing a First Information Report and being witnesses in the trial. They also lacked the autonomy to take part in the prosecution process, affect the flow of the proceedings, and appeal the verdict like acquittals or insufficient punishment. Even the compensation clause of Section 357 of the Code of Criminal Procedure was optional and it relied on the fines imposed by the court. Consequently, it led to victims being left without a significant remedy or support, which underscored the constraints of the system in nature¹⁵.

The Law Commission of India played a significant role in propagating the victim rights. The issue of victim compensation was first broached in the 41st Report of the Law Commission (1969), but it did not result in immediate reforms. The 154th Report (1996) was the one that brought a more in-depth examination of the flaws in the criminal justice system and firmly argued in favor of the establishment of a structured victim compensation scheme. The Commission stressed that compensation is not to be a subsidiary relief but part and parcel of justice. It further suggested that the State ought to take the role of compensating the victims especially whereby the perpetrator is not in a position to do so¹⁶.

On the basis of these suggestions, the Justice Malimath Committee on Reforms of the Criminal Justice System (2003) indicated the turning point in the history of victim rights in India. The Committee has extensively reviewed the criminal justice system and has noted that it was necessary to move away from the accused-based model of criminal justice to a more balanced system that should additionally consider the rights of victims. It advised that the victims be accorded the right to take part in the trials, to be defended by lawyers and to be heard during different phases of the process. The Committee also laid emphasis on the importance of restitution and compensation as integral elements of sentencing, thereby reinforcing the idea that justice must address the needs of victims as well as society¹⁷.

One of the milestones in the development of victim rights was the law of Code of Criminal Procedure (Amendment) Act, 2008. The amendment brought the meaning of the term victim in Section 2(wa) thus recognizing victims as being part of the criminal justice process. More to the point, it presented the Victim Compensation Scheme in the form of Section 357A. This clause required state governments to establish funds to pay to the victim or his or her dependents even when the commissioner of the offense is not identified or convicted. It also gave provision to interim compensation, in which victims are given instant comfort in suitable circumstances. This was a very decisive move towards institutionalisation of victim support in the legal system¹⁸.

Besides the legislative change, the judicial intervention has also had a significant part in the development of victim rights in India. The judicial system has increasingly broadened the application of Article 21 of the Constitution to establish the rights of victims within it and thus protecting their rights on the same level with fundamental rights. It has been a constant reminder among the courts that the criminal justice system should not only be fair to the accused but also worthwhile to the victim. The Supreme Court has in a number of landmark decisions identified the right of victims to compensation, rehabilitation as well as involvement in the criminal process. Their status in the system was further enhanced by the realization of the right of the victim to appeal against acquittals by the proviso to Section 372 of the Code of Criminal Procedure¹⁹.

The other significant role of development of the rights of victims in India is the growing concern of the necessity to safeguard vulnerable victims, especially women and children. Victim-focused legislations like the Protection of Women from Domestic Violence Act, 2005, and the Protection of Children against Sexual offences Act, 2012, have been included in special legislations that seek to provide protection, confidentiality, and support to victims. These legislations are an indication of increased awareness of the special needs of vulnerable populations and the necessity of an individualized legal answer to their requirements²⁰.

The development of the rights of the victims has also been shaped by the rise of technology usage and the understanding of the necessity of increased transparency and efficiency of the criminal justice system. Additional steps like the establishment of online complaint systems, video recording of testimonies as well as digital following up of cases have helped in easing access to justice and alleviating the victim load²¹.

The new legal system aims at correcting the shortcomings of the criminal justice system that have long existed and provide the victims with dignity, respect, and fairness that they deserve. Victim rights development in India is, therefore, a process of reform and adaptation, which is further fuelled by the shifts in societal values, foreignness, and as the necessity to incorporate more people in the justice system and make it fairer to all²².

The historical development of victim rights demonstrates a gradual but consistent movement towards greater recognition of victims within the criminal justice process. These developments ultimately culminated in the enactment of India's new criminal laws in 2023, which seek to institutionalise many of the reforms advocated by judicial bodies, law commissions, and policy experts.

An Analysis of the Transition to New Criminal Laws

The new criminal laws in India have introduced a historical change in the Indian legal system as they have substituted the colonial laws with modern comprehensive and victim based laws. The BharatiyaNyayaSanhita, 2023, the BharatiyaNagarikSurakshaSanhita, 2023 and the BharatiyaSakshyaAdhiniyam, 2023, respectively, supersede the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 respectively. Those reforms cannot be regarded as pure legislative replacements only, but they manifest a more fundamental structural change to fit the criminal justice system with the needs of a modern society, technological progress, and the ideals of fairness and inclusiveness. Among the key elements of these new laws is to ensure that victim is at the center of criminal justice process thus ensuring that the imbalance that had existed between the accused and the State is eliminated.

The BharatiyaNyayaSanhita, 2023 is a document that brings substantial amendments to the criminal law by rearranging the offences and accentuating the crimes that directly impact people especially women, children, and vulnerable populations. It is indicative of a shift in colonialist priorities like crimes towards the State to a people-oriented one. The current criminal procedure law, the BharatiyaNagarikSurakshaSanhita, 2023, has a number of reforms that are designed to enhance efficiency, transparency, and the involvement of victims. These incorporate an electronic-communication provision, time-limited investigation, as well as increased responsibility of the law enforcement agencies. On the same note, the 2023 law of evidence, the BharatiyaSakshyaAdhiniyam, also modernises the law on evidence by acknowledging electronic records and digital evidence, therefore, keeping the legal framework abreast with the trends of the technology²³.

One of the major characteristics of the new criminal laws is that technology has been incorporated in the justice delivery system. The opportunity to electronically register First Information Reports, track the cases digitally and use audio-video options to capture statements increases the accessibility and transparency. To the victims, this will ensure that they have a lower reliance on the police authorities, increased awareness of the case developments, and better involvement in the process. These changes are expected to make the system more efficient and responsive and thus minimize delays and deliver justice in a timely manner²⁴.

The change in terms of the old to the new framework can best be looked at through a comparative analysis that can bring out the difference in handling the victims in the criminal justice system. The old laws largely placed the victim as a passive participant in the process and largely there was no right to information or participation. It was State-dominated and the interests of the victim were not always prioritized over prosecutorial interests. Reward systems were present but feeble, arbitrary and selective. Also, technological integration was lacking and made the system slow, opaque and inaccessible to many victims, especially the marginalised ones²⁵.

On the contrary, the new criminal laws are meant to radically change the same dynamic by acknowledging victims as participants in the justice process. A greater focus has been putting on how victims can be informed, heard, and be protected in all levels of the proceedings. The procedural framework has also been added with the mechanisms of maintaining the information of the victims concerning the progress of investigations and trials and thus has made it more transparent. The identification of electronic evidence and digital process does not only enhance efficiency but it also enhances the evidentiary foundation of cases and does not necessarily increase the pressure on the victim to go through the system many times²⁶.

The other notable difference between the old and the new structure is the approach to justice itself. The previous system was mostly punitive with the punishments of the offenders being the end point of the criminal law. Although the element of punishment is still a crucial part, the new laws are more holistic incorporating aspects of restorative justice. This has been manifested in the greater focus on victim compensation, rehabilitation and restitution. The understanding of justice and the need to focus on the damages that the victims have experienced is a major conceptual change in the philosophy behind criminal law in India²⁷.

Reform of procedures that has been brought by the new framework also endeavors to solve the problem of delays, which has been a curse of the Indian criminal justice system. There are time-bound inquiries, reduced processes, and technology that should hasten the case resolution process. To the victims, this is

translated into a faster access to justice and less emotional and financial cost. The nature of forensic investigation needed to investigate serious offences also enhances the quality of evidence and hence increases the likelihood of convicting and minimizing the use of victim testimony as the sole evidence.²⁸

Despite such developments, there are not smooth sailing in the process of transition between the old and the new system. These reforms need a lot of institutional capacity to be effectively implemented and this involves training of the police personnel, judicial officers as well as other stakeholders. Digital literacy and infrastructure are also issues that should be addressed to make sure that all classes of the society can access the benefits of the technological integration. In the absence of these supportive measures, transformation potential of the new laws may not be realised in full²⁹.

Although legislative reform represents an important step towards strengthening victim rights, the true effectiveness of such reforms can only be assessed through their interpretation and implementation. In this regard, judicial developments and international standards provide valuable insights into the extent to which victim-centric principles have been incorporated into contemporary criminal justice systems.

The new legal system as opposed to the old criminal laws is, in a way, a paradigm shift in the very way of thinking and how the criminal justice system operates in India. The new laws aim to establish a more efficient as well as a fair and humane system by abandoning the old model based on a State-centered and accused-centered model in favour of a more balanced and victim-oriented approach. This change signifies the end of decades of legal reform, judicial activism, and policy advocacy to make victims visible no longer but the key subjects in the quest to seek justice³⁰.

Evolving Victim Rights: Judicial Developments and International Standards

The Indian judicial system has been transformative in changing the criminal justice system to a more offender-focused system to one that is more attuned and respectful of the rights and interests of the victims. Courts have increasingly developed a victim-focused jurisprudence, based on purposive interpretation of statutory provisions and broad reading of constitutional guarantees, especially of Article 21, which prioritizes dignity, participation, compensation, and rehabilitation. This judicial development is an indication of a recognition that justice cannot be full without it having a meaningful response to the damage sustained by victims.

The acknowledgment of victims as active participants in the criminal process as opposed to witnesses is one of the greatest changes in this respect. In *Mallikarjun Kodagali v. State of Karnataka*³¹, the Supreme Court upheld that the victims have a substantive right of appeal against acquittal under Section 372 of the Code of Criminal Procedure. The Court overturned the limited meaning that limited such rights to the State, thus reaffirming the participatory role of victims and the voice of victims is not suppressed in the appellate process.

In *Ankush Shivaji Gaikwad v. State of Maharashtra*³², the Supreme Court stressed that the question of compensation under Section 357 of the CrPC should be applied to in every case by the court by using its mind. The case made it clear that compensation is not an ancillary but part of the sentencing process which is meant to ease the suffering of the victims. This was preempted in *Hari Singh v. Sukhbir Singh*³³, in which the Court emphasized that compensation is used to assure victims that the justice system recognizes their harm and is attempting to offer a tangible remedy in addition to punishing the perpetrator.

The courts have also greatly broadened the horizons of compensation beyond conviction-based systems. In the case of *Suresh v. State of Haryana*³⁴, the Court made it clear that compensation as provided in Section 357A of the CrPC is payable even in a case where the accused is acquitted or unidentified. This meaning highlights the fact that the compensation of victims is a social justice, and not an incident of criminal responsibility, and thus the right of the victim to relief is disconnected to the result of prosecution.

The Supreme Court has taken a rather liberal position in matters touching on sexual violence and gender-related offenses. The Court in *BodhisattwaGautam v. SubhraChakraborty*³⁵ acknowledged the right to interim compensation to the survivors of rape, considering the interim compensation as a right to life and dignity. This was further reinforced in *Chairman, Railway Board v. Chandrima Das*³⁶, where the Court said that the State was liable to compensate a foreigner who was a victim of sexual assault, thus confirming the responsibility to uphold dignity to be independent of citizenship.

Further, *Laxmi v. Union of India*³⁷ was a case that specifically focused on the issue of rehabilitation and compensation of acid attack victims. Here, the Court provided detailed guidelines that required minimum compensation, free medical care and control of the sale of acids. The judgment is a holistic approach as it acknowledges that victims need not only financial help but also long-term medical and psychological help to reintegrate into the society.

The Supreme Court in *NilabatiBehera v. State of Orissa*³⁸ provided a compensation on the death in custody and determined that monetary compensation could be provided on violations of Article 21 by the State. The principle is indicative of the Court being ready to develop remedies that transcend the conventional claims of the private law and provide effective protection of the basic rights. The courts have also acted to safeguard the identity and dignity of the victims especially when it comes to sexual offences. In *NipunSaxena v. Union of India*³⁹ the Court gave elaborate guidelines that the identity of rape victims should not be disclosed and that there should be confidentiality and sensitivity in reporting and adjudication. This ruling underscores the identification of secondary victimization and the need to protect victims against additional trauma in the justice process.

The recent judicial trends are still supporting this victim-centric approach. The Supreme Court restated in *RajendraBhagwanjiUmranliya v. State of Gujarat*⁴⁰ that good faith testimony of the victims especially in sexual offence cases can be enough to convict the accused and thus the burden of corroboration that usually favours the accused was minimized. The Court also exercised its authority under Article 142 to instruct states to provide full rehabilitation, such as housing and education assistance, and further extended the victim support to include more than just compensation.

Judicial intervention has also influenced the development of the Victim Compensation Scheme in India especially under Section 357A of the CrPC. Courts have always instructed states to develop and efficiently execute compensation plans so that victims are not left without redress because of inefficiencies in the administration. Judicial monitoring has thus played a crucial role in operationalizing statutory frameworks and translating legislative intent into practical relief.

Further, the international acknowledgment and safeguarding of the rights of the victims is a major development in the international concept of justice. Conventionally, criminal justice systems in various jurisdictions were mainly offender-focused, and little consideration was given to the interests and needs of victims. But in the second half of the twentieth century, a concerted international campaign to re-align legal systems towards a more balanced approach that recognizes victims as important stakeholders in the administration of justice began to emerge.

One of the milestones in this development is the UN Declaration of Basic Principles of Justice to the Victims of Crime and Abuse of Power⁴¹. This Declaration, adopted by the United Nations General Assembly, offers a detailed framework of how the victims should be treated and specifies the main principles, including access to justice, fair treatment, restitution, compensation, and assistance. It does not see victims as passive victims but as people who deserve immediate redress and decent treatment in the legal proceedings.

The international law also strengthens the rights of victims by binding human rights conventions. The protection of fundamental rights like life, liberty, and security is required by instruments like the International Covenant on Civil and Political Rights and indirectly promotes victim protection mechanisms⁴². Equally, the presence of conventions such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child binds the States to ensure that vulnerable populations, such as women and children, are not subjected to violence and exploitation⁴³. These treaties have helped in the formulation of victim protection laws and policies in domestic jurisdictions that are specialized.

On the regional level, different legal systems have established strong victim-oriented frameworks. The EU Directive 2012/29/EU in Europe sets minimum standards regarding the rights, support and protection of crime victims⁴⁴. The Directive requires that victims are treated with respect, given information about their rights and given a chance to be involved in criminal proceedings. It also highlights the focus on secondary victimization protection and the necessity of specific support services, especially to vulnerable victims. This tool has played a very important role in aligning the domestic laws of the member states with victim-focused principles.

The other significant aspect of the international outlook is the development of restorative justice as an alternative to the conventional criminal justice systems. The UN Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters promote the application of processes that foster dialogue between the victims and the offenders with the view of repairing the harm and fostering reconciliation⁴⁵. Restorative justice acknowledges the emotional and psychological requirements of the victims and aims to offer them a feeling of closure and empowerment that is usually not present in the adversarial systems.

Victim rights have also been developed by international criminal law. Courts like the international criminal court have also included the aspect of victim participation and reparations in their operational system⁴⁶. In contrast to conventional tribunals, ICC enables victims to express their opinions and concerns at different levels of proceedings and offers reparations, such as compensation, restitution, and rehabilitation. This is a major break with previous conceptions of international justice, in which victims played a minor or no part in the process.

Even with these progressive developments, there is still an uneven application of international standards on victim rights across jurisdictions. Inadequate resources, lack of awareness and institutional resistance are some of the challenges many countries are facing that are impeding the effective realization of these rights. In addition, the non-binding character of a number of international instruments restricts their enforceability and their influence is subject to domestic adoption and political goodwill.

The evolving judicial discourse and international norms have substantially shaped the understanding of victim rights in India. Against this backdrop, a comparative examination of the old and new criminal law frameworks becomes necessary to evaluate whether these principles have been effectively translated into statutory reform.

To sum up, the judicial view of victim rights in India is a dynamic and progressive view that aims at humanizing criminal justice system. The judiciary has greatly empowered the victims through a mixture of constitutional interpretation, statutory expansion, and novel solutions.

Comparative Analysis of Old and New Criminal Law Frameworks in India

An old versus new criminal law Analysis of the old and the new criminal law frameworks in India indicates that there is a drastic change of the philosophy of the criminal justice system as well as the system itself especially concerning the role played by the victims. The previous system of law, comprised of the Indian Penal Code, 1860, Code of Criminal Procedure, 1973, and the Indian Evidence Act, 1872 was tightly bound up with the colonial ideology, in which the preservation of the order and protection of the State power were the main goals. In this model, crimes were formulated as a crime against the State and not against an individual. As a result, the victim was pushed to the background, and he or she played a minor role with minimal consideration of his or her interests. Prosecutorial decision making was dominated by the State and no requirement of consulting or involving the victim was observed in the criminal process. This led to the emergence of a system whereby the voice of the victim could not be heard and the victim did not get the attention it deserved⁴⁷.

With the previous system, the victim had a limited role regarding procedures, that was of a complainant and witness. Once the gears of the State had turned with the registration of a First Information Report, the victim could do little with the investigation or prosecution. Lack of a formal system to engage the victim implied that important decisions like withdrawal of prosecution, plea bargaining or sentencing could be reached without putting into account the opinion of the victim. Even though it was provisioned in a few articles like Section 357 of the Code of Criminal Procedure and the courts could give compensation, these were discretionary and had no consistent structure of how to carry out. In addition, investigative and trial delays, as well as the complexity of the procedures tend to worsen the trauma of the victims⁴⁸.

The new criminal laws, i.e., the BharatiyaNyayaSanhita, 2023, the BharatiyaNagarikSurakshaSanhita, 2023, and the BharatiyaSakshyaAdhiniyam, 2023, in their turn, are a deliberate attempt to shift towards a more balanced and victim-driven approach to justice. Among the most remarkable are the changes connected with the change of the perspective of crime not only as a violation of the State but also as a harm to the individual. The implications of this change in concept have a great impact on the position of victims as they become central to the criminal justice process in terms of their rights and interests. It is the aim of the new framework to make sure that the victims are not passive members but active stakeholders whose opinions should be provided and respected at all levels of proceedings⁴⁹.

The most notable difference area is the greater participatory rights of a victim as per the new system. As opposed to the previous way of operation, the new laws offer more participation of the victims in the criminal process, such as the right to know the advancement of the case and the right to hear themselves during the most important parts of the process. It can be considered a shift away the State-centred approach of the previous and a growing acceptance of procedural fairness in the eyes of the victim. Also, the use of technology, including the use of electronic communications and digital monitoring of cases, has enhanced transparency and accessibility allowing victims to stay informed without procedural barriers caused by unnecessary processes.

The other significant attribute to be considered in the comparative analysis is the treatment of compensation and rehabilitation. Whereas the previous system had compensation as an aspect of justice in a selective and discretionary mode, the new system has a more emphasis on restitution as a part of justice.

The acknowledgment of the role of the State in providing compensation demonstrates a wider concept of justice beyond punishment, and it is associated with restoring victims. This is in line with the current concepts of restorative justice, which aim to restore the damage done by crime and foster healing and reconciliation.

The new legislation also tries to solve the old problems associated with delay and inefficiency within the criminal justice system. The new structure will hasten the solving of cases and offload the victims by introducing time-limited processes, ensuring that forensic investigation is done in serious crimes and exploitation of technology. This is especially important with the consideration that the long-term trials may lead to secondary victimisation where the victims are compelled to reenact their trauma during the protracted period.

Simply, what the shift in the old to the new criminal law paradigm in India attempts to imply is that it represents a paradigm shift in the dispensation of justice in India. The new laws by abandoning a strict, centralized State-driven model in favor of a more inclusive and victim-driven approach aim to establish a more efficient and yet empathetic and responsive system to the needs of crime victims.

While the comparative analysis reveals significant structural changes in favour of victims, the practical implications of these reforms are not uniform across all categories of victims. Certain groups continue to experience unique vulnerabilities that require specialised attention. Therefore, it is important to assess how the new criminal laws affect women, children, and other marginalised sections of society.

Assessing the Impact of New Criminal Laws on Vulnerable Victims

This move to a victim-oriented criminal justice system with the new criminal laws in India has had a very pronounced effect on certain groups of victims especially those who have previously been vulnerable, marginalised or disproportionately victimised by crime. These groups are women, children and socially/economically deprived groups whose experience of the criminal justice system has been generally characterized by structural inequalities, lack of awareness and the existence of procedural barriers. The new legal framework tries to solve these problems by introducing specific protection and safeguard to observe the distinctive weaknesses of these populations and aim to make sure that they have a meaningful access to justice.

In the previous legal system, despite the existence of various provisions, which were to be applied in handling crimes against women, there was a lack of uniformity in their application, and victims were also subject to insensitive attitudes during the investigation and trial. The new criminal laws are aimed at addressing these inadequacies through further protection of procedures and focus on dignity and privacy⁵⁰.

Another category of victims that is of utmost importance and that needs special protection in the criminal justice system is children. Child vulnerability is not only due to age but equally because of the fact that they are dependent on adults and have low potential of going through complicated legal procedures. It is further enhanced by the new criminal laws to ensure that the case involving child victims is investigated and tried more quickly and that technology is used to reduce the need to confront the accused directly. The new framework aims to establish a more responsive and humane system by focusing more on the psychological well-being of the child victims⁵¹.

The new criminal laws also have significant consequences to victims in the marginalised and poor segments alongside the women and children. The disadvantaged status of these people is often compounded by the fact that they are ill-informed of their rights, many of them do not have access to resources, and are stigmatized by the society, which in turn can be a hindrance in their quest to get justice. The previous system was especially susceptible to exploitation and neglect of such victims as they simply did not have the tools to bring their case before the law. The new structure tries to solve these problems by making processes easier, improving access to information via digital applications, and improving compensation systems.

The other notable aspect of the effects on certain groups of victims is the realization of the necessity of more all-embracing and more intersectional approach to justice. The new criminal laws, with their orientation towards victim-centric principles, combine to form a structure that is sufficiently flexible to deal with these intersecting vulnerabilities.

The preceding discussion highlights the potential of the new criminal laws to address the concerns of vulnerable victims. Nevertheless, legislative innovation alone does not guarantee substantive justice. A critical evaluation is necessary to determine whether these reforms genuinely transform the position of victims or merely create an appearance of victim-centred justice.

Thus, the effect of the criminal laws on certain groups of victims is an attempt to get beyond the one-size-fits-all approach to victimisation and it has come a long way, the implementation of these goals will only be realised with the long-term dedication, institutional change, and regular evaluation to make sure that the rights of every victim will be efficiently safeguarded⁵².

Critical Analysis: Victim-Centric Reform or Symbolic Transformation?

The enactment of the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, and the Bharatiya Sakshya Adhiniyam, 2023 has been widely projected as a significant departure from the colonial criminal justice framework and as a decisive move towards victim-centric justice. While these reforms undoubtedly strengthen the formal recognition of victim rights, a critical examination reveals that several structural and conceptual challenges continue to limit their transformative potential.

One of the primary concerns relates to the distinction between legal recognition and practical realization of rights. The new criminal laws provide greater emphasis on victim participation, information sharing, compensation, and procedural transparency. However, the effectiveness of these rights remains dependent on institutional capacity. India's criminal justice system continues to face problems of inadequate police infrastructure, judicial backlog, shortage of trained personnel, and uneven implementation across states. Consequently, the mere existence of statutory rights does not automatically guarantee their enforcement. Victims, particularly those belonging to marginalized communities, may still encounter substantial barriers in accessing these protections.

A second concern is the absence of a comprehensive victim rights charter within the new legislative framework. Although victim-oriented provisions are dispersed throughout the new laws, there is no single codified statement clearly outlining the rights of victims and the corresponding obligations of state authorities. International jurisdictions such as the European Union have adopted detailed victim rights instruments that explicitly define rights to information, participation, protection, support services, and remedies. The fragmented nature of victim-related provisions in India may reduce accessibility and awareness, thereby limiting their practical utility.

The increasing emphasis on victim participation also raises important jurisprudential questions. Criminal justice systems traditionally operate on the presumption of innocence and due process safeguards designed to protect accused persons from wrongful conviction. While victim empowerment is a legitimate objective, excessive victim influence over prosecutorial or judicial decision-making may risk disturbing the delicate balance between victims' interests and the rights of the accused. Therefore, victim-centric reforms must be implemented in a manner that complements rather than compromises fundamental principles of criminal jurisprudence.

Another critical issue concerns compensation and rehabilitation mechanisms. Although victim compensation schemes represent a major advancement, empirical studies and judicial observations have repeatedly highlighted delays in disbursement, inconsistencies in assessment, and lack of awareness among beneficiaries. In many cases, victims remain unaware of available remedies or face bureaucratic hurdles in securing compensation. Moreover, financial compensation alone cannot adequately address the psychological, social, and emotional consequences of victimization. A truly victim-centred approach requires long-term counselling, rehabilitation services, legal aid, and community support mechanisms, many of which remain underdeveloped.

The integration of technology under the new criminal laws presents both opportunities and challenges. Electronic FIRs, digital case tracking, and virtual proceedings can improve accessibility and transparency. However, digitalisation may inadvertently exclude individuals who lack technological literacy, internet access, or digital resources. This concern is particularly relevant in rural areas and among economically disadvantaged populations. Thus, technological reform, while progressive, must be accompanied by measures to bridge the digital divide and ensure equal access to justice.

Further, the reforms continue to operate predominantly within a punitive framework. Although references to restorative justice principles can be identified in the broader discourse surrounding victim rights, the new criminal laws do not comprehensively institutionalize restorative justice mechanisms. International experience demonstrates that victim-offender mediation, community reconciliation processes, and restorative conferencing can provide victims with a greater sense of closure and participation than traditional adversarial proceedings. The limited incorporation of such mechanisms represents a missed opportunity for a more holistic model of justice.

Finally, there remains a significant gap between legislative aspiration and social reality. Victimization is often shaped by broader socio-economic factors such as poverty, gender inequality, caste discrimination, and social exclusion. Legal reforms alone cannot eliminate these structural barriers. Consequently, the effectiveness of victim rights depends not only on statutory provisions but also on broader institutional reforms, public awareness initiatives, legal education, and societal commitment to the protection of vulnerable groups.

Therefore, while the new criminal laws represent an important step towards recognizing victims as central stakeholders in the criminal justice process, their success will ultimately depend upon effective implementation, institutional accountability, and the development of a genuinely rights-based approach to victim protection. The challenge before India is not merely to create victim rights on paper but to ensure that such rights become meaningful, accessible, and enforceable realities for all victims of crime.

Recommendations

The foregoing analysis demonstrates that although the new criminal laws have significantly strengthened the normative framework governing victim rights, several challenges continue to hinder their effective realization. In light of these concerns, the following recommendations are proposed to enhance the protection, participation, and empowerment of victims within the contemporary legal framework.

Creation of Victim Support Systems at the institutional level.

It is urgently needed to develop systematic victim support at the district and state levels based on counselling services, legal assistance, psychological support, and rehabilitation centres. These types of institutional structures would see that the victim is not left on his own when the criminal justice process is being undertaken as there would be constant support being given to him without being left to work out the criminal justice system⁵³.

Authority Sensitisation and Building capacity.

Victim-centric laws should be properly put in place through regular training and sensitisation of the police officials, prosecutors and judicial officers. They need to be done through training programmes that put emphasis on the right of the victims, gender sensitivity, child protection and the need to handle the victims with empathy⁵⁴.

Bridging the Digital Divide.

Although the efficiency of technology integration e-FIR and digital case tracking can include victims without rural or disadvantaged backgrounds. To counter this the government is supposed to make facilitation centres, enhance digital infrastructures and offer services in order to facilitate inclusive justice.

Intensifying Compensation and Rehabilitation Mechanisms.

The victim compensation schemes should be made more efficient by ensuring that they are disbursed in time, there are enough funds and the procedures made easier. More attention should be directed towards rehabilitation, as the victims should be able to regenerate economically and socially because of the crime.

Tracking and Responsibility Systems.

It should be provided to have independent oversight bodies or periodic review systems to check on the practice of the victim rights. The integration of the victim input into the policy assessment can be used to detect the gaps and enhance the criminal justice system responsiveness.

Collectively, these recommendations seek to transform victim rights from formal legal entitlements into effective and enforceable guarantees. Their successful implementation would facilitate the development of a criminal justice system that is not only efficient and accountable but also responsive to the needs, dignity, and welfare of victims.

Conclusion

The discussion undertaken in the preceding sections demonstrates that victim rights have evolved from a peripheral concern within criminal jurisprudence to a central component of contemporary justice discourse. The new criminal laws represent the latest stage in this evolution and provide an opportunity to redefine the relationship between victims, offenders, and the State.

In the development of victim rights in the Indian criminal justice system, this is a radical shift towards a historically State-centric and accused-oriented criminal justice system to that in which the victim tends to be a central element in the justice seeking process. Victims used to be left outside the legal process and their role was limited to that of informant and witnesses with little attention given to their plight and the need to participate, protect and indemnify. The incremental change in favor of the victim-based approach, which was encouraged by courts and the legislature along with the international pressure, has led to adoption of the new criminal legislation that attempts to reshape the role and purpose of criminal justice in India.

The new criminal laws do not only represent a change of the laws of the colonial era; they represent a reinvention of justice itself. The new framework tries to solve the long-standing shortcomings of the previous system by introducing the provisions to increase the participation of victims, access to information, improved compensation, and the use of technology.

The identification of victims as active participants and not passive spectators is an indication of a larger concern to equitableness, respect, and inclusion. It also streamlines the Indian criminal justice system to the current standards of the global justice system with a focus on restorative and participatory justice. Meanwhile, the change that these reforms have caused should be viewed as a continuation of the process, but not as a success that has been made. Although it is certain that the legal framework has gotten more progressive, its practice is the test of the pudding. Infrastructure, inefficiency, slowness in procedures and procedures, lack of social inequalities, and other structural challenges are still central obstacles towards the successful realisation of the rights of the victims. The effectiveness of the new laws will be not only based on the contents but also the willingness and ability of institutions to transform a victim-sensitive approach into practice.

Furthermore, the victimization-focused justice has to be properly balanced with the major principles of criminal jurisprudence, especially the rights and presumption of innocence of an accused. A fair system should also make sure that a victimization-based empowerment does not result in the undermining of the due process or the weakening of fairness. This must be aimed at developing a balanced system, which considers the rights of both the victims and accused, in correlation to each other, and strengthens the justice system in its credibility and validity.

Essentially, the acknowledgment of the victim rights in the new criminal laws are some milestone in the development of the Indian criminal jurisprudence. With the shift on a more inclusive, responsive, and humanitarian system, the law attempts to regain confidence in the dispensatory process and guarantee that it is beneficial to all parties involved. Nevertheless, this vision requires long term endeavors, a consistent review and investment in the institution to implement this dream.

Footnotes

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