



INDIAN JOURNAL OF
LEGAL REVIEW

VOLUME 5 AND ISSUE 11 OF 2025

INSTITUTE OF LEGAL EDUCATION



INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 5 and Issue 11 of 2025 (Access Full Issue on – <https://ijlr.iledu.in/volume-5-and-issue-11-of-2025/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@iledu.in / Chairman@iledu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

REPOSITIONING THE VICTIM: A CRITICAL ANALYSIS OF VICTIM CENTRIC JUSTICE IN INDIA

AUTHOR– SHIVIKA GOYAL, JRF PHD RESEARCH SCHOLAR AT RAJIV GANDHI NATIONAL UNIVERSITY OF LAW,
PUNJAB

BEST CITATION – SHIVIKA GOYAL, REPOSITIONING THE VICTIM: A CRITICAL ANALYSIS OF VICTIM CENTRIC
JUSTICE IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (11) OF 2025, PG. 499-510, APIS – 3920 –
0001 & ISSN – 2583-2344

ABSTRACT

This paper critically examines the evolving landscape of victim rights in India, with a specific focus on the shift from an offender-centric criminal justice model to one that increasingly recognizes and incorporates the voice, dignity, and rights of victims. Historically, victims in India have been relegated to the margins of the legal process, often reduced to the role of informants or passive witnesses, with little agency or protection. Drawing upon criminological theory and constitutional values, the paper traces the marginalization of victims from ancient legal traditions through colonial codifications and post-independence frameworks. The enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, marks a notable legislative milestone in this journey. The paper explores key victim-centric provisions within the BNSS, such as the right to be heard before withdrawal of prosecution, the introduction of Zero FIR, access to compensation and reimbursement, provisions for in-camera trials, and enhanced protections for vulnerable groups. These reforms demonstrate a growing alignment with global standards on victim justice and reflect the influence of procedural and restorative justice philosophies. Despite these advancements, the legislative reform alone is insufficient. Challenges such as low legal awareness, undertrained personnel, and systemic apathy continue to obstruct meaningful victim participation. Through case law analysis, policy review, and theoretical reflection, the paper advocates for structural reforms, mandatory victimology training, and institutional mechanisms to ensure effective implementation. Ultimately, the study calls for a more inclusive, participatory, and compassionate justice system one that honors the constitutional promise of justice for all, including the long-overlooked victim.

I. Introduction-

“The criminal law, like the rest of the legal system, has treated the victim with institutional neglect.” (Christie, 1977)

The architecture of criminal justice in most modern legal systems, including India's, has historically centered around the state and the offender, leaving the victim with a marginal role, often that of a passive witness. In the courtroom and beyond, the victim's voice has been subdued, their suffering overshadowed by procedural formalities and a retributive focus on punishment. Victim's role was just limited to the start of the criminal investigation system after which the police, prosecutor, judge and

the state would take over. While much was talked about fair trial for the accused no one cared for justice to the victim. State has always been concerned about the rehabilitation of the convict once he is out of the prison but what about the rehabilitation of the victim when the horror of the crime continues to haunt him.

However, recent years have witnessed a gradual but significant paradigm shift. The emergence of victimology as a discipline and the growing emphasis on victim rights, support, and participation mark a departure from the traditional offender-centric model of justice. This shift is particularly visible in India's evolving legal landscape, exemplified by progressive

judicial interpretations, expanding victim compensation schemes, and most recently, the enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which introduces several provisions aimed at empowering victims within the criminal justice system. (Ministry of Home Affairs, 2023)

This work explores the rise of victimology in India and critically examines whether recent legal developments, particularly the BNSS truly repositions the victim at the center of the justice process. It traces the historical neglect of victims, analyzes policy and institutional frameworks, and discusses the emerging role of victimology in academic and legal discourse. Ultimately, the work seeks to evaluate how far India has come in building a victim-centric justice system and what further steps are needed to realize this vision.

II. Traditional Focus of Criminal Justice Systems on Offenders-

Historically, the criminal justice system has been constructed around the figure of the offender, with state institutions like the police, prosecution, judiciary, and corrections; primarily oriented toward the identification, punishment, and rehabilitation of the accused. The role of the victim, by contrast, has remained peripheral, often limited to that of a witness or complainant whose value lies in their ability to contribute to the prosecution's case. (ScienceDirect, 2025)

The classical criminological model views crime as a violation of the law and the state, rather than as a harm inflicted upon a human being. As a result, the state assumes the role of the aggrieved party, effectively displacing the victim from the center of the legal process. (Dubber, 2002) This orientation is a legacy of the retributive justice model, where punishment of the wrongdoer is paramount, and justice is considered served once the offender is penalized. Even in modern systems that incorporate elements of reformatory and rehabilitative justice, the structure remains predominantly offender-centric. Legal

proceedings revolve around the rights of the accused: - right to legal counsel (BNSS, 2023, s.38), presumption of innocence (Constitution of India, Art. 21), protection against self-incrimination (Constitution of India, Art. 22), and the right to a fair trial (BNSS, 2023, s.351). While these rights are essential in any just system, the near-exclusive focus on the accused has led to the systemic neglect of the victim's rights, needs, and experiences.

As Nils Christie powerfully observed, "*The victim has lost the right to participate in his own case. It is taken over by professionals- the police, the lawyers, the judges.*" (Christie, 1977)

This marginalization of victims is not merely procedural but also symbolic. The victim is often reduced to a source of evidence, rather than being recognized as an individual who has suffered harm and is entitled to justice, support, and reparation. (Walklate, 2007) The absence of structured victim participation reflected the fundamental imbalance within the justice system, a gap that victimology seeks to address by redefining crime as a harm against individuals as well as society.

III. Historical Overview: The Marginalization of Victims in Indian Criminal Justice

The position of the victim within India's criminal justice system has undergone a complex evolution, from being central to justice in ancient jurisprudence to being largely marginalized in colonial and post-colonial legal frameworks. Understanding this trajectory is essential to appreciating the current push toward victim-centric reforms.

Ancient Indian Traditions: Victim-Centered Justice

In ancient India, as reflected in texts like the Manusmriti, Arthashastra, and Dharmashastra, the concept of justice was deeply intertwined with moral duty (dharma) and social harmony. The victim played a significant role in the process of dispute resolution. Compensation, reconciliation, and restorative elements such as the return of stolen goods or public apologies

were emphasized alongside punishment. (Kane, 1946) The focus was often on restoring balance rather than purely penalizing the wrongdoer, indicating an early form of victim recognition and community-based justice.

Colonial and Post-Colonial Neglect

This emphasis shifted dramatically with the imposition of the British adversarial legal system, which redefined crime as an offence against the state, rather than a harm to the individual. The Indian Penal Code (IPC), 1860, and the Criminal Procedure Code (CrPC), 1898 (later revised in 1973) institutionalized an offender-centric approach. The victim's role was reduced to that of a mere informant or prosecution witness, with little or no procedural rights once the FIR was filed. Under this model, the state took over the prosecution of crime, sidelining the victim in both theory and practice. Unlike civil cases, where the plaintiff retains control, in criminal cases the victim lost agency, voice, and access to the trial process. (Baxi, 1982) Compensation, rehabilitation, and psychological support were neither structurally mandated nor practically implemented. Under the Indian Penal Code (1860) and the Code of Criminal Procedure (CrPC, 1898), the victim's role was diminished to that of a complainant or witness, stripped of agency and denied a voice in decision-making. Compensation and restitution, once central to justice, became peripheral. This shift institutionalized an adversarial system that privileged the rights of the accused and the power of the state, while rendering the victim virtually invisible in procedural and judicial discourse.

Post-Independence: Slow Recognition of Victims' Needs

In the decades following independence, the Indian legal framework remained largely silent on victims' rights, despite growing awareness in international legal systems. While the Constitution of India guarantees fundamental rights such as equality, life, and liberty under Articles 14 and 21, these provisions were interpreted in relation to the accused far more

frequently than the victim. (Bodhisattwa Gautam v. Subhra Chakraborty, 1996) It was not until the late 20th century particularly following public outcry over high-profile cases involving sexual and custodial violence that the Indian judiciary began to acknowledge the need for victim compensation, participation, and protection. Landmark judgments and legislative amendments eventually led to provisions like Section 357A of the CrPC, but these remained inconsistently applied and often symbolic. Thus, the historical marginalization of victims in India is not merely a procedural oversight, but a structural legacy that contemporary reforms, such as those found in the BNSS, now seek to correct.

IV. Victimology and its emerging role in Criminology-

The term victimology derives from the Latin *victima* (meaning a person harmed or injured) and the Greek suffix *-logia* (denoting "the study of"). In the broadest sense, victimology is the scientific study of victims of crime, encompassing their experiences, rights, treatment, and roles within the criminal justice system. (Karmen, 2016) While criminology traditionally concentrated on the causes of crime and the behavior of offenders, victimology shifts the lens to those who suffer harm as a result of criminal conduct, thereby offering a more holistic view of crime and justice.

Victimology formally emerged in the mid-20th century through the pioneering works of scholars like Benjamin Mendelsohn and Hans von Hentig, who sought to classify victims and explore their relationships with offenders. (Mendelsohn, 1956) Initially criticized for suggesting that victims might be partly responsible for their victimization, the field has since evolved into a critical discipline that advocates for victim rights, recognition, and reparative justice. In contemporary criminology, victimology has become indispensable for understanding not only the personal and psychological impact of crime but also the

structural inequalities that shape victimization patterns such as gender, caste, poverty, and marginalization. It interrogates how legal systems treat victims, the extent to which victims are informed and involved in legal processes, and what mechanisms exist (or fail) to provide them with compensation, protection, and psychological support.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) marked a global recognition of the need to move beyond offender-centered justice and recognize the rights of victims to access justice and fair treatment. (UN General Assembly, 1985) In India, the growing inclusion of victimological principles in policy and law such as victim compensation schemes, protective legal provisions for women and children, and the more recent reforms under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 signal the emergence of victimology as a vital force in shaping criminal justice reform. Victimology, thus, is not merely a sub-field of criminology but a corrective paradigm that calls for a rebalancing of justice: one that does not privilege the rights of the accused at the expense of the silenced, suffering victim. It reinforces the idea that justice must serve all parties to the conflict not just the state and the offender, but also the victim.

Victim-centric justice refers to a justice framework that places the needs, rights, and experiences of the victim at the center of legal and institutional responses. It advocates for procedural equity, emotional support, and active victim participation, moving beyond traditional conceptions that see victims merely as evidence providers. Procedural justice emphasizes the fairness of processes over outcomes. In a victim-oriented context, it involves treating victims with dignity, keeping them informed, allowing their voices to be heard, and ensuring transparency throughout the criminal proceedings. (Tyler, 2006) Restorative justice, by contrast, is a philosophy and practice aimed at repairing harm through

inclusive processes that bring together victims, offenders, and the community. It values accountability, empathy, and healing over retribution. (Zehr, 2002)

Theoretical Approaches to Victim Rights- Criminological approaches to victim rights generally align along a retributive-restorative spectrum:

- Retributive justice prioritizes punishment as a moral response to crime. Victim interests are often secondary to state imperatives. However, some modern retributive models now acknowledge victim suffering through victim impact statements and compensation.
- Restorative justice, on the other hand, integrates the victim as a central figure in the justice process. It seeks to empower the victim by acknowledging their harm and encouraging dialogue and reparation, thus promoting social healing.
- Critical victimology further critiques the structural inequalities such as class, caste, gender, and power dynamics that shape victimization and access to justice, especially relevant in the Indian socio-legal landscape. (Mawby & Walklate, 1994)

Globally, scholars like Sandra Walklate, Kathleen Daly, and Nils Christie have questioned the invisibility of victims in formal legal systems and advocated for models that reframe justice to include their voices and recovery. Christie famously argued that victims have been dispossessed of their "conflict" by the state a phenomenon equally evident in Indian jurisprudence. (Christie, 1977)

In India, research by K. Chockalingam and G.S. Bajpai has emphasized the need for institutional reform, highlighting that procedural rights alone are insufficient without emotional, financial, and social support systems. (Bajpai & Chockalingam, 2019) Indian victimology literature has also drawn attention to the differential treatment of marginalized victims

particularly women, Dalits, and tribal populations who often face systemic neglect or secondary victimization by justice institutions.

V. Legal and institutional development in victim centric justice-

Despite the long-standing marginalization of victims in India's criminal justice system, recent decades have witnessed incremental legal reforms aimed at acknowledging and addressing victim needs. These developments, although fragmented, mark a shift toward a more victim-inclusive framework. The Code of Criminal Procedure (CrPC), 1973, which has governed criminal procedure in India for decades, has traditionally been centred on the State vs. Accused model, where the victim is relegated to the role of a mere informant or witness. This structure, inherited from colonial jurisprudence, offers limited procedural rights to victims, who are often excluded from meaningful participation in the justice process. Its framework primarily envisions a State-centric prosecution model, reducing victims to the status of silent spectators after the First Information Report (FIR) is filed. This structural bias where the State prosecutes the accused on behalf of society fails to acknowledge that the direct and personal harm is suffered by the victim, not merely the abstract 'State'.

Victims have no formal locus standi during crucial stages such as investigation, charge framing, plea bargaining, or withdrawal of prosecution, unless they intervene through external legal processes, which many are unaware of or unable to afford. This procedural exclusion creates a paradox where the victim, despite being the principal stakeholder in the crime, is denied the agency to influence the direction or outcome of their own case. Such a model is antithetical to modern criminal jurisprudence, which is gradually recognizing the restorative role of justice.

Moreover, the investigative process itself often sidelines the victim. Statements recorded under Sections 161 and 164 CrPC are vulnerable to manipulation or neglect, especially in cases

involving marginalized victims, such as women, Dalits, or tribal persons. Delays in registration of FIRs, hostile police behavior, and the lack of gender-sensitive or trauma-informed processes discourage victims from engaging with the system altogether. (NCRB, 2022)

The compensation provisions under Sections 357 and 357A CrPC have also been marred by judicial inconsistency and administrative lethargy. While Section 357A mandates the creation of state-level victim compensation schemes, reports have highlighted that many states either lack effective implementation mechanisms or have disbursed minimal funds, leaving victims uncompensated or inadequately supported. (Centre for Child and the Law, 2020) There is no statutory time frame for disbursement, nor any monitoring authority to ensure accountability.

Another critical issue is the complete absence of psychological, emotional, and social support mechanisms in the CrPC framework. Unlike several comparative jurisdictions where victims are offered counseling, legal aid, and witness protection, the Indian CrPC remains strictly procedural and punitive, ignoring the holistic needs of victims. Even landmark judicial pronouncements, such as *Bodhisattwa Gautam v. Subhra Chakraborty* (1996), which emphasized interim compensation for victims of rape, or *Nipun Saxena v. Union of India* (2018), which recommended a victim compensation framework, remain advisory in nature and are not codified under the CrPC. This lack of statutory mandate reflects the larger systemic apathy towards victim participation.

In essence, the CrPC institutionalizes a passive role for victims, offering little more than the right to lodge a complaint and testify during trial. The failure to integrate victims meaningfully into the criminal justice process results in secondary victimization, erodes public confidence, and contributes to high attrition rates in criminal trials, particularly in gender-based violence and caste-related crimes. The limitations of the CrPC underscore the urgent need for a

paradigm shift not only in law but also in institutional attitudes towards victim empowerment and participatory justice, a shift that the BNSS 2023 attempts to initiate, albeit with its own limitations.

VI. Victim Rights Under the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023: A New Constitutional Turn-

The Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 introduces transformative reforms aimed at integrating victim rights into the core of India's criminal justice framework. Departing from the traditionally offender-centric orientation of the Code of Criminal Procedure, 1973, the BNSS embeds a range of rights and procedural safeguards for victims affirming their agency, dignity, and entitlement to justice.

1) Right to Be Heard Before Withdrawal of Prosecution

Under Section 360, prosecutors are now required to consult victims before withdrawing prosecution. This provision gives victims a participatory role in proceedings that could otherwise exclude them from key decision-making moments (Ministry of Home Affairs, 2023).

2) Zero FIR Mechanism

Section 173 allows victims to lodge a First Information Report (FIR) at any police station, regardless of jurisdiction. Known as the "Zero FIR" provision, it ensures immediate legal recognition of the victim's complaint, particularly critical in time-sensitive cases (Ministry of Home Affairs, 2023).

3) Right to Engage an Advocate

According to Section 18(8), victims may engage a legal representative to assist the prosecution. Although their participation is currently limited to written submissions post-evidence, the court retains discretion to expand their involvement (BNSS, 2023).

4) Access to FIR Copies

Victims are now entitled to receive free copies of their FIRs, promoting transparency and

allowing them to monitor the progress of their case from the very beginning (BNSS, 2023).

5) Protections for Vulnerable Victims

BNSS mandates that female victims be interviewed by female officers, and for victims with physical or mental disabilities, statements must be recorded at a place of their choice with the assistance of interpreters or special educators (Ministry of Home Affairs, 2023).

6) Electronic Communication of FIRs

Information furnished electronically must be formally recorded and verified within three days. This enhances accessibility for those unable to appear in person (BNSS, 2023).

7) Notification of Case Closure

Under BNSS, victims must be informed about the closure of their case, ensuring they are not excluded from final decisions (Ministry of Home Affairs, 2023).

8) Right to Appeal

Section 413 allows victims to appeal against acquittals, convictions for lesser offences, or inadequate compensation, granting them a clear stake in post-trial proceedings (BNSS, 2023).

9) Compensation to Victims

In accordance with Section 395, the courts may now order the accused to pay compensation to victims, independent of fines. This recognizes the economic and emotional toll borne by victims and offers financial redress (BNSS, 2023).

10) Reimbursement of Legal and Travel Expenses

Under Section 350, victims are eligible to claim reimbursement for expenses incurred while participating in inquiries and trials. This provision addresses the financial burden of prolonged litigation (BNSS, 2023).

11) In-Camera Trials

To protect the privacy and dignity of victims, particularly in sexual offence cases, Section 366 authorizes in-camera proceedings, preferably presided over by a female magistrate or judge (BNSS, 2023).

12) Immediate Medical Aid

Section 397 requires hospitals to provide emergency medical care and first aid to victims of certain offences free of charge, ensuring timely medical intervention (BNSS, 2023)

The BNSS signifies a major constitutional and procedural shift towards embedding victim-centricity within India's criminal justice system. It seeks to balance retributive frameworks with a more compassionate, participatory, and accountable process that reaffirms the dignity, rights, and remedies of victims in line with constitutional values and international human rights norms.

Does the BNSS Truly Reposition the Victim?

While the BNSS provisions are promising, critical evaluation reveals several areas of concern:

- Implementation remains uncertain: Legal reforms often struggle to translate into effective action on the ground due to infrastructure and personnel limitations.
- Lack of comprehensive victim services: Though compensation is emphasized, there is still no clear mandate for psychological counseling or shelter services embedded within the BNSS.
- Limited scope for victim participation: Beyond specific procedural rights, victims still lack broad participatory roles in the justice process, such as involvement in plea bargaining or restorative mediation.

Thus, while the BNSS signifies a positive shift, its practical success in repositioning the victim will largely depend on robust implementation, judicial interpretation, and institutional commitment.

VII. Challenges to Victim-Centric Justice in India-

Despite promising legislative and judicial developments, the journey toward achieving victim-centric justice in India is fraught with persistent and systemic challenges. The gap between legal recognition and practical

realization of victim rights continues to undermine justice for countless individuals. This section critically examines the key hurdles—legal, institutional, socio-cultural, and structural—that impede the repositioning of victims at the center of India's criminal justice system.

1) Implementation Gaps and Institutional Apathy

One of the most significant impediments is the poor implementation of victim-oriented provisions. Although laws such as Section 357A CrPC and reforms under the BNSS mandate compensation and participation, administrative lethargy and underfunding lead to frequent delays or outright denial of relief. Victim Compensation Schemes remain underutilized, with District Legal Services Authorities (DLSAs) often lacking staff, funds, and procedural clarity. (NALSA, 2022) Many victims are unaware of their rights or the mechanisms available to them due to absence of outreach and legal literacy programs. The criminal justice system, particularly the lower judiciary and police, is often more focused on procedural formalities than victim support, leading to secondary victimization.

2) Lack of Awareness and Legal Literacy Among Victims

In many cases, victims do not assert their rights simply because they do not know they exist. This issue is exacerbated by:

- i. Low literacy rates, especially among women, Dalits, Adivasis, and other marginalized communities.
- ii. A lack of victim support officers or liaison personnel in police stations and courts to guide victims through complex legal procedures.
- iii. Poor dissemination of information by state legal aid authorities, despite mandates under the Legal Services Authorities Act, 1987.

As a result, victims often withdraw from proceedings or fail to access crucial support services.

3) Cultural and Systemic Barriers

Victim justice in India must be understood within the context of societal power dynamics—particularly caste, class, and gender hierarchies. These intersecting inequalities significantly hinder victims' access to justice:

- i. Gender-based crimes, particularly sexual violence, are often met with stigma, shame, and pressure to “settle” out of court.
- ii. Caste-based violence, especially against Dalits, is routinely underreported or manipulated by local power brokers, discouraging victims from seeking formal justice. (Human Rights Watch, 2021)
- iii. Honor-based pressures in patriarchal communities discourage women and children from testifying or seeking help, particularly in cases of domestic or sexual abuse.

These factors foster a culture of silence and underreporting, despite legal frameworks guaranteeing rights and protection.

4) Undertrained and Overburdened Police and Judiciary

Law enforcement and judicial personnel are frequently untrained in victim-sensitive procedures, and their actions often reflect an adversarial mindset that is skeptical or dismissive of victims. Police personnel may fail to record FIRs, delay investigations, or pressure victims to settle, especially in cases involving powerful accused parties. Courts may exhibit insensitivity in cross-examination, resulting in retraumatization, particularly in sexual violence trials. Forensic and medical services are poorly coordinated, often leading to delays in evidence collection crucial to victim justice. Without systemic training and reform, the promise of victim-centric laws remains largely unfulfilled in practice. (Bajpai, 2020)

VIII. Judicial Contributions to Victim Jurisprudence in India-

While statutory provisions for victim rights have historically been sparse, Indian judiciary has

played a pivotal role in evolving victim jurisprudence through landmark rulings that attempt to fill legislative gaps and offer victims a more active and dignified role in criminal proceedings. Below are some key judgments that have shaped the legal understanding of victims' rights in India:

1. **Bodhisattwa Gautam v. Subhra Chakraborty** (1996)

In this landmark case, the Supreme Court recognized rape as a violation of fundamental rights under Article 21 and introduced the concept of interim compensation for the victim even before the conclusion of trial. The judgment emphasized that criminal law must be victim-responsive, and compensation should be seen not merely as a legal duty but a moral obligation of the State.

2. **Delhi Domestic Working Women's Forum v. Union of India** (1995)

The Court directed that rape victims should be provided legal assistance, counseling, and interim relief, and called for the establishment of a separate criminal injuries compensation board. This was a precursor to later policy discussions on the need for structured victim support services, which were eventually reflected in Section 357A of CrPC.

3. **Nipun Saxena v. Union of India** (2019)

The Supreme Court laid down comprehensive guidelines for the compensation of victims of sexual violence under the NALSA Victim Compensation Scheme. It also emphasized privacy, dignity, and the psychological well-being of the victim, mandating that their identity be protected throughout the criminal process.

4. **Mallikarjun Kodagali v. State of Karnataka** (2018)

This case expanded the scope of victim participation in criminal appeals. The Supreme Court held that a victim has the right to appeal against acquittal, conviction for a lesser offence, or inadequate compensation, thereby

strengthening the victim's legal standing in criminal litigation⁴.

5. **Rekha Murarka v. State of West Bengal** (2020)

In this decision, the Court reiterated that while a victim has a right to engage a lawyer under Section 301(2) CrPC, this lawyer cannot directly examine or cross-examine witnesses without the permission of the Court. This clarified the limited but evolving role of victim participation in the courtroom⁵.

These rulings collectively mark a judicial recognition of the need to reposition victims as central figures in criminal justice. The courts have attempted to humanize criminal proceedings and incorporate restorative and procedural justice principles. However, the absence of comprehensive legislative follow-through means many of these rights remain dependent on judicial discretion, creating inconsistencies in application. While judgments have advocated for rehabilitation, compensation, dignity, and limited participation, the full integration of victims into the criminal justice system still awaits statutory codification and institutional backing, a gap that the BNSS 2023 seeks to partially address.

IX. Recommendations-

While the Bharatiya Nagarik Suraksha Sanhita (BNSS) and other reforms have made significant strides in promoting victim-centric justice, substantial challenges remain. To address these challenges and ensure the effective implementation of victim rights, this section offers a series of policy recommendations that could contribute to enhancing victim support and legal outcomes in India. These suggestions focus on implementation mechanisms, training programs, institutional reforms, and interdisciplinary collaboration.

1) Stronger Implementation Mechanisms for Victim-Related Provisions

The success of victim-centric reforms depends largely on effective implementation. The

following steps are crucial to bridge the gap between policy intentions and practical outcomes:

- i. Enhanced Victim Support Systems: It is critical to ensure that victims have access to legal, psychological, and financial support from the point of reporting the crime until the final resolution. This requires establishing dedicated Victim Support Units (VSUs) at the district level and providing adequate resources and training to support them.
- ii. Improved Enforcement of Victim Compensation Schemes: While schemes like Section 357A CrPC exist, their implementation often lags due to bureaucratic inefficiencies. To ensure timely compensation, clear procedural guidelines and dedicated victim compensation officers must be appointed in every district.
- iii. Regular Monitoring and Evaluation: A mechanism for monitoring the application of victim rights across law enforcement agencies and courts must be established. Regular audits and evaluations should be conducted to assess the efficiency and effectiveness of victim protection measures.

2) Mandatory Victimology Training for Law Enforcement and Judiciary

A major hurdle to victim-centric justice is the lack of sensitivity and training among police officers, lawyers, and judges regarding victim-related issues. Victims are often subjected to secondary victimization due to improper handling of their cases, particularly in sexual assault and gender-based violence cases. To address this, the following actions are recommended:

- i. Victimology Training Programs: Introduce mandatory training programs in victimology for all law enforcement officers, judicial officers, and public prosecutors. Such programs should include trauma-informed care, the importance of victims' emotional and

- psychological well-being, and the legal provisions protecting victim rights.
- ii. Establishment of Specialized Courts and Training: Sexual violence and domestic violence cases should be handled by specialized courts and judges who have received extensive training on the sensitivity required for these cases.
 - iii. Capacity Building: Support and funding must be provided for ongoing capacity-building programs that focus on enhancing the knowledge and skills of professionals handling victim cases.
- 3) Establishment of Victim Support Units at the District Level

One of the most urgent needs in the victim justice system is the creation of Victim Support Units (VSUs) within law enforcement agencies and courts. These units would serve as specialized support hubs for victims, ensuring comprehensive and coordinated services. The key functions of VSUs should include:

- Immediate emotional and psychological support for victims.
- Legal assistance to navigate the complex criminal justice system.
- Assistance in filing compensation claims and accessing social services.
- Collaboration with social workers, psychologists, and healthcare providers to ensure holistic support for victims.

4) Enhanced Interdisciplinary Research and Public Awareness

To ensure the long-term success of victim-centric reforms, it is essential to foster interdisciplinary research and public awareness on victimology and victim rights:

- i. Research Grants and Funding: The government and private sector should invest in research grants that encourage the study of victimology, particularly under-explored areas such as caste-based violence, domestic abuse, and online crimes. Universities and research institutions should be incentivized to undertake empirical research on the

effectiveness of victim support measures in India.

- ii. Public Awareness Campaigns: Governments should initiate nationwide campaigns to educate the public about victims' rights, available support systems, and how to access legal assistance. Public awareness is crucial in empowering victims to come forward and seek justice without fear of stigmatization or retribution.
- iii. Collaboration with Civil Society Organizations: Civil society organizations and victim advocacy groups play a vital role in raising awareness and offering support. Strengthening the relationship between NGOs, victim advocacy groups, and government institutions is key to a more responsive system.

5) Legislative and Policy Reforms

Finally, legislative bodies should consider the following reforms to strengthen victim justice:

- i. Victim-Centered Amendments to Laws: In addition to reforms like the BNSS, existing laws such as the Indian Penal Code (IPC), the Protection of Women from Domestic Violence Act, and the Juvenile Justice Act should be amended to provide clearer procedural guidelines for victim protection, compensation, and participation in the justice process.
- ii. Strengthening Provisions on Victim Compensation: The Victim Compensation Fund should be expanded, with provisions for fast-tracked claims and greater transparency in the compensation process.
- iii. Promotion of Restorative Justice Practices: Restorative justice should be incorporated more actively into India's criminal justice framework, providing victims with the opportunity to engage in dialogue with offenders, if they choose, to heal and achieve closure.

X. Conclusion-

Repositioning the victim within India's criminal justice system is crucial for the development of a more inclusive, fair, and restorative approach to justice. Despite the significant strides made through legal reforms such as the Bharatiya Nagarik Suraksha Sanhita (BNSS), which emphasize victims' rights and protections, there are still considerable challenges in fully implementing victim-centric measures. These challenges stem from gaps in public awareness, institutional training, and the provision of adequate victim support. As victimology continues to emerge as an important discipline within criminology, it provides a valuable framework for understanding and addressing these barriers. To realize the full potential of victim-centric justice, India must strengthen the collaboration between academia, law enforcement, and civil society. Additionally, there must be a continued focus on training judicial and police personnel, creating victim support systems, and ensuring the timely and effective compensation of victims. Ultimately, for the criminal justice system to become truly fair and effective, it must empower victims, giving them a voice in the process and supporting their healing and reintegration into society, while maintaining a balanced approach that protects the rights of both victims and accused individuals.

References-

- 1) Bajpai, G.S., 2020. Victim Rights and Criminal Justice in India. National Law University Press.
- 2) Bajpai, G.S. and Chockalingam, K., 2019. Victimology: Advances, Issues and Perspectives. National Law University Press.
- 3) Baxi, U., 1982. The Crisis of the Indian Legal System. Vikas Publishing House.
- 4) Bharatiya Nagarik Suraksha Sanhita, 2023. BNSS. Ministry of Home Affairs, Government of India.
- 5) Bodhisattwa Gautam v. Subhra Chakraborty, 1996. AIR 1996 SC 922.
- 6) Centre for Child and the Law, NLSIU Bengaluru, 2020. Status of Victim Compensation Schemes in India. [online] Available at: <https://www.nls.ac.in> [Accessed 24 Apr. 2025].
- 7) Christie, N., 1977. Conflicts as property. British Journal of Criminology, 17(1), pp.1-15.
- 8) Constitution of India. Art. 21 and Art. 22.
- 9) Delhi Domestic Working Women's Forum v. Union of India, 1995. (1995) 1 SCC 14.
- 10) Dubber, M.D., 2002. Victims in the War on Crime: The Use and Abuse of Victims' Rights. NYU Press.
- 11) Human Rights Watch, 2021. "Broken System": Dysfunction, Abuse, and Impunity in the Indian Justice System. [online] Available at: <https://www.hrw.org> [Accessed 24 Apr. 2025].
- 12) Kane, P.V., 1946. History of Dharmaśāstra, Vol. III. Bhandarkar Oriental Research Institute.
- 13) Karmen, A., 2016. Crime Victims: An Introduction to Victimology. Cengage Learning.
- 14) Mallikarjun Kodagali v. State of Karnataka, 2018. (2018) 14 SCC 596.
- 15) Mawby, R.I. and Walklate, S., 1994. Critical Victimology: International Perspectives. Sage Publications.
- 16) Mendelsohn, B., 1956. A new branch of bio-psycho-social science: La victimologie. Revue Internationale de Criminologie et de Police Technique.
- 17) Ministry of Home Affairs, 2023. Bharatiya Nagarik Suraksha Sanhita, 2023 – Draft Bill & Explanatory Note. Government of India.
- 18) NALSA, 2022. Performance Evaluation of Victim Compensation Schemes in India. National Legal Services Authority.
- 19) National Crime Records Bureau (NCRB), 2022. Crime in India Report. Ministry of Home Affairs, Government of India.
- 20) Nipun Saxena v. Union of India, 2019. (2019) 2 SCC 703.
- 21) Rekha Murarka v. State of West Bengal, 2020. (2020) 2 SCC 474.
- 22) Rudal Shah v. State of Bihar, 1983. AIR 1983 SC 1086.
- 23) ScienceDirect, 2025. Criminal Justice System. [online] Available at: <https://www.sciencedirect.com/topics/psyc>

hology/criminal-justice-system [Accessed 24 Apr. 2025].

- 24) Tyler, T.R., 2006. Why People Obey the Law. Princeton University Press.
- 25) United Nations General Assembly, 1985. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. A/RES/40/34, 29 November.
- 26) Walklate, S., 2007. Victimology: The Victim and the Criminal Justice Process. Routledge.
- 27) Zehr, H., 2002. The Little Book of Restorative Justice. Good Books.

