

## **Victim-Centric Justice in India's New Criminal Law Framework: A Constitutional Study of Rights and Protection Mechanisms**

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### **ABSTRACT**

The criminal justice system of India has consistently had an accused-oriented structure in which crime was considered as an offence against the State and not an injury to a person. Insecurity and non-adherence to the procedure despite reporting crimes. The recent decade's change to victim-centred justice has not only been gradual, but also significant. It has been affected by constitutional provisions of life, dignity and equality, the changing judicial interpretation by the Supreme Court of India and international human rights provisions such as the United Nations Declaration of Basic Principles of Justice to the Victims of Crime, 1985. These developments have transformed the victims into rights-bearing stakeholders who are entitled to fairness, inclusion, protection, and restoration.

The current paper presents the research question, which is as follows: to what extent the new criminal law framework in India is concerned with and fulfils the role of recognising and implementing the rights of the victims in the justice process as active stakeholders. The paper follows a doctrinal and analytical approach in that it uses statutory provisions, judicial precedent and secondary literature in law, critically analysing the changing framework.

Indian criminal law is entering a new stage of development with the enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023, Bharatiya Nyaya Sanhita, 2023, and Bharatiya Sakshya Adhinyam, 2023, which introduce victim-oriented rights, such as the right to information, participation, hearing, appeal, and compensation. The paper proposes that even though these reforms are a normative change towards inclusivity and restorative justice, their actual efficacy is subject to institutional application, the level of procedural awareness and enforcement tools.

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It is concluded in the paper that, despite the fact that the new legal regime is indicative of a significant break with the traditional State-centric model, there are still ongoing structural and institutional constraints that restrict the practicality of victim-centric justice. The success of such reforms, consequently, will be determined by how the gap between theory and practice can be overcome.

**Keywords:** *Victim-centric Justice, Criminal Justice Reform, Procedural Fairness, Victim Rights.*

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## 1. INTRODUCTION

The system of Indian criminal justice has long been accused-centric and adopted mostly due to colonial law traditions. Crime was mostly considered a crime against the State, and the criminal process was aimed at investigating, prosecuting and punishing the criminal. In this framework, victims had been given a very minimal and instrumental position, being restricted to helping the prosecution as witnesses instead of being treated as being in possession of rights and interests of their own. The by-product of this orientation was the systematic marginalisation of the victims whose plight, security and rehabilitation continued to be marginal to the criminal justice administration process.<sup>1</sup>

Over decades, victims have been mostly considered as being passive in the criminal justice system, having little or no influence at all in the important parts of the process like investigation, bail hearings, dropping of charges or sentencing. This position has started to change, however. The law now explicitly provides in Section 483(2) of the Bharatiya Nagarik Suraksha Sanhita, 2023, that the victim or informant must be present at bail hearings in some serious sexual offence cases, especially those that are covered under Sections 65 and 70(2) of the Bharatiya Nyaya Sanhita, 2023. This is a big stride toward the acknowledgement of victims as stakeholders in the justice process. They could easily be consulted and even informed about making decisions that directly concerned their safety and dignity. This exclusion not only overlooked the lived realities of victims but also contributed to secondary victimisation, manifesting in procedural delays, a lack of transparency, and institutional insensitivity. The concern regarding transparency has now been partly addressed under Section 193(3)(ii) of the

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<sup>1</sup> Ratanlal & Dhirajlal, *The Code of Criminal Procedure* (23rd edn, LexisNexis 2022) 3

BNSS, 2023, which mandates that victims be informed about the progress of the investigation within 90 days.<sup>2</sup> The conventional model, in its effort to protect the rights of the accused, did not provide a significant balance between procedural fairness and the interests of the victim.

Gradually, however, the paradigm shift to justice being victim-centric was emerging in Indian jurisprudence of crime. This transformation has been significantly influenced by constitutional mandates, particularly the expansive interpretation of Articles 14 and 21 of the Constitution of India, which guarantee equality, dignity, and fair access to justice.<sup>3</sup> The Supreme Court of India has increasingly acknowledged that the right to a fair investigation and trial is not exclusive to the accused but extends equally to victims.<sup>4</sup> Judicial recognition of victim compensation, participatory rights, and appellate remedies has further reinforced this evolving approach.<sup>5</sup>

International human rights instruments have also played a critical role in shaping this shift. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, marked a global departure from offender-focused justice by recognising victims as rights-bearing individuals entitled to access justice, restitution, compensation, and assistance<sup>6</sup>. Indian courts have frequently drawn upon these principles to justify victim-oriented reforms and interpret domestic law in harmony with international norms.<sup>7</sup>

This developing philosophy has led to the introduction of the new regime of criminal laws that includes the Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhiniyam, 2023. Such enactments reflect a transformative mode to infuse the victim rights in the substantive, procedural, and evidentiary law. It is against this background that the current paper studies the extent and efficiency of the rights of the victim within the new legal framework. It aims at examining the constitutional roots of victim-centric justice, reviewing protection and participation frameworks, and determining whether the reforms have any meaningful impact on historical exclusion. The research takes a doctrinal and analytical

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<sup>2</sup> Law Commission of India, *154th Report on the Code of Criminal Procedure, 1973* (1996) ch 15

<sup>3</sup> *Maneka Gandhi v Union of India* (1978) 1 SCC 248

<sup>4</sup> *Nirmal Singh Kahlon v State of Punjab* (2009) 1 SCC 441

<sup>5</sup> *Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490; *Mallikarjun Kodagali v State of Karnataka* (2019) 2 SCC 752

<sup>6</sup> UN General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (adopted 29 November 1985) UN Doc A/RES/40/34

<sup>7</sup> *Nilabati Behera v State of Orissa* (1993) 2 SCC 746

approach and is formulated in such a way as to explore conceptual premises, constitutional foundations, statutory reform, and difficulty in implementation in a systematic way.

## 2. THEORETICAL FRAMEWORK OF VICTIM-CENTRIC JUSTICE

### 2.1. Definition and Development of Victim - Centric Justice

Historically, criminal jurisprudence narrowly defined a victim as an individual suffering direct harm, relegated to the status of a prosecution witness rather than a legal subject with inherent rights. This confined conception was gradually broadened through the emergence of victimology, which rethought the idea of the victim as an individual or group of individuals who suffer physical harm, mental trauma, emotional pain, or economic damages as a result of criminal activity, irrespective of the outcome of the criminal process. The first international definition was given by the United Nations Declaration of Basic Principles of Justice to Victims of Crime and Abuse of Power (1985), which recognised that crime causes direct harm to both individuals and communities, not just to the State.<sup>8</sup>

Victim-focused jurisprudence is a significantly different trend from the previous retributive paradigm that had been in force throughout centuries in the field of criminal law. The retributive justice conceptualised crime as an abstract offence against state authority, giving more attention to punishment and deterrence, and completely making the victims disappear. Restorative and participatory justice models have increasingly found their way into modern criminal jurisprudence to address the shortcomings of the latter methodology. These models focus on healing damage, acknowledgement of suffering by victims and building responsibility by involving everyone instead of depending solely on punishment.<sup>9</sup> It has been suggested by scholars that the meaningful involvement of the victims accentuates the ethical authority of sentencing since it allows the courts to consider the practical effects of a crime beyond the definition provided in the statute.<sup>10</sup>

Victim-centric justice also gives due credit to the victims as stakeholders in criminal proceedings as opposed to passive onlookers. This acknowledgement is achieved by procedural rights like access to information, a right to be heard during important phases and the right to

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<sup>8</sup> United Nations General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (adopted 29 November 1985) UNGA Res 40/34

<sup>9</sup> Jaztejvar Singh Gill, 'Victimology and Restorative Justice in Indian Legal Framework' (2025) 8 *International Journal of Law Management & Humanities* 1905

<sup>10</sup> Andrew Ashworth, 'Victim Impact Statements and Sentencing' (1993) *Criminal Law Review* 498

compensation and rehabilitation. The institutional actors, like the Law Commission of India, have on numerous occasions raised the issue of institutional marginalisation of victims in an Indian context, and proposals have been put forward to involve them in the criminal process as rights-bearing participants.<sup>11</sup> This move is indicative of a transition in the perception of justice to harmonise the rights of the accused with the sovereignty, agency, and restoration of victims, as is in keeping with constitutional promises of fairness and equality.

## 2.2. International Norms and Comparative Influence

International human rights law has played a decisive role in shaping victim-centric justice frameworks across jurisdictions. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) laid down global standards mandating fair treatment, access to justice, restitution, compensation, and assistance for victims. The Declaration redefined what is believed to be the normative basis of criminal justice and urged States to leave behind offender-centric models by acknowledging victims as the subjects of rights and not the objects of sympathy.<sup>12</sup>

The victim's participation in criminal justice systems is institutionally actualised in several jurisdictions through comparative practices. The victim impact statements have been applied in the United Kingdom to ensure courts take into consideration the personal and social implications of offences in the case of sentencing. Likewise, the Victim's Rights Directive of the European Union sets standards of victim protection, participation and support that are enforceable minimum standards. The South African criminal justice reforms after apartheid have entailed the inclusion of restorative justice processes, anticipating the victim-offender dialogue and community healing. These comparative studies represent a worldwide tendency to participatory justice, which contributes to research findings that involvement of victims enhances procedural fairness as well as substantive results.<sup>13</sup>

The international norms have applied great pressure on the reforms in Indian criminal law, especially in judicial interpretation and the formulation of policies. Indian courts have often resorted to the international norms of rights to the victim to bolster the system of compensation and participant protection in the criminal justice system. Such expanded human rights standards

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<sup>11</sup> Law Commission of India, *Report No 154 on the Code of Criminal Procedure, 1973* (1996) paras 2–6

<sup>12</sup> UNGA Res 40/34 (n 6)

<sup>13</sup> Humaira Gull, 'Crime Victims and Criminal Justice System: A Comparative Analysis' (2022) 5 *International Journal of Law Management & Humanities* 762

were also used in *Bodhisattwa Gautam v Subhra Chakraborty* (1996)<sup>14</sup> case, in which the Supreme Court used the same doctrine to provide an interim compensation to a victim of rape under Article 21 and, therefore, established that victim relief is an inseparable part of the right to life and dignity. This is a judicial practice and a trend in new legislation that indicates a continual compliance of Indian criminal law with international standards on victim protection and justice. This alignment, in accordance with the academic commentary, is not solely symbolic but a representation of a more substantial philosophical transformation that involves restorative justice and all-inclusive criminal adjudication. The inclusion of the victim-based principles into the developing criminal law system in India, therefore, captures a constant interface between the constitutional requirements and the international legal standards.<sup>15</sup>

### 3. CONSTITUTIONAL FOUNDATIONS OF VICTIM RIGHTS

The Indian Constitution does not specifically list the rights of victims; nevertheless, its standards structure, when interpreted purposely, offers an effective constitutional platform of victim protection, involvement, and well-being. With broad judicial construction, the core rights and principles have been tapped to convert the victims, who were mere peripheral individuals in a criminal trial, into rights holders. This constitutional change is an indication of a progressive departure from an offender-focused paradigm to a model of justice based on the lived realities, dignity, and vulnerability of the victims.<sup>16</sup>

#### 3.1. Article 21: Right to Life, Dignity and Fair Justice

Article 21 of the Constitution, that has provided the right to life and personal liberty, has been given a judicial interpretation that extends beyond physical existence to include dignity, fairness, and access to justice. The Supreme Court has continually believed that life, as it should be in Article 21, is the right to live with human dignity without the arbitrariness of the state. This broad interpretation has allowed the courts to appreciate the fact that people who are victims of crime have a right not only not to be harmed but also to procedural fairness in the criminal justice system.<sup>17</sup>

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<sup>14</sup> *Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490

<sup>15</sup> Anisha Bano, 'Victimology and the Indian Criminal Justice System: Assessing Compensation and Rehabilitation Measures' (2024) V *Indian Journal of Integrated Research in Law* 642

<sup>16</sup> *Maneka Gandhi v Union of India* (1978) 1 SCC 248

<sup>17</sup> *Id*

The right to a fair investigation has been well-rooted via judicial interpretation as not only a right of the accused but also a right of the victim. The Supreme Court in *Nirmal Singh Kahlon v State of Punjab* categorically stated that the victims have a constitutional right to a fair and unbiased investigation as per Article 21.<sup>18</sup> This acknowledgement is great because flawed or prejudiced investigations are likely to lead to secondary victimisation, which deprives victims of a valuable opportunity to seek justice and undermines people's trust in the legal system.

The right to a speedy trial has also been understood as a benefit of Article 21, and is especially significant to the victims. Delays in the long run create more trauma, extend uncertainty and in effect deny justice. Jurisprudence of the Supreme Court on the speedy trial, which was based on *Hussainara Khatoon v State of Bihar*, highlights that procedural delays cause not only devastation to the accused individuals but also subject victims to suffering by making them relive it over a long period of time.<sup>19</sup>

The right to quality treatment of victims during the criminal process is equally imperative to Article 21. The Court realised in *Bodhisattwa Gautam v Subhra Chakraborty* that rape is a crime against the basic right of life and dignity of a woman, and compensation is one of the constitutional remedies that directly derives from Article 21.<sup>20</sup> This ruling was a decisive turn, considering that state liability to victims goes beyond penalising offenders to remedial acts that take into consideration the victim's ills.

### **3.2. Articles 14 and 15: Equality and Non-Discrimination**

Article 14 also ensures equality before the law and equal protection, which is also applicable to crime victims. Constitutional equality requires that the victims of law should not be arbitrarily left out of proceedings of the law or be refused redress that is open to others. The reason given by courts has been a progressive association of Article 14 with fair treatment of victims in that justice systems should not favour the accused to the total disfavour of crime victims.<sup>21</sup>

This commitment is strengthened in Article 15, which outlaws discrimination based on sex, caste, religion, and disability. Notably, Article 15(3) and Article 15(4) allow the State to make

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<sup>18</sup> *Nirmal Singh Kahlon v State of Punjab* (2009) 1 SCC 441

<sup>19</sup> *Hussainara Khatoon v State of Bihar* AIR 1979 SC 1369

<sup>20</sup> *Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490

<sup>21</sup> *State of Punjab v Gurmit Singh* (1996) 2 SCC 384

special measures for women, children and socially underprivileged representatives. This is a constitutional requirement based on victim-protective laws on sexual violence, caste-based atrocities, trafficking, and crimes against children. This kind of inequality is not an exception to equality but a tool of substantive justice for vulnerable victims.<sup>22</sup>

The constitutional focus on substantive equality acknowledges the fact that the victims are not a homogeneous population. Women, children, people with disabilities, and members of the marginalised communities are under increased threats of victimisation and systematic neglect. Equality-based approach based on Articles 14 and 15 is reflected in judicial and legislative measures that offer in-camera trials, anonymity, compensation of the victim, and special procedural safeguards.

### 3.3. Directive Principles and Welfare of the Victims

The Directive Principles of State Policy are significant in supporting the reinforced values of victim-centric constitutionalism. Article 38 does compel the State to foster social justice and reduce inequalities, something that indirectly justifies victim rehabilitation and compensation systems. The State is clearly instructed under Article 39A to provide equal access to justice and free legal assistance, owing to the fact that economic obstacles have a disproportionate impact on the victims seeking redress.<sup>23</sup>

Article 46 goes further to enhance the welfare of the victims by stipulating special protection to Scheduled Castes, Scheduled Tribes, and other vulnerable communities. Taken as a whole, these provisions create a constitutional duty of the State to leave formal justice behind and provide substantive access to legal redress of wrongdoing by the victims. The legal agencies like the National Legal Services Authority (NALSA) have implemented these pledges through the legal aid, compensation of the victim and rehabilitation services.<sup>24</sup>

The Directive Principles, though non-justiciable, have been invoked severally by the courts to view fundamental rights in a broader interpretation. They can be seen as constitutional signposts that would lead legislative and judicial action in the direction of a humane and inclusive criminal justice system, in the pursuit of victim justice.

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<sup>22</sup> Ananyaa Shrikanth and Roshni More, 'Access to Justice for Victims of Crime in India: A Constitutional and Comparative Analysis' (2024) 7 IJLLR 1380

<sup>23</sup> Constitution of India, art 39A

<sup>24</sup> National Legal Services Authority, *Victim Compensation Scheme Guidelines* (NALSA, 2018)

### 3.4. Judicial Recognition of Victim Rights.

Indian courts have been transformational in constitutionalising the rights of the victims. The Court in *Rekha Murarka v State of West Bengal* recognised the right to counsel and be heard by the victim, but weighed the right to contribute against the right to trial by an accused.<sup>25</sup> The decision shows judicial sensitivity regarding the changing role of victims without undermining procedures.

All these determinations are indicative of a constitutional shift in criminal justice. They have ceased being peripheral participants, and now, victims are constitutionally guaranteed participants whose dignity, voice, and welfare must be part and parcel of the justice delivery process.

## 4. NEW CRIMINAL LAW FRAMEWORK AND VICTIM RIGHTS

The successful introduction of the *Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)*, is an instance in a series of shifts in the reorientation of the criminal justice system in India towards a victim-focused system. Although the conventional criminal procedure treated crime as a vice against the State, the procedural law that has been redesigned shows a growing awareness that crime impacts individuals as its victims to a greater degree. The BNSS aims at redressing this imbalance with the integration of participatory and informational rights into the procedural architecture, which is the redefinition of the role of victims as participants, not passive observers of the incident.

### 4.1. Understanding and Recognition of Victims under BNSS, 2023

The statutory recognition of the victim as a separate legal subject is one of the most remarkable changes that have been introduced under the BNSS. In contrast to the Code of Criminal Procedure, 1973, which only subsequently, with the 2009 amendment, and within the limited area of compensation and rights of appeal, defined the term victim, the BNSS gives a more holistic status to victims in the course of the procedure. The definition covers individuals who incur loss or injury as a result of the commission of an offence, their dependents, thus recognising the direct and indirect damages as a result of criminal behaviour.<sup>26</sup>

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<sup>25</sup> *Rekha Murarka v State of West Bengal* (2020) 2 SCC 474

<sup>26</sup> *Bharatiya Nagarik Suraksha Sanhita 2023*, s 2(y)

The increased recognition by BNSS is an expression of a change in legislative philosophy. Victims are no longer left at the margins of criminal activity, but instead, their interests are taken into consideration at various levels of the criminal process, such as investigation, bail, trial, and appeal. Such a change is in line with long-term suggestions of the Law Commission of India and the Malimath Committee, which reiterated the idea that the validity of the criminal justice system is based on its sensitivity to victim suffering.<sup>27</sup> The BNSS, in comparison to the CrPC, 1973, is more intent on institutionalising the participation of the victim in the justice process, as opposed to the victim concerns addressed by the BNSS through isolated provisions.

#### 4.2. Right to Information and Participation

The legitimate right to information is the basis of meaningful participation of victims. In the BNSS, the victim has a right to know when the First Information Report has been registered, in the case the investigation has been made, and any other relevant developments of the procedure, like arrest, bail, or the release of the accused. This right concerns a historical grievance of the previous regime, when the victims were not always aware of how the case progressed, even though they were directly involved in the outcomes of the procedure.<sup>28</sup>

The importance of accessing timely information has practical and normative purposes. In practice, it helps victims to act to protect themselves, prepare to participate in a legal process, and seek counsel where needed. Normatively, it acknowledges the dignity and agency of victims who have a legitimate interest in the course of criminal proceedings. The BNSS, therefore, shows an implicit adaptation of international standards of victim justice, especially those which focus on transparency and communication as part of fair treatment.<sup>29</sup>

Alongside informational rights, the BNSS enables minimal but significant participation of the victim in the process of the investigation and trial. The victims can even help the prosecution, give representations and still participate in the proceedings without undermining the role of the prosecutorial system by the State. This participatory moderation maintains the adversarial form and helps to reduce the exclusionary implications of a strictly State-centric model. The analysis of victim participation by scholars warns against the confusion of participation with control;

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<sup>27</sup> Law Commission of India, *154th Report on the Code of Criminal Procedure* (1996) paras 2–6

<sup>28</sup> Megha Nagpal and Chandrashekhar Rawandale, 'Tracing the Journey of Crime Victim's Position under Indian Law' (2023) 10 *Cogent Arts & Humanities* 2286071

<sup>29</sup> United Nations General Assembly, *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985)

the BNSS uses this intermediate strategy by allowing involvement without undermining the fairness of the procedure.<sup>30</sup>

### 4.3. Right to Be Heard

One of the hallmarks of the reformed framework is the understanding of the right of the victim to be heard at crucial points of the procedure. The BNSS requires hearing of the victims during the bail process, compounding offences, withdrawal of prosecution and plea bargaining. This is in contrast with the previous regime, where such determinations were made unilaterally between the prosecution and the court and many times it was against the interests of the victim as far as their safety and consent were concerned and their rehabilitation.<sup>31</sup>

The right to be heard is based on the principles of natural justice, in particular, the maxim *audi alteram partem*. Crime has a direct impact on the personal protection and dignity of victims; any exclusion of them in the decisions that could potentially affect these interests will contravene procedural legitimacy. The judicial discourse has come to appreciate that victimisation has been promoting secondary victimisation by denying victims a voice at such stages.<sup>32</sup> The BNSS is responsive to this issue by providing procedural space for victim representation, without converting the victims to adversarial parties.<sup>33</sup>

Notably, this participatory right does not classify veto power. Courts have a prerogative to weigh the submissions of victims against societal and higher standards of justice, the common good, and the accused's rights. The right to be heard can therefore be considered as a constitutional protection of fairness and not a retaliation tool.

### 4.4. The Right to Appeal and Challenge Orders.

The statutory right of the victims to appeal is one of the most significant reforms that are concentrated under the BNSS. As per Section 413 BNSS and recent precedents, victims cannot maintain an appeal on the ground of an inadequate sentence. This change confirms that victims have an independent interest in the result of criminal proceedings, which remains despite a

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<sup>30</sup> Sunishtha Moghe and Niti Nipuna Saxena, 'Victim Participation in Criminal Trials under New Criminal Laws in India' (2025) 7 *IJLSI* 230

<sup>31</sup> Malimath Committee, *Report on Reforms of Criminal Justice System* (2003) paras 6.7–6.8

<sup>32</sup> Sunishtha Moghe and Niti Nipuna Saxena, 'Victim Participation in Criminal Trials under New Criminal Laws in India' (2025) 7 *IJLSI* 230

<sup>33</sup> *Rekha Murarka v State of West Bengal* (2020) 2 SCC 474

prosecutorial discretion outcome leading to a lack of appeal.<sup>34</sup> Courts have recognised the victim's right to appeal long before BNSS. In *Mallikarjun Kodagali v State of Karnataka*, the Supreme Court had determined that the deprivation of the right to appeal by the victims would make their statutory recognition a sham.<sup>35</sup> Similarly, in *Satya Pal Singh v State of Madhya Pradesh*, the Court held that the locus standi of a family member of a victim to challenge an acquittal, since criminal justice can no longer be insensitive to the grievance of a victim.<sup>36</sup> This jurisprudence is codified by the BNSS, which gives the victim appeals a legislative precision and constitutional authorisation.

Articles 14 and 21 are strengthened through victim appellate rights, which guarantee equal access to remedies and protection of substantive justice. The right to appeal does not hamper the rights of the accused but helps to make sure that prosecutorial discretion does not monopolise judicial review. In this respect, the BNSS promotes a more comprehensive and equitable process of criminal adjudication.

##### **5. VICTIM-CENTRIC JUSTICE AND PROCEDURAL FAIRNESS: RIGHTS IN BALANCE**

This increased focus on victim-centric justice in the criminal law system of India is bound to cause concerns about procedural balance. Criminal adjudication is placed in a constitutional framework, which emphasises fairness, due process and protection of individual liberty. Although victims should be rehabilitated through corrective reforms because they were overlooked historically, the acknowledgement of the rights of victims should not lead to the watering down of protections that the accused are assured. The question, as such, is balancing victim involvement and basic tenets of criminal jurisprudence.

The core of this tension is the assumption of innocence, which is an essential part of criminal justice guaranteed by Articles 20 and 21 of the Constitution. The accused is not guilty until he/she has been proven guilty beyond a reasonable doubt, and any procedural reform should not violate this concept. The participation of the victims, unless controlled, is likely to turn the criminal process into an emotion-based competition instead of an evidence-based one. Courts

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<sup>34</sup> Code of Criminal Procedure 1973, s 372 (as amended)

<sup>35</sup> *Mallikarjun Kodagali v State of Karnataka* (2019) 2 SCC 752

<sup>36</sup> *Satya Pal Singh v State of Madhya Pradesh* (2015) 15 SCC 613

have always warned that, as much as the victims have a right to be noticed and also to be respected, criminal trials should not be turned into vengeance or moral outrage.<sup>37</sup>

Due process issues are raised especially during the process of bail, plea bargaining, and sentencing when the involvement of the victims is being allowed. This transparency and legitimacy are increased by the presence of the voice of the victims in these steps, but also require the watchfulness of the judiciary. As pointed out by the Supreme Court, the involvement of the victim must not be biased against the accused and the neutrality of the adjudication process. In *Rekha Murarka v State of West Bengal*, the Court has made it very clear that, although victims can be heard, they should be considered as secondary and cannot override prosecutorial discretion or a right to a fair trial of an accused.<sup>38</sup>

The judicial practice in India is an attempt towards balancing these conflicting interests. Courts have established a balancing view that the suffering of the victims is done without constitutional discipline being thrown to the wind. The Supreme Court in *Mallikarjun Kodagali v State of Karnataka* affirmed that the rights of the victim to appeal are not superseded by the rights under the due process or restricted by the statutory provisions.<sup>39</sup> The idea that victim-centric justice does not conflict with the rights of the accused but rather complements them when played within the boundaries of the constitution is strengthened.

The threat of over-criminalisation and populist justice is also an equally serious issue. Excessive dependency on the feeling of victimhood, especially when the cases involved in the issue are subject to popular outcry, could compel institutions to engage in punitive extravagance, which goes against the adjudication laid on principles. Criminal law should not give in to populist tendencies that favour short-term societal accommodation and long-term justice. Victim-centric reforms are aimed at restorative and participatory reforms, not punitive absolutism.<sup>40</sup>

Finally, procedural fairness requires a balance. Victim-based justice should not undermine the guarantees of the legal system, but rather increase trust in it. The constitutional sentinel aspect

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<sup>37</sup> *Narinder Singh v State of Punjab* (2014) 6 SCC 466

<sup>38</sup> *Rekha Murarka v State of West Bengal* (2020) 2 SCC 474

<sup>39</sup> *Mallikarjun Kodagali v State of Karnataka* (2019) 2 SCC 752

<sup>40</sup> Megha Nagpal and Chandrashekhar Rawandale, 'Tracing the Journey of Crime Victim's Position under Indian Law' (2023) 10 *Cogent Arts & Humanities* 2286071

of the judiciary is of great importance in ensuring that empathy does not override evidence, participation does not constitute domination and that justice is humane and fair.

## **6. PROBLEMS OF IMPLEMENTATION OF THE VICTIM-CENTRIC FRAMEWORK**

Although the rights of the victims are gradually being acknowledged in the context of the reformed criminal law in India, the realisation of the normative commitments into actual performance is fraught with structural and institutional issues. However, even though the statutory and judicial pronouncements are an indication of a change towards victim-oriented justice, the effect is mostly watered down at the implementation stage. The difference between law and practice has remained a detriment to the hope of participatory and restorative justice.

### **6.1. Insufficient Awareness Among Victims**

Lack of awareness among the victims of procedural and substantive rights is one of the most chronic situations. Many of the victims are not aware of their right to information, participation, compensation, and legal assistance. This ignorance is especially severe in the case of the rural population, marginalised groups, and less economically privileged groups. Devoid of proper awareness, the victims cannot invoke any statutory remedies, and thus, many of the victim-centred provisions become ineffective in reality. This dislocation of law and lived experience is worsened by the lack of systematic outreach and victim education mechanisms.<sup>41</sup>

### **6.2. Institutional Resistance and Apathy of the Police**

The other obstacle is the resistance in the criminal justice system. Police agencies, which are formed and trained in the offender-centred paradigm, are not always eager to identify the victims as participants of rights. The situation with delays in FIRs registration, lack of proper communication on the case development, and lack of sensitivity when investigating the cases demonstrates a culture of procedural apathy that remains pertinent.<sup>42</sup> These not only prevent the victim's participation but also promote secondary victimisation, thus eroding the trust in the justice system.

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<sup>41</sup> Megha Nagpal and Chandrashekhar Rawandale, 'Tracing the Journey of Crime Victim's Position under Indian Law' (2023) 10 *Cogent Arts & Humanities* 2286071

<sup>42</sup> Malimath Committee, *Report on Reforms of Criminal Justice System* (2003) para 1.36

### 6.3. Inadequate Infrastructure and Financing

Ineffective infrastructure and financial resources also limit the implementation of victim protection and support schemes. The victim compensation programs, witness protection programs, and rehabilitation programs are characterised by an uneven application across the states. Most of the Legal Services Authorities do not have the manpower and institutional capacity to handle the victim claims effectively.<sup>43</sup> Even the lack of committed victim support units in police systems and in courts contributes to the undermining of the practical viability of victim-oriented reforms even more.

### 6.4. Procedural Bottlenecks and Delays in Compensation

Despite compensation being identified as a core component of victim justice, the issue of delays in its execution has continued to pose a major challenge. The Bharatiya Nagarik Suraksha Sanhita, 2023, however, attempts to solve this problem by introducing Section 396 that requires the Legal Services Authority to estimate the amount of compensation within a rigid period of two months, hence trying to make the process more time-efficient and effective in the relief of victims. The complexities of the procedures, the inconsistencies of discretion, and the inefficiencies that accompany the bureaucratic processes tend to lead to long waiting times, thus nullifying the rehabilitative intent of the compensation.<sup>44</sup> Courts have repeatedly noted that delayed compensation is a denial of justice, especially when the compensation is related to bodily injury or loss of means of livelihood.

### 6.5. Symbolic Recognition without Substantive Enforcement

A more general issue is the danger that reforms that are victim-centred will continue to be more of a token gesture. Unless statutory recognition is coupled with procedures that are enforceable, monitoring mechanisms, and accountability structures, the recognition risks turning out to be declarative but not transformative. Sceptics have warned that, in the absence of institutional investment, the victimisation input might be, as the proverb goes, on paper and without making any impact on the structural imbalance that is criminal adjudication.<sup>45</sup>

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<sup>43</sup> Sunishtha Moghe and Niti Nipuna Saxena, 'Victim Participation in Criminal Trials under New Criminal Laws in India' (2025) 7 *International Journal of Legal Science and Innovation* 230

<sup>44</sup> *Ankush Shivaji Gaikwad v State of Maharashtra* (2013) 6 SCC 770

<sup>45</sup> Bajpai and Gauba, *Victim Justice in Criminal Process* (OUP 2016) 118

## 7. SUGGESTIONS

Victim-based justice can only be implemented successfully with the support of institutional preparation, prescriptive clarity and long-term commitment rather than with the support of legislative endorsement. Addressing the identified practical challenges that are revealed in the previous section necessitates certain reforms that bring rights into existence.

### 7.1. Improving Victim Awareness and Legal Literacy

One of the major measures that can be taken to enhance efficient implementation is the enhancement of awareness among victims about their rights and remedies available. Legal literacy programmes have to be incorporated in the offices of the police, courts and Legal Services Authorities. Victim participation, compensation, and protection information must be presented in non-scholarly language as early as possible during any form of interaction with the criminal justice system. The active dissemination is a requirement because the rights of victims are not to be an empty theoretical concept.

### 7.2. Police accountability and Institutional Sensitisation

Making institutional attitudes reform is the key to the success of a victim-centric framework. Law enforcement agencies must be trained so as to adopt victim-sensitive methods that emphasise dignity, communication and responsiveness. Institutional resistance may be reduced and accountability fostered by including victim-associated performance measures, such as FIR timely registration and procedural transparency in the police assessments.

### 7.3. Improving the Victim Support Infrastructure.

This can be achieved by setting up specialist victim support offices within the police stations and the courts to significantly increase access to help and advice. Such units should provide psychological counselling, legal advice and regular procedure revisions. At the same time, compensation and protection of the victim should be properly financed, and the criteria must be equal for all states to avoid variations in the areas.

### 7.4. Optimising the Compensation Processes and time loss

The compensation serves a rehabilitative but not symbolic purpose in justice to the victim. The bottleneck processes will be minimised by streamlining the application processes, rigid

schedules, and priority release in cases of severe cases. The administrative discretion and judicial supervision can be increased to ensure timely and meaningful disbursement.

### **7.5. Substantive Enforcement of Rights of the Victims.**

The binding obligations are supposed to support the statutory rights to ensure that the victim-centred reforms do not exceed a declaration. The issues of compliance should be analysed with the help of routine checking, data disclosure and institutional audit. The judicial review would also ensure that the victim participation and victim protection mechanisms are operative.

### **7.6. Leaping from the Symbiotic to the Intensive Effect.**

And lastly is the credibility of victim-centred justice, its practical outcomes. The issue of reforms in the law cannot be judged by the way they are described, but by the way they restore dignity and give a manner of involvement and restoration. It is possible to consider that the thought that victims may be successfully integrated into the criminal process without hurting the constitutional protections can really make a difference to a justice system which is responsive and at the same time just.

## **8. Conclusion**

The shift to the victim centered is also a significant modification to the Indian criminal jurisprudence. Victims had been peripherally sidelined in the criminal processes over the decades and had not been accorded any actual voice or presence in a criminal proceeding. Constitutional interpretation, judicial activism and international human rights norms have contributed to the fall of the balance by offering the grounds of a more inclusive understanding of justice.

This is a historic criminal law reform step in that direction, the current criminal law regime, which was initiated in 2023. The current legal regime corrects long-standing structural neglect by recognising victims, particularly women and children's rights-bearers, entitled to information, participation, and compensation.

Unless it is done by statute but through actual attentive application, it is not adequate to enforce victim-centric justice. Challenges that are serious involve resistance in an institution, ignorance, and infrastructural constraints. The rights of the victims are threatened to be nothing more than mere symbolic rather than transformational without an appropriate enforcement.

A balanced criminal justice system in the future should be the surest guarantee of the protection of the constitutional rights of the accused, and allow victims to cease being an invisible stakeholder. The degree to which the new legal system will be able to turn normative commitments into lived justice, a justice that is just and humane and attentive to the least privileged against whom crime is most likely to befall, will signal the effectiveness of the new system of the law.

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