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VICTIM RIGHTS IN THE INDIAN CRIMINAL JUSTICE SYSTEM: A SHIFT FROM ACCUSED-CENTRIC TO VICTIM-CENTRIC APPROACH

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ABSTRACT

The Indian criminal justice system has traditionally operated within an accused-centric framework, emphasizing the protection of individual liberty, presumption of innocence, and procedural fairness. While these principles are fundamental to the rule of law, they have often resulted in the marginalization of victims, whose role has historically been limited to that of witnesses rather than active participants in the justice process. In recent years, there has been a growing recognition of the need to reorient the system towards a more victim-centric approach, influenced by developments in victimology, international human rights standards, and judicial activism.

This study critically examines the evolution of victims' rights in India and evaluates the extent to which the criminal justice system has transitioned from an accused-centric to a victim-centric model. It analyses constitutional provisions, statutory frameworks such as the Code of Criminal Procedure, 1973 and the Bharatiya Nagarik Suraksha Sanhita, 2023, as well as significant judicial pronouncements that have contributed to the recognition of victim rights, particularly in relation to compensation, participation, and dignity.

The research adopts a doctrinal and analytical methodology, supplemented by comparative analysis with jurisdictions such as the United States, the United Kingdom, and Canada. It identifies key challenges in the effective implementation of victims' rights, including procedural delays, lack of awareness, inadequate compensation mechanisms, and institutional inefficiencies.

The study concludes that although India has made considerable progress in recognizing victims' rights, the shift towards a victim-centric justice system remains incomplete and largely normative. It emphasizes the need for structural reforms to ensure meaningful victim participation, effective compensation, and a balanced approach that harmonizes the rights of both victims and the accused.

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1. INTRODUCTION:

The criminal justice system is one of the most crucial institutions for maintaining social order and ensuring justice. Traditionally, the Indian criminal justice system has been largely accused-centric, focusing primarily on safeguarding the rights of the accused through principles such as presumption of innocence³, fair trial, and due process. These safeguards are essential for preventing misuse of state power; however, they have inadvertently led to the marginalization of victims, who are often treated merely as witnesses rather than active participants in the justice process.

In recent decades, there has been a global shift towards recognizing the importance of victims in criminal justice. Influenced by developments in victimology, human rights law, and restorative justice, legal systems worldwide have begun to adopt a more victim-centric approach. In India, this transformation is reflected in constitutional interpretations, statutory provisions such as Sections 357A and 372 of the Code of Criminal Procedure, and recent reforms under the Bharatiya Nagarik Suraksha Sanhita, 2023.

Despite these developments, the transition remains incomplete and uneven. Victims continue to face challenges such as lack of awareness, procedural delays, inadequate compensation mechanisms, and limited participation in proceedings. This research aims to critically examine whether India has truly moved towards a victim-centric justice system or whether the shift remains largely theoretical.

2. BACKGROUND OF THE STUDY:

Historically, criminal law treated offences as wrongs against the State, thereby reducing the role of victims. In ancient societies, victims played a central role in seeking justice through compensation or retaliation. However, with the evolution of state-controlled justice, victims were sidelined⁴.

Post-independence, India retained a colonial legal structure emphasizing procedural fairness and protection of accused rights. While this ensured fairness, it also created a structural imbalance, where victims' needs were overlooked.

The emergence of victimology and international instruments such as the UN Declaration of 1985 highlighted the need for recognizing victims' rights. Indian courts have gradually responded by expanding the scope of Article 21 to include compensation, dignity, and

³ See Commentaries on the Laws of England, bk. IV, ch. 27 (1769) (discussing the presumption of innocence and protection of accused rights)

⁴ Victims in Criminal Procedure 73 (2010).

rehabilitation for victims.

Recent legislative reforms and judicial activism indicate a shift toward a more inclusive justice system. However, the effectiveness of these measures remains questionable, making this study both relevant and necessary.

3. STATEMENT OF THE PROBLEM:

Despite significant legal and judicial developments, victims in India continue to face multiple challenges:

- Limited participation in criminal proceedings
- Inadequate implementation of compensation schemes
- Procedural delays and inefficiencies
- Lack of institutional support and awareness

There exists a gap between legal recognition and practical implementation of victim rights. The criminal justice system still operates predominantly in an accused-centric manner, raising concerns about the realization of substantive justice⁵.

4. RESEARCH QUESTIONS:

The study seeks to answer the following questions:

1. Whether the Indian criminal justice system continues to function as an accused-centric model?
2. To what extent have victims' rights been recognized in India?
3. Whether recent legal developments indicate a genuine shift toward victim-centric justice?
4. What are the major challenges in implementing victims' rights?
5. How can the criminal justice system be reformed to achieve a balance between accused and victim rights?

5. OBJECTIVES OF THE STUDY:

The primary objectives of the study are:

- To examine the concept and evolution of victims' rights
- To analyze the constitutional and statutory framework in India

⁵ INDIA CONST. art. 21

- To evaluate judicial developments relating to victims
- To identify gaps and challenges in implementation
- To suggest reforms for a balanced and effective justice system⁶

6. HYPOTHESIS:

The study is based on the following hypothesis:

“Despite significant constitutional, statutory, and judicial developments, the Indian criminal justice system remains predominantly accused-centric, and the shift toward a victim-centric approach is more normative than effectively realized in practice.”

This hypothesis is supported by:

- Weak implementation of legal provisions
- Limited victim participation
- Structural inefficiencies in the justice system

7. RESEARCH METHODOLOGY:

This research adopts a doctrinal, analytical, and comparative methodology.

(a) Doctrinal Method: The study relies on primary legal sources such as:

- Constitution of India
- Code of Criminal Procedure, 1973
- Bharatiya Nagarik Suraksha Sanhita, 2023
- Judicial decisions of Supreme Court and High Courts

(b) Analytical Method: A critical evaluation of:

- Effectiveness of victim-related laws
- Judicial interpretations
- Implementation challenges

(c) Comparative Method: The study compares India with jurisdictions like:

- United States
- United Kingdom
- Canada

to identify best practices.

(d) Secondary Sources:

⁶ INDIA CONST. art. 39A.

- Books, journals, and research articles
- Law Commission Reports
- Committee Reports (e.g., Malimath Committee)

8. LITERATURE REVIEW:

The concept of victims' rights has been widely discussed in legal scholarship. Scholars such as Andrew Ashworth⁷ have highlighted the tension between victim rights and due process. Indian scholars emphasize:

- Inefficiency of compensation schemes⁸
- Lack of victim participation
- Need for structural reforms

Law Commission Reports and the Malimath Committee have recommended:

- Greater victim participation
- Strengthening compensation mechanisms
- Reforming procedural laws

However, most existing studies focus on isolated aspects rather than providing a holistic analysis, which this research seeks to address.

9. SCOPE OF THE STUDY:

The study focuses on:

- Victims' rights within the Indian criminal justice system
- Constitutional and statutory provisions
- Judicial developments
- Comparative analysis with selected countries

10. SIGNIFICANCE OF THE STUDY:

This research is significant for several reasons:

- Highlights the imbalance between accused and victim rights
- Contributes to academic discourse on victimology
- Assists policymakers in designing reforms

⁷ Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770

⁸ Laxmi v. Union of India, (2014) 4 SCC 427.

- Promotes awareness about victims' rights
- Strengthens the concept of substantive justice

The study is particularly relevant in light of recent reforms under the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. CONCEPTUAL FRAMEWORK:

The research is based on the concept of victim-centric justice, which includes:

- Recognition of victims as stakeholders
- Participation in criminal proceedings
- Compensation and rehabilitation
- Protection from secondary victimization

It also incorporates theories of victimology such as:

- Victim precipitation theory
- Lifestyle theory
- Routine activity theory

These frameworks help in understanding victimization and shaping policy responses.

12. CHAPTERISATION:

The present research is systematically divided into fifteen chapters, each dealing with a specific aspect of the study in a logical and progressive manner. The structure has been designed to move from conceptual foundations to legal analysis, followed by practical challenges and reform-oriented conclusions.

Chapter 1, titled "Introduction,"

Lays the foundation of the study by providing an overview of the research topic. It discusses the background of the study, the meaning of the term "victim" in criminal law, and the evolution of the criminal justice system. This chapter also identifies the problem statement, research gap, research questions, objectives, and hypothesis. Additionally, it explains the research methodology, scope, limitations, and overall structure of the dissertation. The purpose of this chapter is to clearly define the framework and direction of the research.

Chapter 2, "Conceptual Framework of Victims' Rights,"

Deals with the theoretical and conceptual understanding of victims and victimization. It examines the definition and classification of victims, the meaning and scope of victimology, and the various schools and theories of victimology. The chapter also analyses different types

of victimization and the impact of crime on victims. This chapter provides the intellectual foundation necessary for understanding the legal and practical aspects discussed in subsequent chapters.

Chapter 3, “Historical Evolution of Victims’ Rights in the Criminal Justice System,”

traces the development of victims’ rights from primitive societies to the modern legal system. It examines how victims initially played a central role in justice delivery, which gradually diminished with the emergence of state-controlled justice systems. The chapter further explores developments in India during the colonial and post-independence periods, as well as the emergence of victimology and judicial recognition of victims’ rights. This historical analysis helps in understanding the present structure and its limitations.

Chapter 4, “Accused-Centric Justice System in India,”

Critically analyses the existing framework of the Indian criminal justice system, which is predominantly focused on protecting the rights of the accused. It discusses the philosophical and constitutional basis of accused rights, including principles such as presumption of innocence and fair trial. The chapter also examines procedural safeguards and judicial activism in favour of the accused, while highlighting the resulting imbalance and its adverse impact on victims. It further incorporates critiques by scholars and committees, thereby establishing the core issue addressed in the study.

Chapter 5, “Emergence of Victim-Centric Approach in Criminal Justice System,”

Explores the gradual shift towards recognizing victims as important stakeholders in the justice process. It discusses the concept of victim justice, the influence of international instruments such as the UN Declaration of 1985, and the human rights perspective on victims’ rights. The chapter also analyses the rise of victim participation and the concept of restorative justice, while emphasizing the need to balance the rights of the accused and victims.

Chapter 6, “Legal Framework for Victims’ Rights in India,”

Examines the constitutional, statutory, and institutional provisions relating to victims’ rights. It analyses constitutional guarantees under Articles 14, 21, and 39A, along with statutory provisions under the Code of Criminal Procedure, 1973 and the Bharatiya Nagarik Suraksha Sanhita, 2023. The chapter also reviews special legislations protecting vulnerable victims and the role of Legal Services Authorities. It aims to evaluate the extent to which the legal framework recognizes and safeguards victims’ rights.

Chapter 7, “Judicial Approach Towards Victims’ Rights in India,”

Focuses on the role of the judiciary in advancing victims’ rights through progressive interpretation of laws. It analyses important judicial decisions that have contributed to the

recognition of compensation, victim participation, and protection of dignity. The chapter highlights the proactive role of courts in bridging the gap between legal provisions and practical implementation.

Chapter 8, “Role of Victims in the Criminal Justice Process,”

Examines the participation of victims at various stages of the criminal process, including reporting, investigation, trial, sentencing, and post-trial proceedings. It also considers the role of victims in compensation and restorative justice mechanisms. The chapter evaluates whether victims are effectively involved in the justice process or remain passive participants.

Chapter 9, “Challenges in Implementation of Victims’ Rights in India,”

Identifies the practical difficulties faced by victims despite the existence of legal provisions. It discusses structural and procedural constraints, inefficiencies in compensation mechanisms, socio-economic and cultural barriers, and institutional weaknesses. The chapter also addresses issues such as secondary victimization and lack of awareness, highlighting the gap between theory and practice.

Chapter 10, “Victim Compensation and Rehabilitation in India,”

Provides a detailed analysis of compensation schemes and rehabilitation mechanisms available to victims. It examines the role of Legal Services Authorities and judicial trends in awarding compensation. The chapter evaluates whether compensation serves as an effective remedy for victims or remains inadequate in practice.

Chapter 11, “Gendered Dimension of Victimhood,”

Focuses on the specific challenges faced by women and other vulnerable groups. It analyses laws relating to sexual violence and examines how gender, caste, and socio-economic factors influence victimization. The chapter emphasizes the need for a more inclusive and intersectional approach to victim protection.

Chapter 12, “Comparative Analysis of Victim Rights,”

Compares the Indian framework with that of other jurisdictions such as the United States, the United Kingdom, and Canada. It examines best practices in victim participation, compensation, and institutional support systems. The chapter aims to identify gaps in the Indian system and draw lessons from international experiences.

Chapter 13, “Law Commission and Committee Reports on Victim Rights in India,”

analyses recommendations made by various Law Commission reports and committees, including the Malimath Committee and the Justice Verma Committee. It evaluates their impact on legal reforms and highlights areas where recommendations have not been effectively implemented.

Chapter 14, “Suggestions and Reforms,”

Proposes practical and policy-oriented recommendations to strengthen victims’ rights in India. It suggests reforms in legislative, procedural, and institutional frameworks, with an emphasis on enhancing victim participation, improving compensation mechanisms, and ensuring access to justice.

Chapter 15, “Conclusion and Findings,”

Summarizes the key findings of the study and evaluates the hypothesis. It provides a comprehensive conclusion on whether the Indian criminal justice system has effectively transitioned towards a victim-centric approach. The chapter also outlines future directions and emphasizes the need for a balanced system that harmonizes the rights of both victims and the accused.

13. EXPECTED OUTCOMES OF THE STUDY:

The present research is expected to yield both theoretical and practical outcomes.

Firstly, the study will demonstrate that the Indian criminal justice system, despite recent developments, continues to retain a predominantly accused-centric orientation. It will highlight that the recognition of victims’ rights in statutory provisions and judicial decisions has not been matched by effective implementation in practice.

Secondly, the research will identify and critically analyse the major challenges faced by victims, including procedural delays, limited participation in criminal proceedings, lack of awareness of legal rights, and inefficiencies in compensation and rehabilitation mechanisms. This will help in understanding the gap between legal provisions and their actual enforcement. Thirdly, through comparative analysis with jurisdictions such as the United States, the United Kingdom, and Canada, the study will identify best practices in victim protection, participation, and compensation. These insights will provide a framework for evaluating the Indian system and highlighting areas requiring reform.

Fourthly, the study is expected to contribute to academic discourse by providing a comprehensive and integrated analysis of victims’ rights, combining constitutional principles, statutory provisions, judicial developments, and policy perspectives.

CONCLUSION:

The evolution of victims’ rights marks a significant shift in criminal justice philosophy. While India has made considerable progress through judicial activism and legislative reforms, the

system continues to exhibit structural bias in favour of the accused.

A truly effective justice system must move beyond procedural fairness and embrace substantive justice, where victims are recognized as central stakeholders. Achieving this balance requires not only legal reforms but also institutional commitment and societal awareness.

This research aims to contribute toward that transformation by critically analyzing existing frameworks and proposing practical solutions for a more equitable criminal justice system.

