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The Role of Victimology in Criminal Justice: Need to Change the Paradigms towards Victims

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ABSTRACT

The victim is a person who suffers harm caused by the crime. The term victimology is the study of the impact of crime against the victim and the role played in the criminal justice and includes the psychological effect of victim and relationship with offender and societal response and mechanism available for compensation and rehabilitation. There are some challenges faced by the victim like lack of awareness, delay in granting compensation, social stigma and limited access to legal aid. The paper focuses on the role of victimology in the administration of criminal justice and identify the areas where it is necessary to work upon. It further focuses on the historical background of compensation to victim and how much it is necessary in justice delivery. The paper also focuses on the theories of victimology and its role in criminal justice to victim such as Positivist Victimology Theory; Routine Activities Theory; Psycho-Social Coping Theory; Radical Victimology Theory etc. It further deals with the Law Commissions Report and Malimath Committee Report on the reforms of the Criminal Justice System as well as recommendation on victim justice. The paper also deals on the role of judiciary on victim compensation as well as the International Obligations under various International Instruments regarding victim compensation. It further emphasizes on need to change the paradigms towards victims. It also deals with the suggestions in order to deal with the issues related to victims and their rights.

Keywords: Victim, Justice, Victimology and Judiciary

I. INTRODUCTION

Outsourcing Victim compensation, though often described as the “weeping beggar” at the doors of the criminal justice system, holds a critical if underappreciated place within legal discourse. While the concept itself is not new, its relevance endures due to its deep ethical rationale and practical necessity. Victim compensation, which has its roots in both legal reasoning and social empathy, is consistent with the developing field of criminology and has greatly aided in the

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growth of victimology as a separate field.²

It is crucial to acknowledge that many nations have put in place organised systems for compensating victims of crime. Legislative efforts have been a major force behind these frameworks, and they should be commended for integrating victim issues into the criminal justice reform process. Such actions show an increasing dedication to making sure that justice is restorative and reparative for the victim as well as punitive for the perpetrator.³

The rights of victims have received a lot of attention in recent decades, especially since the United Nations adopted the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Since then, attempts to enhance victims' conditions within legal systems have been ongoing, and there has been a rising global understanding of the significance of recognising and meeting victims' needs. In India, compensation must be given to both the direct victim of a crime and any dependents who may have been harmed as a result of the offence, according to Section 357A of the Code of Criminal Procedure (CrPC). This legal clause aims to offer rehabilitative help and emphasises a more comprehensive understanding of the victim's suffering.⁴

The British colonial era is when the idea of restitution first appeared in Indian law. Courts have the authority to award compensation to an individual under Section 545(1)(b) of the CrPC, 1898, provided that the court determined that the compensation was both significant and recoverable in a civil court. The foundation for the incorporation of victim compensation into Indian criminal justice procedures was established by this early clause.⁵

Victim compensation is covered by a number of different laws in addition to the penal code, such as:

- The Motor Vehicles Act, 1988,
- The Consumer Protection Act, 2019, and
- The Fatal Accidents Act, 1855.

These rules permit reimbursement of expenditures directly associated with the violation, including lost wages and medical bills. Additionally, victims of severe crimes, especially survivors of sexual assault, can get financial aid through state-level Crime Victim Compensation Programs (CVCs). In the wake of traumatic events, these initiatives seek to

² K. Prathyusha, "Evolution of Victim Compensation Law in India," 13 *Supremo Amicus* 120–30 (2019).

³ *Ibid.*

⁴ Harshika Kapoor, "Victim Compensation Scheme in the Northern India," 2 *Law Essentials Journal* 268–76 (2021).

⁵ *Ibid.*

help victims reconstruct their lives by offering prompt and useful assistance.⁶

Within the criminal justice system, victims' rights and roles have not always been acknowledged and are frequently disregarded. The system remains predominantly punitive in many jurisdictions, prioritising the prosecution and punishment of perpetrators over attending to the needs of victims. The process usually focusses on proving the accused's guilt or innocence, paying little regard to the victim's experience or healing. The limited involvement of victims in judicial proceedings, their ignorance of their rights, and the drawn-out and intricate nature of legal procedures all contribute to this imbalance. These elements frequently lead to victims feeling disenfranchised and powerless within the legal system.⁷

In seminal rulings like *Karan v. State N.C.T. of Delhi*⁸, where the court stressed the need of victim impact statements and restitution, the necessity for reforms has been highlighted. Nonetheless, caution must also be exercised when including victims in legal proceedings. Their involvement is necessary for a more comprehensive approach to justice, but it shouldn't jeopardise the accused's rights or lead to undue prejudice, underscoring the fine line that must be drawn between a fair trial for defendants and justice for victims.⁹

The actual vindication of victims has been largely marginalised by India's legal system, which frequently places convictions above comprehensive justice. This narrow, conviction-centric approach has contributed to systemic shortcomings in areas such as investigation, prosecution, and procedural integrity. Additionally, the lack of adequate infrastructure has further diluted the standard of justice delivered to victims, often leaving their needs unaddressed. True justice must be reformatory for the offender and restorative for the survivor. Thus, the rehabilitation and support of victims should not be viewed as separate from, or secondary to, the concept of monetary compensation. On the contrary, it is an essential and integrated component of justice delivery. In several instances, courts have awarded compensation under public law remedies, invoking Article 21 of the Constitution, which guarantees the right to life and personal liberty.¹⁰

The Supreme Court of India, in numerous landmark cases, has directed monetary compensation and rehabilitation for victims whose rights to life, dignity, or liberty were violated by the State or its agents. Over the past two decades, Article 21 jurisprudence has evolved significantly,

⁶ *Ibid.*

⁷ Garima Pal and Anand N. Raut, "Victim-Sensitive Approach and Legislative Framework in India," 50 *Indian Journal of Criminology* 89–111 (2022).

⁸ 227 (2021) DLT 195 (FB)

⁹ *Ibid.*

¹⁰ Ananya Singh, "Victim Compensation in India: Issues and Challenges," 7 Issue 6 *International Journal of Law Management & Humanities* 2374–86 (2024).

expanding its scope to include not only protection of life and liberty but also the rehabilitation of victims and their families. Initially, victim compensation under public law was confined to the writ jurisdiction of constitutional courts. However, the introduction of Section 357A of the Code of Criminal Procedure effective from 1973 marked a major shift by mandating a structured and uniform compensation mechanism for victims, irrespective of the outcome of the criminal prosecution.¹¹

II. WHAT IS VICTIMOLOGY?

Victimology is the study of the relationship between the victim and the offender in the context of a crime. According to Schafer (1977), it involves examining the dynamic between the criminal and the victim. Drapkin and Viano (1974) describe victimology as a branch of criminology that focuses primarily on the victim and all aspects related to their experience. Personage (1979) emphasizes the interactive nature of this relationship, where both the offender and the victim hold roles and responsibilities. Fattah (1966) adds that victimology explores the biological, sociological, psychological, and criminological characteristics of the victim, with a particular focus on their relationship with the offender.¹²

The term "**Victimology**" is derived from the Latin word *victima* (meaning "victim") and the Greek word *logos* (meaning "study" or "discourse"). The term was first introduced in 1947 by French lawyer Benjamin Mendelsohn. Victimology is broadly defined as the study of crime from the victim's perspective focusing on individuals who have suffered harm, injury, or loss due to the actions of another person or group.¹³

The study of victimology looks at the reasons for and effects of victimisation, as well as how the criminal justice system may assist victims. In order to comprehend the dynamics that result in victimisation, it takes a scientific approach to investigating the interaction between the victim and the offender. Victimology covers human rights abuses in addition to crimes. It highlights the importance of treating victims with empathy and offering them the right kind of support and restitution within the criminal justice system. Consequently, victimology has developed into a significant area of criminology that is devoted to comprehending and resolving victims' demands and rights.¹⁴

Criminal activity has historically been vigorously enforced to maintain social order, but victims those who suffer the repercussions of crime—have received little attention. The majority of the

¹¹ *Ibid.*

¹² D. R. Singh, "Development of Victimology in India," 13 *Indian Journal of Criminology* 144–50 (1985).

¹³ Manav Goyal, "Emerging Trends in Victimology," 1 *Law Essentials Journal* 41–55 (2020).

¹⁴ *Ibid.*

time, the needs and experiences of the victims themselves have been neglected in favour of comprehending and dealing with perpetrators.¹⁵

III. HISTORICAL BACKGROUND OF COMPENSATION TO VICTIMS

Ancient Indian customs and legal philosophy have a strong foundation in the idea of making amends for the suffering that victims have endured. The idea of victim reparation is not a recent invention; rather, it has long been ingrained in theoretical frameworks and historical practices. Ancient civilisations include evidence of victim recompense, such as the Code of Hammurabi, which made clear provisions for victim restitution. Similarly, early Greek city-states incorporated victimological principles into their legal systems.¹⁶

In the Indian context, restitution was not merely symbolic but seen as a legal and moral duty of the ruler. For instance, if a thief escaped and the stolen property could not be recovered, it became the King's obligation to reimburse the victim from his own treasury. He could later recover this amount from the village officials whose negligence enabled the thief's escape. Ancient Indian legal texts, particularly during the Sutra period, recognized compensation as a royal right and a key component of justice. The Law of Manu is particularly illustrative: it required offenders to compensate victims for injuries, including medical expenses, and to pay damages for harm to property. In cases involving physical injury such as amputation or bloodshed the offender was bound to bear the full cost of a proper cure or, failing that, both damages and fines. These records clearly demonstrate that victim compensation was a well-established and integral part of ancient India's justice system. The idea of restorative justice and reparation to victims is not a foreign or recent concept, but a deeply ingrained aspect of India's legal heritage.¹⁷

IV. THEORIES OF VICTIMOLOGY

Victimology, as a distinct field of study, lacks a wide range of theories developed solely from the victim's perspective. However, victimologists often draw upon criminological theories related to crime causation to better understand patterns of victimization. One of the most notable examples is the Routine Activities Theory developed by Cohen and Felson in 1979.

1. POSITIVIST VICTIMOLOGY THEORY

Rooted in the principles of positivist criminology, this approach views crime and all social

¹⁵ D. R. Singh, "Development of Victimology in India," 13 *Indian Journal of Criminology* 144–50 (1985).

¹⁶ K. V. Ravi Kumar and K. V. Ratnakar, "Compensation to Victims in Criminal Justice System in India: A Critical Appraisal," 6 Issue 2 *International Journal of Law Management & Humanities* 504–15 (2023).

¹⁷ *Ibid.*

phenomena as outcomes of identifiable causes that can be systematically studied. While positivist criminologists focus on external forces (e.g., biological, environmental, or genetic) that influence offenders, early positivist victimologists explored the idea that victims may, consciously or unconsciously, contribute to their own victimization through behaviour or situational factors.¹⁸

2. ROUTINE ACTIVITIES THEORY

According to this theory, crime is likely to occur when three key elements converge:

- (i) a suitable target,
- (ii) a motivated offender, and
- (iii) the absence of a capable guardian.

This framework has been widely adopted in victimology to explain how everyday routines and environments increase the risk of victimization.¹⁹

3. PSYCHO-SOCIAL COPING THEORY

This theory offers a broad explanatory model for understanding various victimological phenomena. It incorporates both behavioral and legal concepts and draws from multiple psychological and sociological perspectives, including phenomenology, control theory, stress theory, symbolic interactionism, and behaviourism. The approach emphasises social support networks and psychological resilience as ways for victims to manage the stress and trauma brought on by victimisation.²⁰

4. RADICAL VICTIMOLOGY THEORY

This theory, which draws inspiration from radical criminology, opposes positivist victimology's emphasis on individual blame. Rather, it highlights how victimisation is shaped by structural and systemic elements like social injustice, power relations, and economic inequalities. It critically looks at how legal and state institutions create the concepts of "victim" and "offender," frequently promoting social hierarchies and marginalisation that already exist.²¹

V. RECOMMENDATIONS

The Law Commission of India (1996)

¹⁸ Antara Roy, "Understanding of Victimology on the Lens of Criminal Law," 5 Issue 1 *Indian Journal of Law and Legal Research* 1–17 (2023).

¹⁹ *Ibid.*

²⁰ *Ibid.*

²¹ *Ibid.*

The Law Commission of India suggested in its 1996 report that the State should be in charge of giving victims of crime financial support. This assistance needs to be provided in situations where the victim is recognised but the perpetrator cannot be located, when the offence is established, and when the accused is found not guilty. Regardless of how the criminal proceedings turn out, the Commission underlined that the State should embrace and uphold the notion of victim support.²²

RECOMMENDATIONS OF MALIMATH COMMITTEES ON JUSTICE TO VICTIMS

The Justice Malimath Committee on Reforms of the Criminal Justice System (Government of India, 2003)

A number of significant improvements were suggested by the Justice V. S. Malimath Committee with the goal of enhancing victims' rights and roles in the Indian criminal justice system. Its main recommendations included giving victims fair compensation for their pain and including them in legal proceedings.

The Committee emphasised that a crucial component of the legal system is making sure victims receive justice. At the 2011 Indian Society of Victimology International Conference, Prof. N. R. Madhava Menon promoted a "holistic justice" strategy that gives victims the ability to take part in criminal prosecutions and seek damages for losses or injuries.

According to the United Nations Declaration on the Basic Principles of Justice for Victims of Crime and Abuse of Power, victims have four fundamental rights: aid, restitution, compensation, and access to justice and fair treatment.

Key Recommendations of the Malimath Committee on Victim Justice:

1. Victims must receive fair compensation and be permitted to take part in cases involving major offences.
2. In the event of the victim's death, their legal representative should have the right to become a party to the case in serious offences.
3. The State should appoint an advocate or pleader of the victim's choice to represent them, bearing the cost if the victim is unable to afford it.
4. Compensation to victims should be a mandatory responsibility of the State in all serious crimes, irrespective of whether the offender is identified, apprehended, or convicted. This should be addressed through separate legislation.

²² Vidya Shankar, "Victimology in India: Need for Victim-Oriented Laws," 3 Issue 5 *International Journal of Law Management & Humanities* 960–75 (2020).

5. A Victim Compensation Fund should be established under this legislation, with resources possibly sourced from the assets seized in cases of organized crime.²³

VI. JUDICIAL DECISION ON VICTIM COMPENSATION

Despite statutory provisions for the payment of compensation to crime victims, this mechanism remains underutilized in India. Several judgments by the Supreme Court and High Courts, along with recommendations by the Law Commission, have emphasized the importance of compensation and expressed concern over its limited application by criminal courts.

1. *State v. Sanjiv Bhalla*

The Supreme Court held that awarding compensation to a crime victim is an essential aspect of just sentencing. In situations where compensation is not granted, the trial judge is obligated to record the reasons for such omission.

2. *Girdhari Lal v. State of Punjab*²⁴

The Court ruled that an order requiring the accused to pay litigation costs to the State can only be passed if a substantive fine is imposed. It set aside a High Court directive issued under Section 357(1) against an accused who was not fined and was released on probation.

3. *Surendra Chaudhary v. State of Bihar*

The Patna High Court emphasized that the power to award compensation should be exercised liberally by the courts to ensure justice is served.

4. *Suba Singh v. Davinder Kaur*²⁵

The Supreme Court clarified that a court's order to award compensation does not bar a victim or their dependents from pursuing a separate civil suit for compensation. Section 357 explicitly allows dependents of deceased victims to file such claims.

5. *Roy Fernandes v. State of Goa*²⁶

The Supreme Court expressed concern that, although the statutory provision for compensation has long existed, criminal courts have rarely exercised their authority to award it.

6. *Hari Kishan and State of Haryana v. Sukhbir Singh*²⁷

In this case, the Supreme Court outlined several factors for determining compensation: the

²³ *Ibid.*

²⁴ AIR 1982 SC 1229

²⁵ Decided on 6 July 2011.

²⁶ Decided on 1 February 2012.

²⁷ AIR 1988 SC 2127

nature and circumstances of the crime, the victim's claim, and the financial capacity of the accused. When multiple accused are involved, compensation should be apportioned equally unless their capacities to pay vary significantly. The court also recommended allowing payment in instalments, if necessary.

7. *Rachpal Singh v. State of Punjab*²⁸

The Court emphasized that compensation must align with both the seriousness of the offence and the accused's capacity to pay. In cases with limited evidence, courts must use available material and take judicial notice of relevant facts to determine a fair amount.

8. *Suresh v. State of Haryana*²⁹

The Court ruled that it is the responsibility of the judiciary, upon taking cognizance of an offence, to assess whether the crime occurred, whether the victim is identifiable, and whether immediate financial relief is required. Upon being satisfied either through application or *Suo moto* the court should grant interim compensation, pending final determination. Factors such as the gravity of the offence and the victim's needs should guide this process.³⁰

INTERNATIONAL OBLIGATIONS

The Republic of India is a signatory to several key international human rights instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These international commitments place a responsibility on India to ensure an effective and accessible criminal justice system for its citizens. An essential component of this obligation is the provision of legal remedies, including compensation for victims of human rights violations and criminal acts.³¹

VII. NEED TO CHANGE THE PARADIGMS TOWARDS VICTIMS

To effectively address victimization in India, several key measures must be adopted:

- **Timely Justice:** Court proceedings should be conducted without unreasonable delays to ensure that victims are not further burdened by prolonged litigation.

²⁸ AIR 2002 SC 2710

²⁹ Decided on 28 November 2014.

³⁰ Gaurav Kumar, "Victimology: Victim Compensation Scheme as Restorative Justice," 6 Issue 2 *International Journal of Law Management & Humanities* 1220–32 (2023).

³¹ Vibha Mohan, "Revisiting Victim Compensation in India," 4 *Indian Journal of Law & Public Policy* 88–109 (2017).

- **Dignified Treatment:** Victims must be treated with fairness, dignity, and respect at every stage of the criminal justice process.
- **Comprehensive Victim Legislation:** There is an urgent need for dedicated legislation focused solely on the rights and needs of victims. While efforts are underway to enact a National Law for Victims, this must be prioritized and backed with mandatory provisions in the victim's favour.
- **Police Accountability and Fairness:** Law enforcement must act strictly against offenders while treating victims with empathy and impartiality. Often, victims face obstacles in simply registering a complaint, a process that should never depend on the discretion or "mercy" of police officers.
- **Combatting Police Corruption:** Corruption among police officials severely weakens the criminal justice system and further victimizes the aggrieved. It is the collective responsibility of citizens to report and oppose such practices.
- **Public Awareness and Empowerment:** Society must be made aware of **victims' rights**, encouraging victims to speak out and demand **justice**. The willingness of victims to come forward often influences the depth and direction of investigations.
- **Effective Implementation of Laws:** One of the major challenges lies in the implementation of laws, rules, and policies. Government officials and authorities entrusted with enforcing justice must be held accountable to ensure laws are applied consistently when harm occurs.
- **Victim Notification and Communication:** Victims should be kept informed about key developments such as court proceedings, arrest or release of the accused, and other significant updates related to their case.
- **Victim-Centric Justice:** Agencies within the criminal justice system must sincerely and empathetically address the concerns of victims, recognizing them as central stakeholders in the process of justice.³²

VIII. SUGGESTIONS

- 1) A Victim Protection Bill should be enacted to safeguard the fundamental rights of victims, empower the judiciary to respond effectively to their concerns, and streamline

³² Lipika Lakhani and Sonali Agarwal, "Transforming Victim's Criteria and the Criminal Justice System in India," 10 *Supremo Amicus* 129–41 (2019).

the process for government assistance. A "victim" should be defined not only as the person directly affected by the crime but also their dependents who suffer as a result.

- 2) Each state government should integrate the entire complaint and investigation process including details of investigating officers into a centralized online portal. Additionally, the central government could establish a nationwide toll-free helpline to make it easier for victims to file complaints and seek assistance.
- 3) In cases involving female victims, only a female officer of rank higher than constable should be assigned to conduct the investigation. Furthermore, the Victim Relief Fund, managed by the central government, can be utilized to provide victims with immediate financial support for emergency medical treatment.
- 4) The judicial process should be streamlined through the implementation of a simplified court procedure, which would help expedite the delivery of justice.³³

IX. CONCLUSION

Our criminal justice system disproportionately favours the rights of the accused, often sidelining the entitlements of victims. However, the very essence of justice demands a balanced consideration of both parties presenting their claims before the court. In practice, the rights of crime victims are often more symbolic than substantive, as they are frequently not implemented effectively. Among the rights afforded to victims, compensation plays a crucial role in their rehabilitation and in helping them recover from the impact of the offence. The judiciary, through various landmark judgments, has paved the way for strengthening victim compensation. However, for these reforms to be truly effective, a sensitized judiciary that acknowledges the centrality of victim rehabilitation is essential. Professionals with extensive knowledge of the justice delivery system who can actively advise and assist victims in exercising their rights must be appointed immediately.

India's criminal justice system has to change to better understand the types of crimes, how they affect victims, and the stigma they frequently carry in society. Additionally, it must continue to adhere to the tenets of international human rights law. As citizens, we must continue to be watchful and remind our institutions of their sacred responsibility to give victims their dignity back and make amends.

It is advised that victim compensation programs be created to provide monetary support to

³³ A. Thiruthi, "Victimology in the Criminal Justice System," 4 Issue 5 *Indian Journal of Law and Legal Research* 1–14 (2022).

victims, their families, and other qualified parties. In order to give prompt relief, it is also necessary to incorporate provisions for interim compensation based on the victim's socioeconomic status.
