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Victimology and Restorative Justice in Indian Legal Framework: A Critical Law and Policy Analysis

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ABSTRACT

The Indian criminal justice system has traditionally given emphasis on the relationship between the State and the offender, often marginalizing the rights and needs of the victim. However, contemporary developments in victimology and restorative justice in the Indian legal system depicted a growing shift towards a more inclusive, curative as well as reparative justice model. This article investigates the growth of victim-centric justice in India, guided by a strong thesis: the Indian legal framework must systematically incorporate restorative justice mechanisms to provide meaningful protection, participation and reparation for the victims. This article explores and presents the case for systemizing restorative justice in criminal law, citing necessary statutory provisions, landmark decisions and enforcement mechanisms.

Keywords: *Victimology, restorative justice, Indian criminal justice system, victim-centric justice, criminal law reforms, victim rights, reparation, restoration, participation, legal framework in India*

I. INTRODUCTION

Criminal law has been primarily about enforcing the law; deciding guilt and punishment, as determined by the court. Over the past several years, the global conversation on criminal justice has been shifting its focus through several reforms and has moved from being offender-centric to one which acknowledges the rights and dignity of those affected by the offence. This change has been occurring because of the greater understanding that the justice system must not only punish the offender but also respond to the harm done for the victim. The shift is supported by the acknowledgement that the justice system must not only respond by punishing the wrongdoers, but by healing the harm done to the victim. Political will on the international level has resulted in the rehabilitation goals being put into documents such as the *UN Declaration of Justice for Victims for Crime and Abuse of Power* adopted on 29th November 1985, which has motivated nations to policies and legislations related to the rights

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of victims in a manner that is sensitive to their position.²

In India, considering its longstanding customs and traditions of community service and a diversified social structure, there is not a properly codified effective and reformative framework that aligns with the inclusive justice systems. The Indian criminal laws have historically emphasized on a retributive model and has often neglected the voice and input of the victims in official court proceedings. However, there has been an emphasis on rehabilitation and accountability which offers a progressive and fertile ground for incorporating restorative justice principles into the current legal framework by way of amendments and the introduction of the new criminal legislations.

Restorative justice aligns with the core Indian societal ideals, which repairs harm via communication and compensation. Long before contemporary justice structures evolved, indigenous structures such as panchayats and khap sabhas fostered reconciliation and community accountability by prioritizing the inputs of the victims which are principles that mirror the ethos of restorative justice. These traditions demonstrated cultural prevalence even though they lacked legal sanction as well as procedural safeguards.

Against this backdrop, the current article contends that the criminal justice system of India still requires major modifications to formally and legally embrace restorative justice mechanisms to promote safer and meaningful participation for the aggrieved parties. This thesis is guided by the validation that a justice system should not exclusively focus on solely punishing the offender since it cannot fulfill the greater goals of social cohesion and reconciliation.

Therefore, the objectives of this article are fourfold: first, to track the growth of victimology and restorative justice across global and Indian scenarios; second, to look into the constitutional and statutory provisions that prevail in India which support the victim-centered justice system; third, to examine key precedents that have helped shape and expand victims' rights; fourth, to evaluate how conventional Indian justice mechanisms resonate with contemporary rejuvenating principles.

II. CONCEPTUAL FRAMEWORK

A. The victimology: Global and Indian perspective

Victimology underscores the rights and experiences of the victim in context of crimes committed by the offenders under the justice system. The term “victimology” was coined in the mid-20th century and gained notoriety due to the foundational contributions of researchers

² J.P.J. Dussich, *The Evolution of International Victimology and Its Current Status in the World Today*, 1 Rev. de Victimologia / J. Victimology 37 (2015).

like Benjamin Mendelsohn, who is often referred to as the “father of victimology.” Mendelsohn’s categories of victims based on their level of responsibility in relation to their victimization established the foundation for understanding the complex interplay between the perpetrator’s behaviour and the victim’s vulnerability.

Globally, victimology evolved progressively within criminal justice, especially in the post-World War II era, where there was gradual attention given to psychological trauma and human rights. The establishment of the *United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985* marked a watershed moment. It strengthened victims’ rights to fight for justice, obtain reparation, and be treated with dignity and tenderness.

In the Indian scenario, victims historically played a minor role in the criminal justice system. The *Indian Penal Code, 1860* and the *Code of Criminal Procedure, 1973* were centered on colonial legal systems and defined crime as an offence against the state rather than the individual. Consequently, the victim was primarily perceived as a witness to the unlawful activities enjoying restricted procedural rights. However, changes in constitutional interpretations as well as legislative alterations have increasingly brought victims into the spotlight. Article 21 of the *Indian Constitution*, which guarantees the *right to life and personal liberty* has been judicially construed to encompass the *right to fair trial and victim dignity*. The 154th Law Commission Report, 1996 and the 243rd Report, 2012 strongly pushed for victim compensation, psychological support system and legal counsel.

These developments resulted in Section 375A of the CrPC, which introduced state-funded victim compensation initiatives and authorized the District Legal Services Authority (DLSA) to pay compensation even during the absence of a conviction or trial. This move has helped to codify the concept of restorative care, but implementation inconsistencies persist. Presently, victimology in India is much more than simply an academic study, rather it is an evolving area of law and justice which aims to bridge the gap between victims and wrongdoers. However, the incorporation of victimology into mainstream criminal justice remains insufficient without any supporting and complementary framework, such as the principles of restorative justice.

B. Restorative justice: Indian theory and evolution

In the Indian context, the legal system of the nation was majorly developed during the British colonial era, when retributive justice was the exclusive option and possibility. Court-imposed punishments comprised of levied fines, jail time and even execution to prevent crime. This approach, developed by the colonial jurisprudence, left little to no room for acknowledging

and compensating the victims of the crime. Justice was merely reduced to crime and punishment, with the offender and state served as the core central parties of the proceedings, meanwhile, victims acted merely as passive bystanders. However, restorative justice offers a more transformative approach by placing the sufferer at the core of the justice system. It promotes confidentiality, accountability, restitution and dialogue which not only aims to punish the offender but also repair the harm caused by them.

Also, India's philosophical traditions influenced restorative justice principles, such as the Gandhian philosophy, which emphasized forgiveness, transformation as well as nonviolence, all of which aligns closely with the restorative justice ethos.³ Similarly, Dharma Shastras and other ancient texts emphasized restitution over retribution in conflict resolution. In the contemporary era, India has formalized the concept of restorative justice. Law enforcing mechanisms such as Lok Adalats (People's Courts) and Alternate Dispute Resolution (ADR) processes have been developed and influenced over time by traditional methods by relying heavily on negotiation and mediation.

While this change signals gradual formalization of restorative ideals, they remain fragmented and must be integrated fully into mainstream criminal proceedings. Restorative justice-based mechanisms in India function within civil or quasi-criminal domains, with no proper and limited application to serious offences. Furthermore, a lack of a proper justice framework, and awareness among legal professionals and public hinder the true potential of the integration of reparation and restoration into the Indian legal system. To realize that potential and embed restorative ideals into the system, it's imperative to incorporate victim-centered policies, only then will India shift from a punitive legacy towards a more humane and inclusive justice paradigm.

III. LEGAL PROVISIONS AND INSTITUTIONAL MECHANISM

A. Statutory and constitutional foundation

The statutory and constitutional scheme relating to victimology and restorative justice has changed so that restorative justice principles can even be housed in an absence and lack of stand-alone, comprehensive legislation. Several provisions ranging from constitutional articles to those in the Juvenile Act, have the potential to lay the foundation of victim participation and restoration, which sit at the heart of restorative justice and victimology.

³ R. Shamota & G. Sharma, Restorative Justice as a Tool to Prevent Crime as Seen Through Gandhian Lens, 3 Trinity L. Rev. 31, 31–34 (2023).

1. Fundamental constitutional backing

The monument of restorative justice in the Constitution of India is clear from Article 21 which denotes *the right to life and personal liberty*. The judiciary has interpreted the article to expansively include the right to a fair trial, access to justice, and the right to compensation. The Supreme Court of India confirmed the need for victim compensation and rehabilitation (also psychological), stating it is imperative that applying laws covering justice must not only be to convict the accused, but restore and rehabilitate the victim's life psychologically and sociologically back to the pre-crime status going forward restoring the persons quality of life.⁴

2. Restorative elements in new criminal laws

The *Bharatiya Nyaya Sanhita, 2023*, which replaces the colonial-era penal code that has lasted a century and a half, has provided a significant attempt to make the penal law consistent with social and constitutional values. Despite the fact that the BNS is fundamentally punitive in nature, there are provisions in it that reflect restorative justice principles. Some components of restorative justice embodied in the BNS include:

a. Section 2(1)(a): definition of victim

The definition of victim has expanded to include a person who suffers physical, emotional, or economic harm and recognizes that a crime has collateral, multi-dimensional consequences and impacts victims in this respect.

b. Section 4: community service as alternative punishment

The inclusion of community service as an alternative punishment in a minor offence demonstrates a bellwether situation where punishment is no longer merely a retribution, but rather a rehabilitative perspective consistent with contemporary ideals; not only does this help to alleviate the burden of incarceration on prisons, it adds direct accountability for the offender to contribute positively to their community, and thus acts as a restorative sanction.

c. Sections 69–74: minor offences eligible for community service

These sections provide a certain list of specifically minor offences where community service may be applied, thus clearly optimistic that these offences, despite being minor, should be distinguished from incarceration and not solely meet the burden of conviction and probation.

In addition, the BNS emphasizes the victim rather than the offender when it relates to sexual offences, crimes against women and children, and acid attacks, through heightened levels of punishment, which reiterates the dignity and protection of the victims. Despite the fact that

⁴ *Delhi Domestic Working Women's Forum v. Union of India & Ors*, (1995) 1 SCC 14.

the BNS does not formally adopt a model of restorative justice and victimology, there are still aspects like these which show that there is a gradual, and progressive shift toward a victim-centric justice model.

The *Bharatiya Nagarik Suraksha Sanhita (BNSS)*, 2023, which replaces the Code of Criminal Procedure (CrPC), builds on procedural reforms that incorporate reparative and restorative justice elements. These reforms showcase a clear and formal legislative intent to strengthen the role of victims in the criminal process by reparation mechanisms. The statute moves toward recognizing victims not merely as passive informants but as active stakeholders in justice delivery. Key restorative and victim-centric provisions under the BNSS include:

a. Section 473: victim compensation scheme

Corresponding to Section 357A CrPC, allowing victims to receive financial aid from the state, even in the absence of a conviction.

b. Sections 367–377: plea bargaining

Provides for plea bargaining, encouraging negotiated settlements and criminal accountability, particularly in less serious offences.

c. Section 359: compounding of offences

Allows for compounding of specified offences, enabling resolution through mutual consent between the parties, often including apologies or restitution.

d. Section 466(2): victim's right to be heard

Guarantees the victim's right to be heard during bail hearings, reinforcing their role in critical judicial decisions.

e. Sections 193 and 401: victim involvement during trial

Ensure the victim's involvement during important stages of investigation and trial, thereby formalizing their active role in the justice process.

These procedural safeguards collectively depict a shift from a state-controlled prosecution model to a more inclusive justice system that values victim reparation, protection, and participation. While the BNSS does not formally adopt a restorative justice framework, its provisions lay the groundwork for a more humane and participatory legal process.

3. Restorative justice in juvenile justice

Another major factor to be taken into consideration is the fact that restorative justice is an approach that focuses on repairing the harm caused by criminal behaviour through processes

that engage the victim, the offender, and the community in finding a resolution. *In the context of the Juvenile Justice (Care and Protection of Children) Act, 2015*, the Act does not expressly use the term “restorative justice,” but its structure and implementation clearly reflect restorative principles. The focus lies on reintegrating the child into society and preventing reoffending through awareness, education, and consistent counselling rather than punitive measures. Key restorative provisions under the Juvenile Justice Act include:

a. Section 15: preliminary assessment for heinous offences

Provides for a preliminary assessment of a child in conflict with law (aged 16 to 18) involved in heinous crimes, allowing the Children’s Court to decide whether the child should be tried as an adult or under the juvenile justice system.

b. Section 18: remedial and non-custodial dispositions

Empowers the Juvenile Justice Board (JJB) to impose non-custodial, remedial dispositions such as counselling, community service, and monetary restitution—all of which align with the goals of restorative justice.

In essence, these provisions enable a dialogue-based development model, encouraging offender to understand the consequences of their actions and to take active efforts towards repair and accountability. By setting aside a strictly retributive approach and emphasizing the best interests of the child, along with the needs of victim and the community, the Act provides not only for active reintegration of young offenders but also lays foundation for restorative justice model within India’s juvenile system.⁵

B. Law commission reports and policy recommendation

The Law Commission of India has played an important role in advocating for a restorative and victim-centric approach unified into the currently existing criminal framework. This can be seen through various reports from the years 1996 and 2012.

The 154th Law Commission Report of India⁶ sheds light onto the gradual recognition of victimology as a pivotal part of the criminal justice system which advocates for the need to put forward victims’ rights and promote reparation as well as protection. The report asserted that government-funded victim compensation is not merely a matter of charity but is a form of restorative justice and an ethical responsibility on the part of the state to help victims,

⁵ D. Pandey & P. Ganguli, Restorative Justice in India: A Critical Examination of Its Application in the Criminal Justice System, SSRN Working Paper (n.d.).

⁶ Law Comm’n of India, *154th Report on the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), Vols. I & II* (Gov’t of India, Ministry of Law, Justice & Co. Affairs 1996).

especially when victims are created because of systematic failures of the state that may involve factors such as poverty, discrimination, or lack of appropriate state action to avert crime or harm to victims. Based on concepts developing in places such as the United Kingdom with its *Criminal Injuries Compensation Scheme* and the United States with the *Victims of Crime Act, 1984* and the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985*, the Commission called for the development of institutional compensation systems, psychosocial support structures, entitlement for victims to participate in the justice process and other rights including the right to be informed and the right to have decisions made by the prosecution reviewed. The recommendations made in the report articulated a core vision for laws and institutions based on restorative justice principles based on dignity of the victim, and repair of the community situation. This visionary report chaired by Justice K. Jayachandra Reddy, laid the foundation for a paradigm shift in India's criminal legal policy, embracing a more victim-centric framework.

Also, in the 243rd Law Commission Report of India⁷ looked at the issues of misuse and over-criminalization of Section 498A of the *Indian Penal Code*, dealing with the offense of cruelty to a wife by husband or relatives of husband. While affirming the need for similar protection mechanism for victims of domestic violence. The Report noted the increasing popular and judicial concern over arbitrary arrests, adversarial litigation and family break down, and recommended procedural safeguards, while pointing out the restorative justice underneath the procedural aspects. These included the creation of Family Welfare Committees, compulsory counseling before litigation, and that the police not mechanically register an FIR without doing a fair preliminary inquiry. The intent behind these mechanisms is to filter out false or exaggerated claims, but also to promote reconciliation, accountability, and healing, where possible, particularly in matrimonial disputes. Hence, by proposing alternatives based on dialogue and rehabilitation instead of punitive overreach in all cases, the Report implicitly endorses a victim-centric, yet balanced response that considers a victim's dignity, consent and participation for a resolution to be achieved without loss to social or family context. Accordingly, the 243rd Report, chaired by Justice P.V. Reddi, meaningfully contributes to aspirational aspects of integrating principles of restorative justice into India's criminal justice architecture, particularly around familial harm.

C. Institutional mechanism and restorative mechanisms

India provides a structured platform that incorporates reconciliation and reparation within the

⁷ Law Comm'n of India, *243rd Report on Section 498A IPC (Suggestions for Improving Its Working)* (Gov't of India, Ministry of Law & Just. 2012).

justice system in the form of formal institutional and restorative mechanisms. These mechanisms aim to humanize criminal justice system by focusing on curing rather than punishing, which include:

1. Lok adalat

Established under the *Legal Services Authorities Act, 1987*, it serves as a prominent mechanism that validates the principles of restorative justice. It provides affordable clauses which create a platform for ensuring prompt justice to handle conflicts, especially compoundable criminal offences, using advocacy techniques such as mutual consent, mediation, and conciliation. The decisions by Lok Adalat hold the same power and weight as that of a civil court decree, emphasizing not only legal resolution but also promoting victim-centric approaches as well as community harmony. Lok Adalats exemplify restorative values by emphasizing on amicable and cooperative settlements over legal complexities and technicalities, employing methods such as dialogue, and reintegration for a more practical and convenient solution.

2. Plea bargaining

Though originally incorporated in India to lessen the weight on courts, now depicts key reparative justice ideals by promoting proper negotiated resolutions along with recognizing the role of the victims. Under Sections 289-297 of the *Bharatiya Nagrik Suraksha Sanhita, 2023*, the process of plea bargaining allows for a reduced sentence or non-custodial measures. The reason why it is restorative is due to the fact that the victims are prioritized because they are consulted and can receive compensation on the harm faced by them, meanwhile the offenders take full responsibility of their actions, resulting in punishment in the form of community service or even counselling. In practicality, this not only speeds justice delivery but is accompanied by reconciliation where reduced adversarial conflict is the beneficial outcome for all the people involved in the act.⁸

3. Victim compensation

In India it functions as a core restorative mechanism aimed at redressing harm and restoring monetary dignity to the victims as they provide victims with a voice and help them recover from the effects of the crime. This mechanism is often administered at the state level which aims to mitigate financial burden and help recover the expenses faced by the victims due to the harm caused by the offences, providing much-needed support for medical expenses, loss

⁸ P. Pareek, Transforming Plea Bargaining in India: A Pathway to Restorative Justice, 6 Indian J.L. & Legal Rsch. 1896 (2024).

of earnings and rehabilitation. It is anchored in Section 357A of *Criminal Procedure Code, 1973* and carried forward in Section 473 of the *Bharatiya Nagrik Suraksha Sanhita, 2023*, acknowledges the material, physical and emotional harm often endured by victims depicting a shift from adopting retribution to reparation. Victim compensation as a mechanism holds offenders responsible for their crimes and also provides them with an opportunity for redemption for the social fabric they ruptured to break the cycle of violence.⁹

4. Alternative dispute resolution (ADR)

The increased in litigation burden on courts have contributed to the development of ADR mechanisms across the globe. ADR offers a range of tools including arbitration, mediation, conciliation and Lok Adalats. It's formal application can be seen in statutory frameworks like the *Arbitration and Conciliation Act, 1996* and Section 89 of the *Civil Procedure Code, 1908* which plays a pivotal role in reducing backlogs of cases and humanizing dispute resolution delivery. These methods prioritize dialogue, mutual agreement, and voluntary participation, embodying the essence of restorative justice. Mediation, in particular, in the recent years has gained prominence in family, commercial, and even criminal matters, such as compoundable offences as the best method for offender accountability and victim participation.¹⁰

D. Judicial recognition and pronouncements

Precedents have significantly contributed to incorporating as well as embedding restorative justice principles within the legal system. Courts through its various liberal interpretations have upheld victims' rights to dignity, compensation, and participation, not only elucidating statutory provisions but also as expansive as interpreting constitutional protections. Through landmark rulings, the judiciary has provided for a more balanced and humane approach in seeking justice.

The Supreme Court in the case of *Rachhpal Singh v. State of Punjab*,¹¹ held that, compensation should be commensurate with the capacity of accused to pay as also other facts and circumstances of the case like the gravity of the offence, needs of the victim's family, etc. Where material on record is scanty, court had to assess the quantum from the material available and take into consideration the facts, judicial notice of which the court can take note of. Furthermore, the Supreme Court held that the quantum of compensation may be determined by considering the nature of the crime, the justness of the claim by the victim and

⁹ S. Banerjee, Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of Progress and Challenges, 7 GLS L.J. 39 (2025).

¹⁰ A. Singh & P.S. Chauhan, Bridging Justice Paradigms: Lok Adalat and ADR Mechanisms, 4 Int'l J. Crim. Common & Stat. L. 146 (2024).

¹¹ AIR 2002 SC 2710

the capacity of the accused to pay. If there are more than one accused, the quantum may be divided equally unless their capacity to pay varies considerably. Reasonable period for payment of compensation, if necessary, installment may be given.¹²

In the context of re-integration and rehabilitation of juveniles, the Apex Court emphasized the importance of rehabilitation over punishment in the juvenile justice system. The case underscored the need for restorative practices that focus on understanding the child's needs and fostering reintegration into society, rather than treating them as criminals. The *Juvenile Justice (Care and Protection of Children) Act, 2000*, was enacted after years of deliberation and in conformity with international standards as laid down in the *U.N. Convention on the Rights of the Child, 1989*, the *Beijing Rules, 1985*, the *Havana Rules* and other international instruments for securing the best interests of the child with the primary object of social reintegration of child victims and children in conflict with law, without resorting to conventional judicial proceedings which existed for adult criminals.¹³

Additionally, another point to be taken into purview is that there is no straight-jacket formula under criminal law for sentencing an accused. Objective of sentencing should be that of deterrence and reformation. Restorative justice under criminal law aims at giving an opportunity to the convict to reform and become a useful contributor to the society, once released from jail. In the judgment delivered by the Supreme Court in *Mohd. Firoz v. State of Madhya Pradesh*,¹⁴ the apex court has reiterated,

“One of the basic principles of restorative justice as developed by this Court over the years, also is to give an opportunity to the offender to repair the damage caused, and to become a socially useful individual, when he is released from the jail. The maximum punishment prescribed may not always be the determinative factor for repairing the crippled psyche for the offender. Hence, while balancing the scales of retributive justice and restorative justice, we deem it appropriate to impose upon the appellant-accused, the sentence of imprisonment for a period of twenty years instead of imprisonment for the remainder of his natural life for the offence under Section 376-A IPC. The conviction and sentence recorded by the courts below for the other offences under IPC and POCSO Act are affirmed. It is needless to say that all the punishments imposed shall run concurrently.”

There have been some milestone judgements of the Supreme Court pertaining to

¹² *Hari Kishan & Anr. v. Sukhbir Singh*, (1988) 4 SCC 551.

¹³ *Salil Bali v. Union of India & Anr.*, AIR 2013 SC 3743.

¹⁴ AIR 2022 SC 1967

“victimology” can be seen as early as in the case of *Rattan Singh v. State of Punjab*,¹⁵ through the words of V.R. Krishna Iyer and P.N. Singhal, J.J. had touched upon the topic “victimology”, opining that the victims of the crime do not attract the attention of law. Victims reparation is still a vanishing point of criminal law in India, the Court held. It is also held that it is not the exclusive right of accused but is a collective requirement of society and victim is also entitled to it.¹⁶

In context of constitutional interpretation, the Supreme Court went into the scope of Article 14 and 21 of the Constitution of India and the victim’s right to safety and crime/ cybercrimes/ police protection/ bodily integrity. Steps like victim impact statement, victim impact assessment, must be given due recognition so that appropriate punishment is awarded to the convict. There is victimization of the victim of the crime both prior to the trial and during the trial. The court has emphasized to balance the rights of the victim with the rights of the accused.¹⁷

IV. CONCLUSION

For most of its existence, India’s criminal legal system has mostly relied on a retributive and offender-centered approach at its core with little or no attention to the victim's experience, rights and rehabilitation. Nevertheless, with the emergence of conversations about victimology and restorative justice domestically and internationally, it has opened the possibility for a more participatory and reparative approach to justice through amendments and precedents. The emergence of mechanisms such as Lok Adalat, plea bargaining, various victim compensation schemes, and juvenile justice reforms has ushered in a meaningful shift towards victim-centric jurisprudence that parallels the constitutional ethos, and it resonates with international human rights law.

The introduction of Bharatiya Nyaya Sanhita and the Bharatiya Nagrik Suraksha Sanhita have allowed for movement in the right direction acknowledging and seeking to adopt a restorative paradigm that, with victim participation through community service, compensation etc. These reforms and amendments signify that justice should not only be punitive but quite significantly restorative. Judicial interpretation has also assisted this approach through the advocacy of victims' rights and the restoration of restorative remedies as appropriate.

However, despite these changes, there are issues that still present challenges such as lack of awareness or understanding, lack of victim support structures, inconsistency in

¹⁵ (1979) 4 SCC 719

¹⁶ *Labh Singh v. State of Haryana*, (2012) 11 SCC 690

¹⁷ *Mallikarjun Kodagali (d) through legal representatives v. State of Karnataka & Ors.*, (2019) 2 SCC 752.

implementation and inadequate enforcement mechanisms. A formal/codified victim-inclusive model of restorative justice that embraces reparations, participation and protection that thread through all stages of criminal action has yet to be adopted. As India reconceptualizes its criminal reforms in the 21st century, the inclusion of restorative justice is not a mere policy choice, it's a moral essence aligned with the constitutional values of dignity and fairness for all the parties involved.
