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VICTIMOLOGY IN THE PENAL JUSTICE SYSTEM WITH SPECIAL REFERENCE TO WOMEN AND CHILDREN

Author: Mayank Yadav, LLM in Criminal Law from Amity University Lucknow.

Co-Author: Dr Sukriti Yadav, Assistant Professor at Amity University Lucknow.

ABSTRACT

Victimology, as a distinct discipline within criminal jurisprudence, concerns itself with the empirical and normative study of victims of crime, their characteristics, interactions with offenders, experiences within the justice system, and the legal remedies accorded to them. In the Indian penal justice framework, which has historically been accused-centric, the victim has long occupied a peripheral position. This paper undertakes a comprehensive legal analysis of victimology within the Indian penal justice system, with particular emphasis on two of the most vulnerable categories of victims: women and children. Drawing on constitutional provisions, statutory enactments, Supreme Court and High Court judgments, and international instruments, the paper critically examines the evolution of victims' rights in India, the adequacy of existing legal protections, and the structural lacunae that continue to impede meaningful justice for these groups. The paper concludes with recommendations for law reform to transform the Indian criminal justice system into one that is genuinely victim-oriented, sensitive, and restorative.

Keywords: Victimology, Criminal Jurisprudence, Women, Children, Criminal Justice System.

I. INTRODUCTION

The study of crime, for most of legal history, has been dominated by an almost exclusive preoccupation with the offender. The victim, despite being the *raison d'être* of the entire criminal justice apparatus, has paradoxically been relegated to a secondary role, functioning largely as a piece of evidence rather than as a person deserving of rights, recognition, and remediation. It is against this backdrop that victimology emerged as a scientific discipline, challenging the one-sided orientation of criminological inquiry. Andrew Karmen defines victimology as "the scientific study of victims of crime, including the relationships between victims and offenders, the interactions between victims and the criminal justice system, the police, courts, and correctional officials and the connections between victims and other societal groups and institutions."¹

The intellectual foundations of victimology are traceable to the pioneering works of Benjamin Mendelsohn and Hans Von Hentig in the mid-twentieth century. Mendelsohn, often credited as the "father of victimology," was the first to use the term and to propose a taxonomy of victims based on their degree of culpability in the commission of the offence.² Von Hentig, in his landmark 1948 work, brought systematic scholarly attention to the victim's role in the crime and the dynamic relationship between victim and perpetrator.³ Marvin Wolfgang's later empirical study on homicide further demonstrated the complex interactional dimensions of victimisation.⁴

In the Indian context, victimology assumes acute significance given the country's vast and heterogeneous population, high rates of crime against women and children, and a criminal justice system that has been repeatedly criticised for its slow pace, systemic biases, and inadequate victim support mechanisms. The Constitution of India, while not explicitly referencing victims, provides a broad normative framework through its guarantees of equality, dignity, and access to justice.

¹ Andrew Karmen, *Crime Victims: An Introduction to Victimology*, 15 (8th ed., Cengage Learning 2013), 963.

² Benjamin Mendelsohn, *The Origin of the Doctrine of Victimology*, 3(3) *Excerpta Criminologica* 299 (1963).

³ Hans Von Hentig, *The Criminal and His Victim: Studies in the Sociobiology of Crime* 384 (Yale University Press 1948).

⁴ Marvin Wolfgang, *Patterns in Criminal Homicide* 252 (University of Pennsylvania Press 1958).

However, the translation of these constitutional promises into effective victim-centric outcomes remains an ongoing challenge.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, represents an important international benchmark, defining victims broadly and recognising their rights to information, participation, compensation, and assistance.⁵ India's journey towards incorporating these principles into domestic law has been gradual, punctuated by landmark judicial decisions and legislative interventions. The Code of Criminal Procedure (CrPC), 1973, provides certain provisions for compensation and victim protection,⁶ while the amendment of 2008 introduced the victim compensation scheme under Section 357A,⁷ marking a significant, if belated, acknowledgement of the state's obligation towards crime victims.

Women and children constitute categories of victims who, by reason of biological, social, economic, and cultural factors, are disproportionately exposed to crime, particularly crimes of a violent or sexual nature. The vulnerability of these groups is compounded by entrenched patriarchal structures, power imbalances, economic dependence, and the stigmatisation that often attaches to victimhood in Indian society. Any meaningful discourse on victimology in India must, therefore, grapple with the specific challenges confronting women and children within the penal justice system.

II. HISTORICAL AND CONCEPTUAL EVOLUTION OF VICTIMOLOGY

A. Origins and Development

The emergence of victimology as an independent discipline in the post-World War II era represented a significant paradigm shift in criminological thought. Before this, the victim was a legally and academically invisible figure. The classical and positivist schools of criminology focused entirely on the criminal act and the offender, leaving the victim without a theoretical framework. The works of Mendelsohn and Von Hentig disrupted this mono-directional focus by foregrounding the role, characteristics, and experiences of the victim in the crime event.

⁵5. United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, GA Res 40/34, UN Doc A/RES/40/34 (29 November 1985).

¹¹6. Code of Criminal Procedure, 1973, s 357.

¹²7. Code of Criminal Procedure, 1973, s 357A, inserted by the Code of Criminal Procedure (Amendment) Act, 2008.

Mendelsohn's typology classified victims along a spectrum from the "completely innocent victim" to the "most guilty victim," a taxonomy that, while subsequently criticised for its implicit victim-blaming, nonetheless established victimology's agenda of examining the victim's contribution, if any to the criminal event.⁸ Von Hentig's contribution lay in identifying thirteen general classes of victims and six psychological types, recognising that certain social conditions, such as poverty, old age, and gender, rendered individuals more susceptible to victimisation.⁹

The 1970s witnessed the emergence of victim rights movements in the United States and Western Europe, driven by feminist organisations and advocacy groups who highlighted the systemic failures of criminal justice institutions to adequately respond to crimes against women and children. These movements succeeded in securing legislative reforms, establishing victim assistance programmes, and challenging the doctrine of victim precipitation, a concept that had long been used to minimise the moral and legal culpability of offenders in cases involving female victims.

B. Victimology in the Indian Jurisprudential Tradition

Indian jurisprudence did not explicitly engage with victimology as a theoretical framework until the latter decades of the twentieth century. The adversarial structure of the common law system inherited from the British colonial administration treated the state as the primary complainant in criminal proceedings, consigning the victim to the role of a witness. This arrangement, while designed to prevent private vengeance and ensure impartial adjudication, had the unintended consequence of excluding the victim from the very proceedings most directly concerned with the harm suffered by them.

Scholars and law reform commissions began to draw attention to this lacuna from the 1980s onwards. Ankur Mutreja has noted that "the victim in the Indian criminal justice process is, at best, a peripheral participant whose interests are neither systematically ascertained nor adequately protected."¹⁰ This observation captures the dominant reality that persisted well into the twenty-first century, notwithstanding significant legislative activity.

⁸2. Benjamin Mendelsohn, 'The Origin of the Doctrine of Victimology' 3(3) *Excerpta Criminologica* 239 (1963).

⁹3. Hans Von Hentig, *The Criminal and His Victim: Studies in the Sociobiology of Crime* 384 (Yale University Press 1948).

⁵⁴8. Ankur Mutreja, 'Victims' Rights in India: A Critical Analysis' 2(1) *Indian Journal of Criminology and Criminalistics* 45, 48 (2010).

III. CONSTITUTIONAL AND STATUTORY FRAMEWORK FOR VICTIMS' RIGHTS IN INDIA

A. Constitutional Foundations

The Constitution of India does not contain any explicit provision on the rights of crime victims. Nevertheless, a robust constitutional basis for victims' rights may be derived from the foundational provisions of the document. Articles 14 and 21, which guarantee equality before the law and the protection of life and personal liberty, respectively, have been interpreted by the Supreme Court to encompass a wide range of entitlements, including the right to access justice, the right to compensation for state-inflicted or state-tolerated harm, and the right to live with dignity free from fear of violence.

The Directive Principles of State Policy, while non-justiciable, impose on the state an obligation to ensure equal justice and free legal aid under Article 39A, and to promote justice on a basis of equal opportunity. Article 51A, which enumerates fundamental duties, includes the duty to renounce practices derogatory to the dignity of women. Read holistically, the constitutional scheme supports a victim-centred interpretation of the criminal justice process.

B. The Code of Criminal Procedure, 1973

The CrPC, 1973, is the primary procedural statute governing criminal proceedings in India. Section 357 of the CrPC empowers the court to award compensation to the victim out of the fine imposed on the convicted accused. This provision, while forward-looking in its conception, has been criticised for its limited scope; it operates only upon conviction and is contingent on the imposition of a fine.¹¹

A more significant development came with the insertion of Section 357A by the Code of Criminal Procedure (Amendment) Act, 2008. This provision mandates the state governments, in coordination with the Central Government, to prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime. The National Legal Services Authority (NALSA) framed model victim compensation schemes pursuant to this provision.¹²¹³

¹¹ Code of Criminal Procedure, 1973, s 357.
¹² National Legal Services Authority, Victim Compensation Scheme, 2012, framed under s 357A, Code of Criminal Procedure, 1973.
¹³ Code of Criminal Procedure, 1973, s 357A, inserted by the Code of Criminal Procedure (Amendment) Act, 2008.

Section 24(8) of the CrPC, introduced by the 2008 Amendment, provides that the court may, in suitable cases, permit a victim to engage an advocate of their choice to assist the prosecution. Section 327(2) mandates that trials in rape cases be held in camera, affording privacy to the victim. Section 164A mandates medical examination of rape victims. These provisions, taken together, represent a gradual but incomplete movement towards victim-sensitivity in criminal procedure.

C. Other Key Statutory Provisions

Beyond the CrPC, a constellation of legislative enactments addresses specific categories of victimisation. The Protection of Women from Domestic Violence Act, 2005 (PWDVA), defines "aggrieved person" broadly to include any woman who has been subjected to domestic violence in a domestic relationship,¹⁴ and creates a civil-criminal hybrid framework for the protection of domestic violence victims. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, enacted in implementation of the Supreme Court's guidelines in Vishaka,¹⁵¹⁶ establishes Internal Complaints Committees and mandates time-bound inquiry processes.

The Criminal Law (Amendment) Act, 2013, enacted in the wake of the 2012 Delhi gang rape, substantially reformed the law relating to sexual offences. It expanded the definition of rape, introduced new offences of stalking, acid attack, and voyeurism, and significantly enhanced punishments. The Protection of Children from Sexual Offences Act, 2012 (POCSO), created a specialised child-friendly framework for addressing sexual offences against children. The Juvenile Justice (Care and Protection of Children) Act, 2015, addressed the care and protection of children in conflict with the law and children in need of care and protection.

IV. WOMEN AS VICTIMS IN THE PENAL JUSTICE SYSTEM

A. Magnitude and Nature of Crimes Against Women

²²9. Protection of Women from Domestic Violence Act, 2005, s 2(a).

⁵¹11. Vishaka v State of Rajasthan AIR, 1997 SC 3011.

⁴⁶16. National Legal Services Authority, Victim Compensation Scheme, 2012, framed under s 357A, Code of Criminal Procedure,

¹⁰⁷²13. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The National Crime Records Bureau (NCRB) data paints a sobering picture of crimes against women in India. According to the NCRB Crime in India Report 2022, a total of 4,45,256 cases of crime against women were registered across the country during the year, representing a rate of 66.4 cases per lakh female population.¹⁷ These crimes span a spectrum from rape, sexual assault, and acid attacks to dowry deaths, domestic violence, trafficking, and forced marriages. The data, however, is widely acknowledged to represent a significant undercount of actual victimisation, given the well-documented phenomenon of non-reporting driven by social stigma, family pressure, distrust of law enforcement, and fear of secondary victimisation.

The World Health Organisation has characterised violence against women as "a global health problem of epidemic proportions," noting that approximately one in three women worldwide experience physical or sexual violence at the hands of an intimate partner or non-partner sexual violence during their lifetime.¹⁸ In India, this statistical reality intersects with caste, class, religion, and regional disparities to produce a complex landscape of victimisation that defies monolithic characterisation.

B. Sexual Violence: Legislative Framework and Judicial Response

The law of rape in India underwent a fundamental transformation through the Criminal Law (Amendment) Act, 2013, which substituted the erstwhile Section 375 of the Indian Penal Code (IPC) with a broader and more comprehensive definition of sexual assault.¹⁹ The amendment replaced the narrow penile-vaginal definition of rape with a more expansive formulation encompassing various forms of penetration. It eliminated the marital rape exception for wives above the age of eighteen, though the complete abolition of marital rape as a criminal offence remained a contentious, unresolved issue at the time of the amendment.

The Supreme Court, in *Mukesh v. State (NCT of Delhi)*, the case arising from the 2012 Delhi gang rape, upheld the death penalty awarded to the four adult accused, affirming that the case fell within the "rarest of rare" category.²⁰ The case, beyond its facts, triggered a nationwide discourse on

¹⁷10. National Crime Records Bureau, *Crime in India 2022: Statistics* (Ministry of Home Affairs, Government of India 2023) 98.

¹⁸41. World Health Organization, 'Violence Against Women: A Global Health Problem of Epidemic Proportions' WHO Global and Regional Estimates of Violence Against Women (WHO Press 2013) 2.

¹⁹13. The Indian Penal Code, 1860, s 375, as amended by the Criminal Law (Amendment) Act, 2013.

²⁰14. *Mukesh v State (NCT of Delhi)* (2017) 6 SCC 1.

the adequacy of criminal law in protecting women from sexual violence, the institutional culture of police forces, the role of the judiciary, and the importance of victim-centred criminal procedure.

The Supreme Court in *Aparna Bhat v. State of Madhya Pradesh* issued important directions prohibiting the imposition of conditions for bail or suspension of sentence that required the accused to seek pardon from or perform marriage with the victim in cases of sexual offences.²¹ This decision underscored the court's recognition that the criminal justice process must not become an instrument for the further subordination of women victims.

C. Domestic Violence: Intersections with Criminal Justice

The Protection of Women from Domestic Violence Act, 2005, marked a watershed in the legal response to intimate partner violence in India. By adopting a broad definition of domestic violence that encompasses not only physical violence but also sexual, verbal, emotional, and economic abuse,²² the Act recognised the multidimensional nature of harm inflicted on women in domestic relationships. The Act created a range of civil remedies, including protection orders, residence orders, and monetary relief, supplemented by the role of Protection Officers and service providers.

However, empirical studies reveal that the Act's implementation has been uneven. Protection Officers are frequently overburdened or inadequately trained, shelter homes are insufficient in number and quality, and the in camera proceedings mandated for domestic violence cases are not consistently observed. The intersection of domestic violence with criminal law, particularly through the lens of Section 498A of the IPC (cruelty by husband or relatives) remains contested, with the Supreme Court in *Armesh Kumar v. State of Bihar* issuing guidelines to prevent the mechanical arrest of accused persons, a decision that raised concerns among women's rights advocates about its chilling effect on domestic violence complaints.²³

D. Trafficking and Commercial Sexual Exploitation

Human trafficking, particularly for sexual exploitation, represents one of the gravest forms of victimisation of women and girls in India. The Immoral Traffic (Prevention) Act, 1956, and its

²¹34. *Aparna Bhat v State of Madhya Pradesh* (2021) 5 SCC 791.

²²9. Protection of Women from Domestic Violence Act, 2005, s 2(a).

²³28. *Arnab Goswami v State of Maharashtra* (2021) 2 SCC 427; see also *Armesh Kumar v State of Bihar* (2014) 8 SCC 273 (discussing arrest guidelines and personal liberty).

subsequent amendments constitute the primary statutory framework for addressing trafficking. The Act has been criticised for its ambiguous treatment of sex workers, conflating trafficking with consensual adult sex work, and for its failure to adequately address demand-side factors. The constitutional validity of certain provisions of the Act has been challenged, and Law Commission recommendations for comprehensive anti-trafficking legislation remain unimplemented.

The Supreme Court in *Gaurav Jain v. Union of India* directed the state to undertake the rehabilitation of women rescued from prostitution and to take measures to ensure that children of sex workers were not drawn into the same profession.²⁴ These directions acknowledged the state's duty to address the structural conditions that make women vulnerable to trafficking and sexual exploitation, moving beyond a purely punitive approach to one that incorporates rehabilitation and restoration.

E. Procedural Safeguards and Institutional Failures

Procedural safeguards for women victims in the criminal justice process are mandated by several statutory provisions and judicial directives. Section 164A of the CrPC requires medical examination of rape victims by a registered medical practitioner. Section 114A of the Indian Evidence Act, 1872, creates a presumption against consent in prosecutions for certain categories of rape where the victim states in court that she did not consent.²⁵ The proviso to Section 146 of the Evidence Act, inserted by the Criminal Law (Amendment) Act, 2013, prohibits the cross-examination of rape victims about their previous sexual history or character.

Notwithstanding these protections, reports of secondary victimisation, the additional trauma inflicted on victims by the criminal justice system, remain pervasive. The Supreme Court in *Delhi Domestic Working Women's Forum v. Union of India* recognised the right of rape victims to be represented by a lawyer at police stations and during court proceedings, the right to receive free legal representation, and the right to have their identity protected.²⁶ In *Sakshi v. Union of India*, the Court issued guidelines for the examination of child and adult rape victims in courts, including the use of

²⁴20. *Gaurav Jain v Union of India* AIR 1997 SC 3021.

²⁵33. Indian Evidence Act, 1872, s 114A (presumption as to absence of consent in rape cases), inserted by the Criminal Law (Amendment) Act, 2013.

⁴⁴23. *Delhi Domestic Working Women's Forum v Union of India* (1995) 1 SCC 14.

screens, the prohibition of direct cross-examination by the accused, and the facility of video-conferencing.²⁷

The Supreme Court in *Lalita Kumari v. Government of Uttar Pradesh* held that the registration of a First Information Report (FIR) is mandatory upon the receipt of information disclosing a cognizable offence, and that any failure to do so would render the errant police officer liable to departmental action.²⁸ This ruling was of particular significance for women victims of sexual violence, for whom non-registration of FIRs had long been a major impediment to accessing justice. The Court in *State of Karnataka v. Shivanna* additionally mandated that investigation in rape cases be completed within a prescribed time frame and that the statement of the rape victim be recorded by a magistrate.²⁹

V. CHILDREN AS VICTIMS IN THE PENAL JUSTICE SYSTEM

A. Child Victimization: Dimensions and Data

Children, by reason of their inherent vulnerability, developmental stage, and dependence on adult caregivers, represent a category of victims whose needs demand specialised legal and institutional responses. The NCRB Crime in India Report 2022 records a significant number of crimes against children, including murder, rape, kidnapping, and offences under the POCSO Act.³⁰ As with crimes against women, the dark figure of unreported crimes against children is widely acknowledged to vastly exceed official statistics, particularly in the context of sexual abuse within the family and by persons in positions of trust.

B. Legislative Framework for Child Victims

The Protection of Children from Sexual Offences Act, 2012 (POCSO), constitutes the cornerstone of the legislative framework for addressing sexual crimes against children. The Act defines a child as any person below the age of eighteen years³¹ and criminalises a comprehensive

²⁷23. *Sakshi v Union of India* AIR 2004 SC 3566.

⁴⁶21. *Lalita Kumari v Government of Uttar Pradesh* (2014) 2 SCC 1.

²⁹22. *State of Karnataka v Shivanna* (2014) 8 SCC 913.

³⁰18. National Crime Records Bureau, *Crime in India 2022: Statistics* (Ministry of Home Affairs, Government of India 2023) 134.

³¹15. Protection of Children from Sexual Offences Act, 2012, s 2(d).

range of sexual offences, including penetrative sexual assault, aggravated penetrative sexual assault, sexual assault, aggravated sexual assault, sexual harassment, and the use of children for pornography. Notably, the Act is gender-neutral with respect to victims, recognising that children of all genders may be victims of sexual violence.

The POCSO Act incorporates a series of child-sensitive procedural provisions. It mandates that investigations be conducted by police officers of the rank of sub-inspector or above who have received appropriate training. Special Courts are designated for the expeditious trial of POCSO offences. The Act reverses the burden of proof in cases of penetrative sexual assault and aggravated penetrative sexual assault, placing it on the accused.³² Child-friendly procedures include the recording of the child's statement by a magistrate in a child-friendly atmosphere, the prohibition of the accused from being present during the recording of the child's statement, and the use of intermediaries to communicate questions to child witnesses during trial.

The Juvenile Justice (Care and Protection of Children) Act, 2015 defines a child in need of care and protection broadly to include children who are at risk of abuse, exploitation, or other harm.³³ The Act establishes Child Welfare Committees (CWCs) as the primary institutional mechanism for the care and protection of such children, and mandates the preparation of individual care plans for children under the system's care.

C. Child Labour and Trafficking

The Supreme Court in *Bachpan Bachao Andolan v. Union of India* directed the government to take concrete steps for the rescue of children engaged in employment in circuses and to rehabilitate them, recognising child labour as a form of victimisation that the state has an obligation to actively combat.³⁴ More broadly, the phenomenon of child trafficking for labour, sexual exploitation, and other purposes represents a critical dimension of child victimisation in India. The absence of a comprehensive anti-trafficking law that specifically addresses child victims with appropriate sensitivity has been noted by commentators and advocacy groups.

D. Judicial Responses to Child Victimisation

³²50. Preamble, Protection of Children from Sexual Offences Act, 2012.

³³16. Juvenile Justice (Care and Protection of Children) Act, 2015, s 2(12).

³⁴19. *Bachpan Bachao Andolan v Union of India* (2011) 5 SCC 1.

The Supreme Court and various High Courts have played an important role in developing child-protective jurisprudence. In *Alakh Alok Srivastava v. Union of India*, the Supreme Court issued comprehensive directions for the expeditious disposal of POCSO cases, setting timelines for investigation and trial and directing the creation of child-friendly infrastructure in special courts.³⁵ In *Sampurna Behura v. Union of India*, the Court addressed the functioning of the juvenile justice system and the need for trained staff in child care institutions.

The Court in *Nipun Saxena v. Union of India* issued directions regarding the protection of the identity of child victims of sexual offences, prohibiting the disclosure of the identity of child victims (and adult rape victims) in media reports, judicial orders, and other documents.³⁶ This decision acknowledged that the publication of victims' identities constituted a form of secondary victimisation that compounded the harm already suffered.

The Supreme Court's direction in *Sheela Barse v. State of Maharashtra* regarding the conditions of children in police custody and the obligation of the state to ensure that children are not kept in adult jails laid an important early foundation for child-protective criminal procedure in India.³⁷ These judicial interventions collectively demonstrate the Court's willingness to fill legislative gaps and address institutional failures in the treatment of child victims.

E. International Obligations and Child Victims

India ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1992. Article 19 of the Convention obligates state parties to take all appropriate legislative, administrative, social, and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse.³⁸ The National Policy for Children, 2013, reaffirmed the state's commitment to the rights and well-being of children, including the right to protection from harm and exploitation.³⁹

³⁵37. *Bharatbhai v State of Gujarat* (2019) SCC Online Guj 1217; see also *Alakh Alok Srivastava v Union of India* (2018) 7 SCC 1.

³⁶47. *Nipun Saxena v Union of India* (2019) 2 SCC 703.

³⁷43. *Sheela Barse v State of Maharashtra* AIR 1983 SC 378.

³⁹40. National Policy for Children, 2013, adopted in 2013 by the Union Minister of Women and Child Development.

VI. INSTITUTIONAL MECHANISMS, PROCEDURAL SAFEGUARDS, AND COMPENSATION

A. Victim Compensation Schemes

The victim compensation scheme under Section 357A of the CrPC, operationalised through state-level schemes and the NALSA model scheme, represents the most comprehensive statutory framework for financial redress to crime victims in India.⁴⁰ The scheme provides for compensation to victims of crimes, including rape, acid attacks, human trafficking, and other violent offences, regardless of whether the offender has been identified, tried, or convicted. This feature represents a significant advance over the earlier Section 357 regime, which was contingent on conviction.

However, implementation of victim compensation schemes across states has been markedly uneven. Several states have not notified their schemes or have established inadequate compensation limits. The Legal Services Authorities, which are designated as the primary conduit for compensation disbursement, are frequently understaffed and insufficiently funded. The Malimath Committee had recommended the establishment of a comprehensive victim compensation fund as a matter of priority,⁴² a recommendation that has only been partially implemented through the Section 357A framework.

The Supreme Court in *Laxmi v. Union of India*, dealing with a petition filed by an acid attack victim, directed state governments to review and enhance compensation amounts for acid attack victims, recognising the severe and long-term medical, psychological, and economic consequences of such attacks.⁴³ This decision exemplified the Court's role in using judicial power to strengthen the victim compensation framework in response to legislative inadequacy.

B. Legal Aid and Victim Representation

The right to free legal aid, while constitutionally guaranteed under Article 39A and implemented through the Legal Services Authorities Act, 1987, has not been consistently applied to crime victims. Women and child victims of sexual and domestic violence frequently lack access to legal representation during police investigations, medical examinations, and court proceedings. The

⁵⁰25. Malimath Committee Report, Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs (2003) para 6.5.

⁵¹46. National Legal Services Authority, Victim Compensation Scheme, 2012, framed under s 357A, Code of Criminal Procedure,

⁴³42. *Laxmi v Union of India* (2014) 4 SCC 427.

engagement of victim advocates, either by the state or through NGO partnerships, remains sporadic rather than systemic.

The CrPC, as amended in 2008, permits victims to engage advocates to assist the prosecution, but this right is subject to the court's permission and does not guarantee state-funded representation. The Supreme Court's direction in *Delhi Domestic Working Women's Forum* that the state must ensure free legal representation for rape victims remains a judicially mandated obligation that implementation agencies have struggled to fulfil uniformly.⁴⁴

C. Witness Protection and Victim Safety

The vulnerability of victims to intimidation, coercion, and retaliatory violence, particularly in cases of organised crime, trafficking, and domestic violence, renders witness protection a critical dimension of victim-sensitive criminal procedure. India lacked a statutory witness protection scheme until the Supreme Court, in *Mahender Chawla v. Union of India* (2018), approved the Witness Protection Scheme, 2018 and directed the states to implement it. The scheme provides for threat assessment, protection measures, and identity safeguards for witnesses, including victims who depose in criminal proceedings.

D. Special Courts and Fast-Track Proceedings

The establishment of specialised courts for the adjudication of offences against women and children has been a significant legislative and administrative response to the problem of delayed justice. Fast Track Special Courts (FTSCs) for POCSO cases and rape cases have been established pursuant to directions of the Supreme Court and legislative mandates. As of 2022, over 700 Fast Track Special Courts have been designated across the country. However, the backlog of cases pending before these courts remains substantial, undermining the objective of timely justice for victims.

VII. STRUCTURAL DEFICIENCIES AND RECOMMENDATIONS FOR REFORM

A. Structural and Systemic Deficiencies

⁴⁴23. *Delhi Domestic Working Women's Forum v Union of India* (1995) 1 SCC 14.

Despite the legislative and judicial developments outlined above, the Indian penal justice system continues to exhibit fundamental structural deficiencies in its treatment of victims, particularly women and children. First, the adversarial structure of criminal proceedings, inherited from the common law tradition, does not organically accommodate the interests of victims. The state, represented by the public prosecutor, pursues the criminal case, and victims have no formal independent role in shaping prosecutorial strategy, negotiating plea agreements, or influencing sentencing.⁴⁵

Second, police attitudes and institutional culture remain a major impediment to victim-sensitive justice. Despite formal legal mandates, incidents of insensitive treatment of rape victims, coercive interrogation, and reluctance to register FIRs continue to be reported. The Supreme Court's directions in *Lalita Kumari* have not been uniformly implemented, and accountability mechanisms for police inaction remain inadequate.⁴⁶

Third, the absence of a comprehensive victim participation statute, comparable to the Victims' Rights and Restitution Act in the United States or the European Framework Decision on the Standing of Victims in Criminal Proceedings, means that the rights of victims in India are scattered across multiple statutes and judicial decisions, without a unified framework that clearly articulates and enforces these rights. The Law Commission of India has, on multiple occasions, recommended the enactment of a comprehensive victims' rights law.^{47,48}

Fourth, rehabilitation and reintegration of victims, particularly women survivors of trafficking and sexual violence, and child victims of abuse, remain severely under-resourced. Shelter homes suffer from inadequate funding, staffing, and infrastructure. One-stop crisis centres (OSCCs) established under government schemes represent an important initiative, but their geographic distribution is uneven, with rural areas significantly underserved.

Fifth, the phenomenon of secondary victimisation, the additional trauma inflicted by the criminal justice process itself, has not been adequately addressed. Prolonged trials, repeated

⁴⁶21. *Lalita Kumari v Government of Uttar Pradesh* (2014) 2 SCC 1.

⁴⁷26. Law Commission of India, 'Injuries in Police Custody' (Law Commission of India, Report No 113, 1985) 56.

testimonies, insensitive cross-examination, and procedural delays compound the suffering of victims. The Supreme Court's directions in *Nimeshbhai Bharatbhai Desai v. State of Gujarat* regarding the need for sensitivity in examining rape victims represent an important judicial intervention, but structural change requires legislative and institutional reform rather than case-by-case judicial correction.⁴⁹

B. Recommendations for Reform

On the basis of the foregoing analysis, the following recommendations are advanced for the reform of victimology-related law and practice in India:

First, India should enact a comprehensive Victims' Rights Act that consolidates existing protections, articulates a clear charter of victims' rights, and creates enforceable mechanisms for their realisation. Such legislation should guarantee victims the right to information about the progress of their case, the right to be heard at bail hearings and sentencing, the right to timely compensation, the right to free legal aid, and the right to protection from secondary victimisation. The Act should establish a National Victims' Rights Commissioner with the mandate to oversee implementation and address grievances.⁵⁰

Second, the victim compensation framework under Section 357A should be strengthened through the establishment of a National Crime Victims' Fund, adequately capitalised by both the central and state governments. Compensation amounts should be revised upwards to reflect the actual costs of medical treatment, psychological counselling, and loss of livelihood, and the process of applying for and receiving compensation should be simplified. Interim compensation should be disbursed within a fixed time frame without awaiting the conclusion of the trial.⁵¹

Third, mandatory sensitisation training for police officers, prosecutors, judges, and medical personnel on the rights and needs of victims, particularly women and children, should be instituted. The National Police Academy and State Police Training Academies should incorporate victimology and victim-sensitive investigation and interrogation techniques into their curricula. Similarly, the

⁴⁹35. *Nimeshbhai Bharatbhai Desai v State of Gujarat* 2018 SCC OnLine Guj 732.

⁵⁰25. Malimath Committee Report, Committee on Reforms of Criminal Justice System, Government of India, Ministry of Home Affairs (2003) para 6.5.

⁵¹46. National Legal Services Authority, Victim Compensation Scheme, 2012, framed under s 357A, Code of Criminal Procedure, 1973.

National Judicial Academy should include modules on victim-centred adjudication in its training programmes for judicial officers.

Fourth, the POCSO Act should be amended to mandate the appointment of a trained Child Victim Advocate in every POCSO Special Court, whose role would be to provide holistic support to child victims throughout the criminal justice process, including emotional support, preparation for testimony, liaison with medical and psychological services, and monitoring of compensation disbursement. Similar advocates should be designated for adult women victims of sexual violence and domestic abuse.

Fifth, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the UNCRC require India to take appropriate measures to prevent, investigate, and punish all forms of gender-based violence against women and children.⁵²⁵³ India should align its domestic legal framework more closely with these international obligations, including by ratifying the Optional Protocol to CEDAW and strengthening reporting mechanisms to UN treaty bodies.

Sixth, community-based victim support networks, including crisis centres, legal aid clinics, counselling services, and safe houses, should be expanded, particularly in rural and semi-urban areas. Public-private partnerships with civil society organisations that have demonstrated experience in victim support should be formalised and adequately funded. Telemedicine and tele-legal aid should be leveraged to bridge geographic gaps in service delivery.

Seventh, in cases involving child victims and victims of sexual violence, the law should mandate the use of trauma-informed investigative and forensic interviewing techniques, the deployment of appropriately trained intermediaries or support persons during police questioning and court testimony, and the adoption of court-design features including screens, separate waiting areas, and video-link testimony facilities, that minimise the re-traumatisation of victims.

VIII. CONCLUSION

⁵²49. Convention on Elimination of All Forms of Discrimination Against Women, adopted 18 December 1979, UNTS 1249, art 2.

⁵³17. Convention on the Rights of the Child, adopted 20 November 1989, UNTS 1577, art 19.

Victimology has evolved from a marginal academic inquiry into a jurisprudentially significant discipline that challenges legal systems to reorient themselves from an exclusive preoccupation with the offender to a more balanced engagement with the full human cost of crime. In India, this reorientation has been partially achieved through a combination of constitutional interpretation, legislative reform, and judicial activism. The progressive expansion of the legal framework governing crimes against women and children, from the Criminal Law Amendment Act, 2013 and the POCSO Act, 2012 to the PWDVA, 2005 and the Juvenile Justice Act, 2015, represents meaningful progress.

However, the distance between legislative text and lived reality remains substantial. Women and children who are victims of crime in India continue to face systemic barriers to justice, dignity, and restoration. Police insensitivity, prosecutorial indifference, judicial delays, inadequate compensation, and the pervasive culture of secondary victimisation conspire to produce a justice deficit that formal law alone cannot remedy. Structural transformation of attitudes, institutions, and incentives is as essential as legal reform.⁵⁴

The Indian Supreme Court, through a succession of landmark decisions, has demonstrated both the necessity and the limits of judicial intervention in this domain. Courts can pronounce rights, issue directions, and monitor compliance; but the operationalisation of a truly victim-centred criminal justice system requires sustained political will, adequate resource allocation, and genuine institutional commitment to the equality and dignity of all persons who suffer the trauma of crime.

Victimology, ultimately, is not merely an academic field; it is an ethical imperative. The justice system's treatment of those most harmed by crime is a measure of its civilisational quality. For India to fulfil its constitutional promise of justice, social, economic, and political to all its citizens, it must ensure that women and children who are victims of crime are no longer peripheral figures in the criminal process, but central participants whose voices are heard, whose rights are protected, and whose restoration is actively pursued. The journey towards this goal is well underway; the task is to hasten its completion.

⁵⁴8. Ankur Mutreja, 'Victims' Rights in India: A Critical Analysis' 2(1) Indian Journal of Criminology and Criminalistics 45, 48 (2010).

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