



**The Structural Transformation of Victimology in India: A Socio-Legal Analysis of Recent Criminal Reforms in Combatting Violence Against Women**

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**Abstract**

This article provides a comprehensive socio-legal analysis of the structural transformation of victimology in India, with particular emphasis on recent criminal law reforms designed to combat violence against women. The analysis demonstrates a paradigm shift from a predominantly offender-centric criminal justice system to one increasingly recognizing victims as central figures in justice delivery. Drawing upon the landmark Bharatiya Nyaya Sanhita (BNS) 2023, legislative frameworks, judicial pronouncements and contemporary institutional mechanisms, this article examines how India's criminal justice system has evolved to incorporate victim-oriented principles. The paper further explores the implementation challenges, lacunae in current frameworks and the emerging potential of restorative justice practices in creating a more humane and balanced justice system that aligns with constitutional values and international standards. Through this structural analysis, the article argues that while significant progress has been achieved, sustained efforts in legislative clarity, institutional capacity-building and resource allocation are essential to transform victimology from an academic discourse into a lived reality for victims of violence against women in India.

**1. Introduction**

Victimology, as an academic discipline and practical framework, represents a critical intersection between law, sociology, criminology and human rights. Traditionally defined as the study of victims their experiences, rights and place within the criminal justice system victimology has undergone a profound structural transformation in India over the past three decades[1]. This transformation reflects a broader socio-legal shift from a justice system historically preoccupied with offender prosecution to one increasingly conscious of victim empowerment, rehabilitation and participatory rights[2].

The backdrop for this evolution is India's historical inheritance of a colonial criminal justice apparatus. Under the Indian Penal Code (IPC), 1860-a legislative framework enacted during the British Raj, the criminal justice system prioritized state prosecution and punitive measures over victim restoration and rehabilitation[3]. Victims of crime were reduced to mere witnesses in a state-centric prosecution machinery, their voices marginalized, their suffering acknowledged only insofar as it served evidential purposes. The victim, paradoxically, became invisible in the very system designed ostensibly to protect them.



The past two decades have witnessed a pronounced shift in this paradigm. Beginning with the 154th Law Commission Report (1996), which articulated a victim-centric vision of justice and continuing through landmark Supreme Court judgments and legislative reforms most notably the Criminal Law (Amendment) Act 2018 (post-Nirbhaya) and the contemporary Bharatiya Nyaya Sanhita (BNS) 2023, India has gradually begun to recognize and operationalize victims' rights within its criminal justice framework[4]. These reforms are not merely cosmetic legislative amendments; they represent a fundamental restructuring of how justice is conceptualized, delivered and experienced by victims of crime, particularly women who are disproportionately affected by gender-based violence.

The urgency of this transformation is underscored by the persistent epidemiology of violence against women in India. Crimes against women encompass diverse manifestations of violence: rape, dowry-related cruelty, acid attacks, cybercrime, human trafficking and domestic abuse. Recent data from the National Commission for Women (NCW) and crime statistics indicate that while reported crimes against women have increased reflecting both greater awareness and improved reporting mechanisms, the systemic barriers to justice, victim support and rehabilitation remain formidable[5].

This article undertakes a detailed socio-legal analysis of victimology's structural transformation in India, with specific focus on women victimized by gender-based violence. The analysis is organized into several key dimensions: (a) the historical trajectory of victimology in India; (b) the legislative and institutional mechanisms introduced through recent criminal reforms, particularly the BNS 2023 and related statutes; (c) the judicial activism that has shaped victim-centric jurisprudence; (d) the practical implementation challenges and lacunae in current frameworks; and (e) the emerging paradigm of restorative justice as a transformative approach to victim rehabilitation and justice delivery. Through this comprehensive examination, the article argues that while India's criminal justice system has undergone significant structural transformation toward victim-centricity, achieving substantive equity requires sustained attention to institutional capacity, resource allocation, cultural change and integration of restorative justice principles.

## **2. Historical Trajectory Of Victimology In India**

### **2.1 The Colonial Legacy and Victim Marginalization**

The Indian criminal justice system, in its foundational design, was a colonial import reflecting the priorities of the Raj. The Indian Penal Code, enacted in 1860 during the administration of Macaulay, was constructed around the principle of state-centric prosecution. The victim's role was circumscribed: they reported the crime to state authorities, submitted to examination (often humiliating) and thereafter became peripheral to the proceedings in which they ostensibly were the aggrieved party[6]. This structure reflected an implicit philosophical orientation—that crime was an offense against the state, not against the individual victim. The victim's injuries, trauma and need for restitution were secondary to the state's interest in maintaining social order through punishment.

This colonial inheritance had profound consequences for victimology in India. For nearly a century after independence, victim rights remained largely untheorized and unoperationalized

in legal discourse. Textbooks on criminal law focused overwhelmingly on offender culpability, evidence procedures and prosecutorial strategy. Victims appeared as marginal figures, their agency diminished, their experiences compartmentalized from the justice process itself. The criminal procedure, designed to protect the accused's rights, a protective mechanism of genuine importance inadvertently created a system where victim interests were subordinated to due process concerns centered on the defendant.

## **2.2 The Emergence of Victim-Centric Consciousness (1980s-1996)**

The 1980s and 1990s marked a pivotal inflection point in Indian victimology. Academic interest in victims of crime began to emerge, particularly focusing on specific categories of victimization: caste-based atrocities, gender-based violence, human rights violations by state and non-state actors and crimes against children[7]. This academic awakening reflected global movements toward victim advocacy and victim rights, which had gained significant momentum in the West following the pioneering work of scholars like Hans von Hentig and the subsequent development of victimology as a distinct discipline.

Domestically, the catalyst for institutional change came through judicial pronouncements and, most significantly, the 154th Law Commission Report of 1996. This seminal report explicitly recommended the integration of victim compensation mechanisms within India's criminal justice framework[8]. The report articulated a vision wherein victims would not merely be passive recipients of state protection but active participants in justice delivery, entitled to compensation, legal assistance and rehabilitation support. The linguistic shift from victim as witness to victim as stakeholder represented a subtle but profound reorientation of the justice system's moral and functional architecture.

Following the Law Commission's recommendations, Section 357A was incorporated into the Criminal Procedure Code (CrPC), 1973. This section mandated that courts consider victim compensation as a component of sentencing decisions and directed the state to establish victim compensation schemes. This represented the first systematic legislative acknowledgment that victims had claims—economic, psychological and social—upon the justice system and the state[9].

## **2.3 Gender-Based Violence and the Nirbhaya Reforms (2013-2018)**

The gang rape and murder of a young woman in Delhi on December 16, 2012 - an event that galvanized national consciousness around gender-based violence—catalyzed the most comprehensive criminal law reforms addressing violence against women since independence. The Justice Verma Committee was constituted to review and recommend amendments to criminal law provisions related to sexual violence. The Committee's report and the subsequent Criminal Law (Amendment) Act 2018, represented a watershed moment in Indian victimology.

The Nirbhaya amendments introduced several victim-centric innovations[10]:

- **Expansion of definitions:** Sexual offenses were expanded beyond the narrow framework of rape (Section 375 IPC, now Section 63 BNS) to encompass a broader spectrum of sexual assault, including non-penetrative acts.

- **Stringent penalties:** Punishments for rape, particularly rape of minors, were increased. The amendments introduced the death penalty for rape of children under 12 years, reflecting maximum severity in the law's treatment of gender-based violence.
- **New offenses:** The amendments criminalized behaviors previously inadequately addressed: voyeurism, stalking and non-consensual sharing of intimate images.
- **Victim protection mechanisms:** Police procedures were modified to include victim notification, specialized investigation protocols and procedural safeguards against secondary victimization.
- **Rape Crisis Cells:** The Justice Verma Committee explicitly recommended the establishment of Rape Crisis Cells at police stations to provide immediate support and legal assistance to victims of sexual assault[11].

These reforms reflected an explicit acknowledgment that the criminal justice system's prior framework was inadequate to protect victims and that victim support must be integrated into criminal investigation and prosecution itself.

### **3. THE BHARATIYA NYAYA SANHITA 2023: ARCHITECTURE OF VICTIM-CENTRIC JUSTICE**

#### **3.1 Legislative Context and Philosophical Reorientation**

The Bharatiya Nyaya Sanhita (BNS) 2023, which became effective on July 1, 2024, represents the most comprehensive overhaul of India's criminal law since the IPC's enactment in 1860[12]. Replacing the Victorian-era criminal code, the BNS reflects contemporary understandings of crime, justice and victim rights. The BNS is accompanied by two complementary statutes: the Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023 (procedural code) and the Bharatiya Sakshya Sanhita (BSS) 2023 (evidence code), collectively constituting a modernized legal architecture.

The structural priorities embedded within the BNS signal a profound reorientation toward victim-centricity. Significantly, offenses against women and children have been consolidated under Chapter-V of the BNS and this chapter is positioned as the first substantive chapter in the statute[13]. This placement is not merely organizational; it reflects a legislative statement that crimes against women and children are the most serious and urgent category of offenses within the criminal law hierarchy. This contrasts sharply with the IPC, where such crimes were dispersed throughout the code, implicitly suggesting their lower priority relative to property crimes and other offenses.

#### **3.2 Substantive Provisions Enhancing Victim Protection**

##### **3.2.1 Sexual Offenses Against Women**

The BNS substantially expands and strengthens protections against sexual violence:

- **Rape (Section 63 BNS):** The provision retains the core definition of rape but introduces important clarifications. Consent is redefined with greater emphasis on affirmative consent and conditions negating valid consent (e.g., intoxication, disability)[14]. The BNS also criminalizes sexual intercourse obtained through deceit, specifically through false promises of marriage, employment, promotion, or by concealing identity[15]. This

provision addresses a prevalent form of sexual victimization in India wherein women are coerced into sexual relations based on fraudulent representations.

- **Rape of Children:** The BNS increases stringency in this category. Any rape of a child under 18 years - regardless of the victim's gender (reflecting gender-neutrality in child protection) is subject to life imprisonment or death penalty[16]. Additionally, the definition of rape for purposes of offenses against children under the Protection of Children from Sexual Offences (POCSO) Act, 2012 remains autonomous, with no requirement of force or resistance in the case of children, recognizing the inherent power imbalance in adult-child sexual interactions.
- **Voyeurism and Sexual Harassment (Sections 66-67 BNS):** The BNS criminalizes voyeuristic conduct (recording or transmitting intimate images without consent) and introduces a new category of offense addressing sexual harassment in non-consensual contexts. These provisions address digital forms of sexual victimization, which represent an escalating dimension of gender-based violence in contemporary India.
- **Abetment of Suicide and Cruelty (Sections 105-106 BNS):** The BNS retains but refines provisions related to domestic cruelty. Notably, Section 105 (corresponding to former Section 498-A IPC) addressing cruelty toward women by husbands or in-laws remains cognizable and non-bailable[17]. However, criticism persists that the provision underwent cosmetic renumbering without substantive enhancement in response to judicial concerns regarding its misuse and the need for clearer definitional boundaries.

### **3.2.2 Procedural Safeguards and Victim Protection Mechanisms**

Beyond substantive offenses, the BNS and BNSS introduce several procedural innovations designed to protect victim interests:

- **Audio-Visual Recording of Statements (Section 184 BNSS):** The BNSS mandates audio-visual recording of statements given by victims of sexual offenses. This serves multiple functions: it reduces the number of times victims must recount traumatic experiences; it creates an objective record of the victim's statement, reducing opportunities for distortion; and it provides documentation of the victim's condition and demeanor at the time of reporting[18].
- **Victim Examination by Female Medical Practitioners:** For female victims of sexual offenses, examination must be conducted by female medical practitioners in the presence of a trusted person or, in their absence, a woman nominated by the medical institution's head[19]. This recognizes the profound vulnerability of victims and the importance of dignity and safety in post-victimization procedures.
- **Prioritization of Trial Completion:** The BNS and BNSS prioritize expedited trial completion for crimes against women and children. Courts are directed to complete trials in such cases on a priority basis, recognizing that prolonged litigation exacerbates victim trauma[20].
- **Victim Compensation Schemes:** The BNSS retains and strengthens provisions for victim compensation. Courts are mandated to consider compensation for victims as part of



sentencing decisions. The Central Victim Compensation Fund (CVCF) and state-level victim compensation schemes provide monetary reparations for various categories of victimization[21].

### **3.3 Institutional and Administrative Mechanisms**

The criminal law reforms are complemented by institutional structures designed to implement victim-centric principles:

#### **3.3.1 One Stop Centres**

One Stop Centres (OSCs) represent a critical institutional innovation. Established under the Ministry of Women and Child Development, these centers provide integrated support encompassing medical facilities, legal assistance, police liaison, counseling and temporary shelter for women experiencing violence[22]. The OSC model recognizes that victims require multidimensional support—not merely legal redress but immediate medical care, psychological support and safe housing.

#### **3.3.2 Specialized Investigation and Prosecution Units**

Many states have established specialized investigation units for sexual offense cases. These units employ trained investigators with sensitivity to victim trauma and expertise in evidence collection for sexual violence cases. Similarly, dedicated public prosecutors handle cases involving violence against women, ensuring continuity and specialized expertise[23].

#### **3.3.3 Women's Help Desks and Victim Support Services**

Police stations are increasingly establishing dedicated women's help desks and victim support cells. These institutional anchors provide a point of entry for women victims, offering immediate guidance on legal options, FIR registration procedures and connections to support services[24].

#### **3.3.4 Digital Complaint Systems**

Recognizing the barriers to reporting particularly fear of social stigma, intimidation by perpetrators, or difficulty accessing police stations-many jurisdictions have introduced online FIR registration systems and digital complaint mechanisms. These systems reduce barriers to formal reporting and create initial documentation of complaints[25].

### **4. Judicial Activism And Victim-Centric Jurisprudence**

The transformation of victimology in India has been substantially advanced by judicial pronouncements interpreting and expanding victim rights within the constitutional and statutory framework. The Indian courts have leveraged constitutional provisions, particularly Articles 14 (equality), 19 (freedom) and 21 (right to life and personal liberty), to carve out an expansive jurisprudence of victim rights.

#### **4.1 Right to Life and Personal Dignity**

The Supreme Court has interpreted Article 21's right to life expansively to encompass victim protection. In numerous judgments, the Court has articulated that the right to life encompasses the right to live with dignity and safety, free from violence and intimidation. This has extended to victims of crime, whose right to protection and dignity has been recognized as a fundamental constitutional entitlement[26].



#### **4.2 Victim Participation and Representation**

The courts have expanded the scope for victim participation in criminal proceedings. While the traditional criminal procedure limited victim roles to testimony, contemporary jurisprudence recognizes victims' right to legal representation, victim impact statements and participation in sentencing recommendations. This represents a crucial structural shift wherein victims are recognized as parties to justice delivery, not merely evidence repositories[27].

#### **4.3 Compensation and Restitution**

Landmark judgments have recognized the state's obligation to provide comprehensive compensation for victim injuries and losses. The Supreme Court, in interpreting Section 357A CrPC (now addressed in the BNSS), has held that compensation is not merely discretionary but an enforceable right of victims[28]. This jurisprudence has extended to encompassing non-economic injuries (psychological trauma, loss of dignity) alongside economic losses (medical expenses, lost wages).

### **5. Contemporary Challenges And Implementation Lacunae**

Despite the significant legislative and institutional advances, victimology in India faces substantial implementation challenges that undermine the realization of victim-centric justice:

#### **5.1 Resource Constraints**

One Stop Centres, victim support services and specialized prosecution units require sustained funding and personnel. Many states operate these facilities with inadequate resources, limiting their capacity to serve victims comprehensively. The Central Victim Compensation Fund, while established, often disburses compensation with significant delays, undermining its protective and restorative function[29].

#### **5.2 Institutional Capacity and Training**

The transformation toward victim-centric justice requires specialized training of police personnel, prosecutors, judges and support staff. Many jurisdictions lack adequate training infrastructure to equip personnel with the specialized knowledge and sensitivity required to interact appropriately with trauma victims. The result is inconsistent implementation of victim protections across different regions and even within individual police stations[30].

#### **5.3 Social and Cultural Barriers**

Beyond institutional frameworks, deep social and cultural barriers persist in India that inhibit victim reporting and support-seeking. Stigma associated with sexual violence, particularly in smaller urban centers and rural areas, deters women from reporting crimes. Victim-blaming attitudes remain prevalent, wherein victims of sexual assault are subjected to blame for their victimization. Family and community pressure often discourages women from formally reporting intra-familial violence. These cultural barriers are not amenable to legal reform alone; they require sustained public education and cultural transformation[31].

#### **5.4 Lacunae in Substantive Protections**

While the BNS represents substantial progress, certain lacunae persist. The offense of domestic cruelty, despite its importance in the Indian context, has been subject to criticism regarding both its definition (the requirement that conduct be "cruel" admits interpretive

variation) and its enforcement (police sometimes resist registering complaints under this provision, viewing domestic violence as a private matter)[32]. Additionally, while the BNS criminalizes sexual intercourse by deceit, the definitional boundaries remain somewhat unclear, potentially creating interpretation challenges in application.

### **5.5 Coordination Across Agencies**

Effective victim protection requires coordination across multiple agencies: police, prosecution, courts, medical institutions and social welfare services. In practice, coordination gaps often persist, resulting in victims navigating fragmented service systems without integrated support. For instance, medical examination may not be coordinated with legal procedures, leading to loss of evidence or victim retraumatization[33].

## **6. The Emerging Paradigm: Restorative Justice And Victim Rehabilitation**

Beyond the legislative framework, an emerging paradigm within Indian victimology emphasizes restorative justice principles. Restorative justice represents a fundamental reconceptualization of justice itself: rather than justice being defined as state punishment of offenders, justice is reconceptualized as restoration of victim wellbeing, offender accountability through acknowledgment and repair and community healing[34].

### **6.1 Theoretical Foundations**

Restorative justice is rooted in recognition that victims have legitimate claims not merely for punishment but for restoration. Victims need acknowledgment of harm, offender accountability and reparation. Restorative approaches emphasize dialogue, understanding and healing—processes that traditional adversarial criminal law, by its nature, does not facilitate. In India, restorative justice principles find resonance with historical traditions of community-based conflict resolution, though contemporary restorative approaches are informed by modern victim rights consciousness[35].

### **6.2 Institutional Manifestations**

Several Indian states have begun exploring restorative justice mechanisms. Victim-offender mediation programs, while still nascent, allow victims and offenders to engage in facilitated dialogue wherein victims can voice the impact of victimization and offenders can acknowledge harm and make amends. Additionally, community-based restitution programs engage offenders in compensatory work or financial restitution directed toward victim compensation or community repair[36].

### **6.3 Integration with Statutory Frameworks**

The BNSS 2023 creates scope for restorative justice integration through provisions allowing settlement and victim-offender reconciliation in specified offense categories. While sexual offenses and violence against women are, appropriately, excluded from settlement provisions, in other categories, victims and offenders may potentially negotiate resolutions that prioritize victim restoration alongside offender accountability[37].



## **7. Toward A Comprehensive Victim-Centric Justice System: Recommendations And Future Directions**

The structural transformation of victimology in India has advanced substantially but remains incomplete. Achieving a truly victim-centric justice system requires sustained effort across legislative, institutional and cultural dimensions:

### **7.1 Legislative Clarification and Enhancement**

- **Definitional Refinement:** Provisions such as domestic cruelty require clearer definitions to reduce interpretive variation and enhance consistency in application across jurisdictions.
- **Victim Participation Rights:** Statutory codification of victim participation rights beyond compensation would strengthen victim agency. Formal victim impact statement procedures, victim representation in trial proceedings and victim consultation in prosecutorial decisions merit explicit statutory foundation.
- **Comprehensive Rehabilitation Framework:** Statutory establishment of a unified National Victim Compensation Framework would ensure minimum compensation standards, timely disbursement procedures and integration of rehabilitation services across medical, psychological and educational domains.

### **7.2 Institutional Capacity and Resource Allocation**

- **Investment in One Stop Centres and Support Services:** Sustained funding and expansion of one-stop centers, particularly in underserved rural areas, would extend victim support infrastructure.
- **Specialized Training Programs:** Establishment of dedicated training programs within police academies, prosecutorial training institutes and judicial education centers would build capacity for trauma-informed victim support.
- **Coordination Mechanisms:** Institutional protocols and inter-agency committees would facilitate coordination across police, medical, legal and social welfare sectors, ensuring integrated victim support pathways.

### **7.3 Restorative Justice Integration**

- **Pilot Programs:** Expanded pilot programs in victim-offender mediation, particularly for non-violent offenses, would generate evidence regarding effectiveness and appropriate implementation parameters.
- **Community-Based Mechanisms:** Revival and modernization of community-based dispute resolution mechanisms (gram sabhas, local councils) infused with victim rights principles could extend restorative justice into rural contexts where formal legal mechanisms have limited reach.

### **7.4 Cultural and Public Education**

- **Anti-Victimization Campaigns:** Sustained public education campaigns addressing victim-blaming attitudes, stigma reduction and promoting understanding of victim rights would support cultural transformation.

- **Educational Integration:** Integration of victimology and victim rights into school curricula would cultivate victim consciousness in younger generations.
- **Civil Society Engagement:** Partnership with non-governmental organizations and victim advocacy groups would strengthen informal victim support networks.

## **8. Conclusion**

The structural transformation of victimology in India represents a paradigm shift from a historically victim-marginalizing, offender-centric criminal justice system toward an increasingly victim-inclusive, victim-protective framework. Anchored in the 154<sup>th</sup> Law Commission Report's vision, catalyzed by post-Nirbhaya legislative reforms and the Bharatiya Nyaya Sanhita 2023 and advanced through judicial activism recognizing victim rights as constitutional imperatives, this transformation reflects India's gradual acknowledgment of victims' centrality to justice. The contemporary legal framework encompassing substantive offenses against women, procedural safeguards, institutional support mechanisms (One Stop Centres, victim support services, specialized investigation units) and victim compensation schemes represents significant structural progress. The emerging paradigm of restorative justice offers additional potential for victim-centered justice delivery that prioritizes restoration alongside accountability.

However, the translation of legislative framework into lived reality for victims of violence remains incomplete. Resource constraints, institutional capacity gaps, cultural barriers and coordination challenges persist. The system's transformation from law-on-the-books to law-in-practice requires sustained investment in institutional infrastructure, specialized personnel training and cultural change. Moving forward, India's victimology must embrace a multidimensional approach encompassing legislative clarity, robust institutional mechanisms, adequate resource allocation and integration of restorative principles. A truly victim-centric justice system recognizes victims not as peripheral figures in criminal proceedings but as bearers of fundamental rights to safety, dignity, participation and restoration. The structural transformation remains in progress-the trajectory is clear, but the destination of substantive victim-centric justice for all victims of violence in India requires continued commitment and resources.

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