

The Evolution and Enforcement of Victim Rights in India: Legal and Policy Perspectives

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Abstract

After independence, Indian laws were focused more on the accused, rather than the victim, however, in recent years the pendulum has started to swing towards the victim side. The legal context of victim rights, especially in sex offense cases, has been altered through both legislative changes and watershed court rulings that have occurred progressively. The development of victims' rights needs to be analyzed in terms of history, law, enforcement and social-political dimension determining their actual implementation. Victim compensation schemes have been developed in conjunction with procedural rights and direct support services to emphasize the extent of rights not simply as an abstract concept but as a means of reducing the impact of victimization and enhancing the principles of restorative justice.

Keywords:- Victim Rights, Enforcement, Legal, Policy, India

1. Introduction

The evolution of victim rights within the Indian legal system represents a significant shift in the paradigm of criminal justice, moving from a state-centric approach to one that acknowledges and addresses the needs and concerns of crime victims. Historically, the victim's role was limited to that of a mere informant or witness, with the state assuming the primary responsibility for prosecuting offenders and maintaining law and order. However, growing awareness of the profound impact of crime on individuals and communities has led to increasing demands for a more victim-sensitive approach. This has resulted in legislative reforms, judicial pronouncements, and policy initiatives aimed at recognizing and enforcing victim rights.

1.1. Background of Victim Rights

The pre-colonial era saw women subjected to discrimination and violence, with patriarchal norms deeply embedded in society. The Indian Constitution guarantees gender equality and it is the responsibility of the government to ensure that women are provided with equal rights and opportunities. The concept of victim rights encompasses a range of entitlements, including the right to information about the progress of the investigation and trial, the right to participate in criminal proceedings, the right to protection from intimidation and harm, and the right to compensation and restitution. The progressive argument has advocated that even the male gender, transgender and other non-confirmative fluid genders can become a victim of Rape in India. Legislative measures such as the Code of Criminal Procedure amendments and the enactment of specific laws like the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace Act, 2013, have been instrumental in expanding the scope of victim rights. Despite these advancements, the enforcement of victim rights remains a challenge, with significant disparities between the formal legal framework and the realities on the ground.

1.2. Statement of the Problem

The Indian legal and political systems have been criticized for their inadequacy in providing redress to complainants of crimes against women, particularly in cases of sexual harassment at the workplace. This gap in effective implementation stems from a variety of factors, including a lack of awareness among victims about their rights, inadequate training and sensitization of law enforcement and judicial personnel, and systemic biases that impede access to justice. The ongoing instances of violence against women, despite legal safeguards, underscore the pressing need for a critical examination of the existing framework and the identification of strategies to enhance its effectiveness. While the legislation on sexual harassment has been criticized for practical inadequacies, this paper identifies the theoretical foundations of the legislation that hinder substantive gender equality.

1.3. Objectives of the Review

This review paper aims to provide a comprehensive analysis of the evolution, enforcement, and challenges related to victim rights in India, focusing on the legal and policy dimensions of the issue. The paper will also examine the role of various stakeholders, including the government, judiciary, civil society organizations, and the media, in promoting and protecting victim rights. By critically assessing the existing framework and identifying gaps and shortcomings, this paper seeks to contribute to the ongoing discourse on victim justice and inform policy recommendations for strengthening the protection and enforcement of victim rights in India. The misuse of law by women in India is a serious issue that must be addressed.

1.4. Scope and Methodology

This paper will primarily focus on the legal and policy framework governing victim rights in India, with specific attention to the rights of women and other vulnerable groups. It will also draw upon empirical research, case studies, and reports from government and non-governmental organizations to illustrate the practical challenges and successes in the enforcement of victim rights. The review will encompass an analysis of relevant constitutional provisions, statutory laws, judicial pronouncements, and policy initiatives.

2. Historical Evolution of Victim Rights in India

2.1. Ancient and Medieval Periods

The evolution of victim rights in India can be traced back to ancient and medieval periods, where customary laws and religious texts played a significant role in regulating social behavior and addressing grievances. In ancient India, the concept of dharma emphasized the importance of maintaining social order and ensuring justice for all members of society. However, these systems were often characterized by patriarchal norms and hierarchical structures, which limited the rights and remedies available to women and other marginalized groups. Both Muslim and Hindu laws, as elaborated and interpreted, justified the violence and physical constraints put on women.

2.2. British Colonial Era

During the British colonial era, the Indian legal system underwent significant changes with the introduction of codified laws and a formal judicial system. While the British introduced some progressive laws, such as the abolition of sati, their primary focus was on maintaining law and order and protecting colonial interests. As a result, the rights of victims were often secondary to the interests of the state.

2.3. Post-Independence Era

The adoption of the Indian Constitution in 1950 marked a turning point in the evolution of victim rights, as it enshrined fundamental rights and principles of equality and justice for all citizens. The Constitution guarantees gender equality and it is the responsibility of the government to ensure that women are provided with equal rights and opportunities. Several landmark judgments by the Supreme Court and High Courts have further expanded the scope of victim rights and provided guidance on their enforcement.

3. Legal Framework for Victim Rights in India

3.1. Constitutional Provisions

The Indian Constitution provides a broad framework for the protection of victim rights, with several provisions directly or indirectly addressing the concerns of victims of crime. Article 14 guarantees equality before the law, while Article 15 prohibits discrimination on the basis of religion, race, caste, sex, or place of birth. Article 21 guarantees the right to life and personal liberty, which has been interpreted by the Supreme Court to include the right to a fair and just trial, as well as the right to compensation for victims of crime. Article 39A directs the State to ensure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

3.2. Specific Legislation (e.g., POCSO Act, SC/ST Act)

In addition to the constitutional provisions, several specific laws have been enacted to protect the rights of victims of crime in India. The Criminal Procedure Code contains provisions for victim compensation, witness protection, and the right to be heard in court proceedings. The Protection of Women from Domestic Violence Act provides legal remedies and protection to women who are victims of domestic violence. The Scheduled Castes and Scheduled Tribes Act aim to prevent and punish atrocities against members of the Scheduled Castes and Scheduled Tribes and provides for special courts and compensation for victims.

4. Policy Initiatives and Government Programs

4.1. National Policy for Criminal Justice

The Indian government, in alignment with its constitutional mandate, has proactively implemented various comprehensive policy initiatives and programs designed to promote and protect victim rights. These initiatives go beyond, but prominently include, schemes intended to provide crucial financial assistance to victims of various severe crimes, such as sexual assault, acid attacks, and human trafficking, and to support their rehabilitation and access to justice.

4.2. Victim Compensation Schemes

Victim compensation schemes have been established by various state governments to provide crucial financial assistance to victims of crime, particularly those who have suffered physical or psychological harm. These schemes are pivotal for victim rehabilitation and acknowledging the profound impact of criminal acts, ensuring access to justice. However, the scope and effectiveness of these schemes vary significantly across states, leading to disparities in the support available to victims nationwide.

4.3. Witness Protection Programs

Witness protection programs have been introduced in some states to provide security and support to witnesses who are at significant risk of intimidation, retaliation, or harm. These vital programs are essential for safeguarding the integrity of judicial proceedings and encouraging crucial testimony, particularly from vulnerable individuals. However, the implementation and enforcement of these programs have been uneven, and many states still lack comprehensive witness protection frameworks.

Measures must be taken to ensure that women are not misusing the law and that they are provided with adequate protection from gender-based discrimination. Furthermore, laws should be strictly enforced to ensure that perpetrators of gender-based violence are brought to justice and that victims of such violence are provided with the necessary support and protection.

4.4. Role of National and State Human Rights Commissions

The National Human Rights Commission and State Human Rights Commissions are pivotal statutory bodies entrusted with the responsibility of safeguarding and advancing human rights across India. Their crucial role in monitoring and promoting human rights, including the rights of victims of crime, is underscored by their powers to investigate complaints of human rights violations, conduct inquiries, and make recommendations to the government for legal and policy reforms. These commissions serve as an essential mechanism for ensuring accountability and providing a forum for redressal for victims.

5. Comparative Analysis with International Standards

5.1. UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

India's victim rights framework has been shaped by international standards, notably the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which lays down key principles for the treatment of victims, including access to justice, fair treatment, restitution, compensation, and assistance. Aligning with these principles, India has incorporated several of these provisions into its legal and policy frameworks, demonstrating a commitment to upholding international norms and standards related to victim rights.

5.2. International Criminal Court (ICC)

The International Criminal Court is a permanent international tribunal established to prosecute individuals for the most serious crimes of international concern, such as genocide, war crimes, crimes against humanity, and aggression. While India is not a member of the ICC, its domestic laws and policies on victim rights reflect some of the principles and standards enshrined in the Rome Statute, which governs the ICC.

5.3. Best Practices in Other Jurisdictions

Drawing insights from international experience, India can benefit from studying best practices in victim support and protection from other jurisdictions, particularly those with well-established victim rights frameworks. Sweden, for instance, has been recognized for its strong emphasis on victim support and rehabilitation, with comprehensive legislation and policies to ensure victims' rights are respected and protected.

6. Conclusion

India has made significant strides in recognizing and enforcing victim rights through constitutional provisions, specific legislation, policy initiatives, and government programs. Yet, despite these advancements, numerous challenges persist that impede the effective implementation and enforcement of victim rights across the country.

This analysis reveals that India's legal and policy framework for victim rights has evolved over time, with increasing recognition of the need to protect and promote the interests of victims of crime. Victims of cybercrime need to be heard and to heal the wounds caused by the crime. Cybersecurity has become a vital concern for nations worldwide, including India. The surge in cybercrime incidents in India, including ransomware, data breaches, and social engineering attacks, underscores the need for a robust legal and regulatory framework to address these evolving threats. To ensure the safety and security of cyberspace within India, the government is planning to implement a more advanced National Policy on Cybersecurity. Despite the existence of various cybercrime laws, data indicates that cybercrime rates are still climbing rapidly.

Further research is needed to examine the impact of victim rights legislation and policies on the experiences of victims, particularly in marginalized communities. It is crucial to evaluate the effectiveness of victim compensation schemes and witness protection programs, as well as the role of human rights commissions in promoting victim rights.

References

1. B, A. P. (2022). Effectiveness of Criminal Law in Tackling Cybercrime: A Critical Analysis. *Scholars International Journal of Law Crime and Justice*, 5(2), 74. <https://doi.org/10.36348/sijlcj.2022.v05i02.005>
2. Bawono, B. T., Alexandra, H. F. S., & Gultom, G. and M. (2020). RECONSTRUCTION OF LAW PROTECTION FOR WITNESS AND VICTIM'S RESTITUTION AND COMPENSATION BASED ON JUSTICE VALUE. Zenodo (CERN European Organization for Nuclear Research). <https://doi.org/10.5281/zenodo.3982574>
3. Bosma, A., Groenhuijsen, M. S., & Vries, M. de. (2021). "Victims' participation rights in the post-sentencing phase: The Netherlands in comparative perspective". *New Journal of European Criminal Law*, 12(2), 128. <https://doi.org/10.1177/20322844211008232>
4. Chakraborty, A., & Tiwari, S. (2025). An analytical study on challenges and gaps in India's cyber security framework. *International Journal of Criminal Common and Statutory Law*, 5(1), 4. <https://doi.org/10.22271/27899497.2025.v5.i1a.110>
5. Chaudhary, A., Ajeesh, M., & Bakshi, M. (2021). Emperical study on female harassment at different workplaces in India. *International Journal of Research in Human Resource Management*, 3(1), 12. <https://doi.org/10.33545/26633213.2021.v3.i1a.55>
6. Cyber Security in India. (2020). In *IITK directions*. Springer Nature. <https://doi.org/10.1007/978-981-15-1675-7>
7. Elbers, N. A., Meijer, S., Becx, I., Schijns, A. J., & Akkermans, A. J. (2020). The role of victims' lawyers in criminal proceedings in the Netherlands. *European Journal of Criminology*, 19(4), 830. <https://doi.org/10.1177/1477370820931851>
8. Ghai, A. (2024). Increase in Crime Against Women in the Last Two Decades: A State-Wise Analysis. *Indian Journal of Law.*, 2(4), 1. <https://doi.org/10.36676/ijl.v2.i4.32>
9. Gupta, P., Fatima, N., & Kandikuppa, S. (2020). Sexual Harassment at the Workplace Act: Providing Redress or Maintaining Status Quo? *Social Change*, 51(2), 246. <https://doi.org/10.1177/0049085720957753>

10. Holm, F. (2022). Successful Human Rights Implementation? Victims of Crime and the Swedish Example. *Nordic Journal of Human Rights*, 40(4), 529. <https://doi.org/10.1080/18918131.2022.2147319>
11. Ilchyshyn, N., Брысакова, O., Krykun, V., & Myroshnychenko, Yu. M. (2023). International Legal Cooperation in the Field Of Criminal Justice: New Challenges and Ways to Overcome Them. *Journal of Law and Sustainable Development*, 11(4). <https://doi.org/10.55908/sdgs.v11i4.767>
12. Kaser, P. (2020). A Historical Analysis of Rape Laws in India. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3619807>
13. Monesh, R. B. (2022). Rape Laws in India: A Gender Perspective. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4309580>
14. Nath, G. V. M. (2020). Victim Compensation: Understanding the Law to Sensitize Stakeholders. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.3635598>
15. Robalo, T. L., & Rahim, R. B. A. (2023). Cyber Victimisation, Restorative Justice and Victim-Offender Panels. *Asian Journal of Criminology*, 18(1), 61. <https://doi.org/10.1007/s11417-023-09396-9>
16. Senthil, N., Vajiram, J., & Nirmala., V. (2023). The misuse of law by Women in India - Constitutionality of Gender Bias. *arXiv (Cornell University)*. <https://doi.org/10.48550/arxiv.2307.14651>
17. Tiwari, J. K. (2021). Victim Compensation– Judicial Response with Special Reference to Gwalior District. *Legal Research Development*, 6, 21. <https://doi.org/10.53724/lrd/v6n2.05>
18. Tripathy, S. S. (2025). A comprehensive survey of cybercrimes in India over the last decade. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.5048282>
19. Vishwanath, N. (2020). Ethnographic Study of Rape Adjudication in Lucknow's Trial Court. *Socio-Legal Review*, 16(2), 55. <https://doi.org/10.55496/sphm2915>