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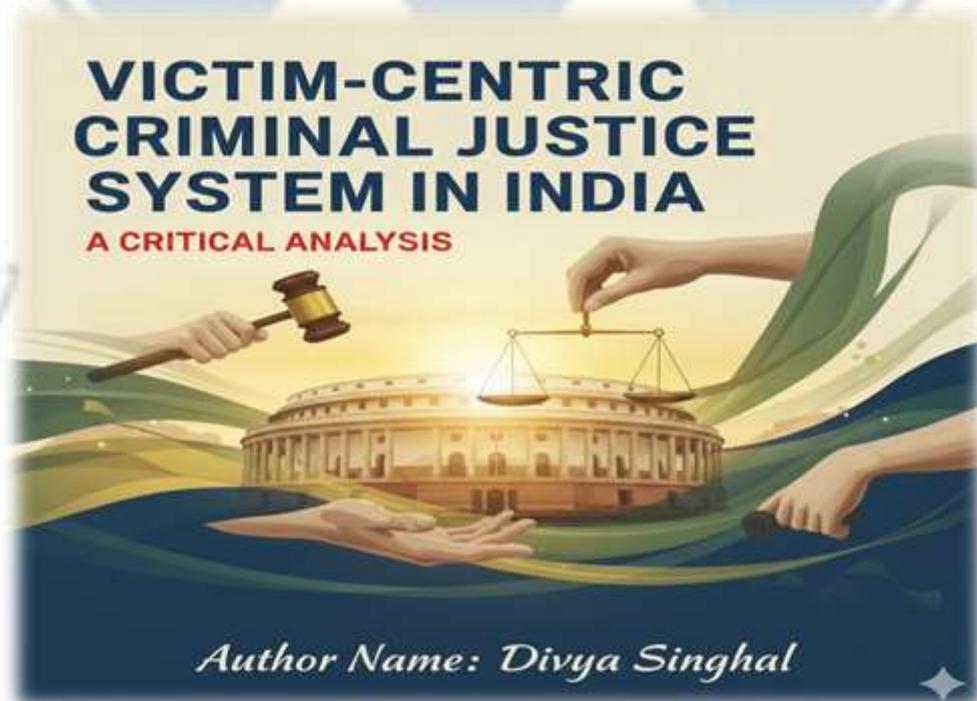
With this thought, we hereby present to you

# **VICTIM-CENTRIC CRIMINAL JUSTICE SYSTEM IN INDIA: A CRITICAL ANALYSIS**

AUTHORED BY - DIVYA SINGHAL

## ***Abstract***

*The criminal justice system in India has traditionally been offender-centric, focusing primarily on the rights of the accused and procedural safeguards. While such safeguards are essential to prevent misuse of state power, this orientation has often marginalized victims of crime, reducing them to mere witnesses in proceedings that directly affect their lives. In recent years, there has been a growing recognition of the need to reposition victims at the center of the criminal justice process. This paper critically examines the concept of a victim-centric criminal justice system in India, analyzing constitutional provisions, statutory frameworks, judicial interventions, and institutional mechanisms. It also identifies systemic gaps and proposes reforms to ensure meaningful victim participation, protection, and rehabilitation.*



## Introduction

Crime does not merely constitute a breach of statutory provisions or an affront to the authority of the State; it represents a profound violation of human dignity that leaves enduring physical, psychological, social, and economic scars on victims.<sup>1</sup> Every criminal act disrupts the lived reality of individuals and communities, often resulting in trauma that extends far beyond the immediate incident.<sup>2</sup> Victims of crime may suffer bodily injury, mental distress, social exclusion, financial instability, and long-term emotional consequences such as fear, anxiety, depression, and loss of trust in social institutions. Despite the depth and persistence of these harms, the Indian criminal justice system has historically approached crime primarily as an offense against the State rather than as a violation of individual rights. This state-centric orientation has resulted in the marginalization of victims, who are frequently relegated to the status of witnesses rather than recognized as central stakeholders in the justice process.<sup>3</sup>

The traditional structure of criminal law in India reflects colonial legacies that prioritized maintaining public order and state authority over addressing the needs and experiences of victims. Criminal proceedings are typically framed as disputes between the prosecution, representing the State, and the accused, with victims occupying a peripheral role. Once the machinery of criminal law is set in motion, victims often lose control over the proceedings that directly concern their suffering. Their participation is limited, their voices are seldom heard, and their interests are frequently subordinated to procedural formalities. This structural marginalization not only undermines the sense of justice felt by victims but also weakens public confidence in the legal system as a whole.<sup>4</sup>

One of the most troubling consequences of this approach is the phenomenon of secondary victimization. Victims are often compelled to relive their trauma repeatedly through prolonged investigations, repeated court appearances, hostile cross-examinations, and insensitive treatment by law enforcement agencies. Procedural delays in the criminal justice system exacerbate this suffering, as cases may take years or even decades to reach resolution. During

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<sup>1</sup> *Rattan Singh v. State of Punjab*, (1979) 4 SCC 719 – recognizing that crime causes harm not only to society but also directly to individuals.

<sup>2</sup> *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770 – holding that victim compensation is a substantive right and not discretionary.

<sup>3</sup> *Manohar Singh v. State of Rajasthan*, (2015) 3 SCC 449 – emphasizing the need for victim compensation and rehabilitation.

<sup>4</sup> *Mallikarjun Kodagali v. State of Karnataka*, (2018) 14 SCC 298 – recognizing victims as stakeholders with the right to appeal against acquittal.

this period, victims remain trapped in a state of uncertainty and emotional distress, unable to achieve closure or rebuild their lives. The absence of timely justice transforms the legal process itself into a source of harm rather than a mechanism of redress.<sup>5</sup>

Lack of information further compounds the vulnerability of victims. Many victims remain unaware of the progress of their cases, the rights available to them, or the remedies they may seek. Communication gaps between investigating agencies, prosecutors, and victims foster feelings of alienation and helplessness. Victims are rarely informed about bail hearings, plea negotiations, or prosecutorial decisions that may significantly affect the outcome of their cases. This informational asymmetry reinforces the perception that the justice system operates independently of those it is meant to protect.<sup>6</sup>

Intimidation and coercion also pose serious challenges to victim participation. Victims, particularly in cases involving powerful accused persons or organized crime, may face threats, social pressure, or economic coercion to withdraw complaints or alter testimony. The lack of effective witness and victim protection mechanisms exposes them to retaliation, discouraging cooperation with the justice system. This not only compromises individual cases but also undermines the broader objective of deterrence and rule of law.

Economic harm is another dimension of victimization that remains inadequately addressed. Victims often incur medical expenses, legal costs, loss of income, and other financial burdens as a direct result of crime. For economically vulnerable individuals, these costs can be devastating, pushing families into poverty or long-term instability. While compensation mechanisms exist in principle, they are frequently insufficient, inconsistently applied, and procedurally cumbersome. As a result, many victims receive little or no meaningful financial support from the State, reinforcing the perception that justice remains largely symbolic rather than restorative.

Against this backdrop, the shift towards a victim-centric criminal justice approach represents a significant normative and conceptual transformation. This shift is influenced by evolving

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<sup>5</sup> *Zahira Habibulla H. Sheikh v. State of Gujarat*, (2004) 4 SCC 158 – stressing that a fair trial includes fairness to victims and witnesses.

<sup>6</sup> *State of Gujarat v. Hon'ble High Court of Gujarat*, (1998) 7 SCC 392 – emphasizing that justice must be visible and credible to all stakeholders, including victims.

international human rights standards that emphasize the intrinsic dignity of individuals, the right to effective remedies, and the obligation of States to protect and rehabilitate victims of crime. Modern human rights jurisprudence recognizes that access to justice is not limited to the fair trial rights of the accused but also encompasses the rights of victims to be heard, informed, protected, and compensated. Justice, in this sense, is no longer viewed merely as the imposition of punishment but as a holistic process aimed at healing harm and restoring social balance.<sup>7</sup>

In the Indian constitutional context, this evolving perspective aligns with broader interpretations of fundamental rights that prioritize human dignity, substantive equality, and access to justice. The right to life and personal liberty has been expansively interpreted to include the right to live with dignity, free from fear and exploitation. This constitutional ethos provides a strong normative foundation for recognizing victims as rights-bearing individuals rather than passive participants in criminal proceedings. A victim-centric approach thus represents not a departure from constitutional principles but a deeper realization of their underlying values.<sup>8</sup>

Balancing the rights of the accused with the rights and interests of victims is a central challenge in criminal justice reform. The protection of accused persons against arbitrary arrest, unfair trial, and excessive punishment is essential to prevent abuse of state power and miscarriages of justice. However, an exclusive focus on the accused risks creating an imbalance that marginalizes victims and erodes public trust in the justice system. A truly effective criminal justice framework must harmonize these competing interests, ensuring that the rights of the accused are safeguarded without negating the legitimate claims of victims to justice, dignity, and reparation.<sup>9</sup>

A victim-centric criminal justice system does not seek to undermine due process or presumption of innocence. Rather, it aims to expand the conception of justice by incorporating the perspectives and needs of victims at every stage of the process. This includes meaningful participation in investigations and trials, access to information, protection from intimidation,

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<sup>7</sup> Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996) – recommending enhanced victim participation and compensation.

<sup>8</sup> Law Commission of India, 221st Report on Need for Speedy Justice (2009) – addressing procedural delays and their impact on victims.

<sup>9</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985 – laying down international standards for victim rights.

and timely and adequate compensation. It also involves recognizing the psychological and social dimensions of victimization and providing appropriate support services, such as counseling and rehabilitation.

The inclusion of victims in the justice process can enhance the quality and legitimacy of criminal adjudication. When victims are heard and respected, they are more likely to cooperate with law enforcement and participate constructively in proceedings. Their involvement can contribute valuable insights into the impact of crime, informing sentencing decisions and policy reforms. Moreover, a system that visibly addresses victim suffering is more likely to command public confidence and foster respect for the rule of law.

Despite growing recognition of victim rights in legal discourse, significant gaps remain between normative commitments and practical realities. Institutional inertia, resource constraints, and entrenched legal cultures continue to impede the realization of victim-centric justice. Law enforcement agencies are often overburdened and inadequately trained to address the specific needs of victims. Prosecutorial priorities may focus on securing convictions rather than ensuring victim satisfaction or well-being. Courts, constrained by heavy caseloads and procedural rigidity, may struggle to provide individualized attention to victim concerns.<sup>10</sup>

Social and cultural factors further complicate the pursuit of victim-centric justice. In cases involving sexual violence, domestic abuse, or caste-based crimes, victims may face stigma, victim-blaming, and social exclusion. These societal pressures discourage reporting and exacerbate the trauma of those who seek justice. A victim-centric approach must therefore extend beyond legal reforms to address broader social attitudes and structural inequalities that perpetuate victimization.

The transition towards a victim-centric criminal justice system also raises important questions about restorative justice. Restorative approaches emphasize accountability, healing, and reconciliation rather than retribution alone. By facilitating dialogue between victims and offenders, restorative justice can empower victims, validate their experiences, and promote meaningful redress. While not appropriate for all cases, particularly those involving severe

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<sup>10</sup> Section 357 and Section 357A, Code of Criminal Procedure, 1973 – statutory provisions relating to victim compensation schemes

violence or power imbalances, restorative mechanisms can complement formal criminal processes and contribute to a more humane justice system.<sup>11</sup>

Ultimately, the effectiveness of a criminal justice system should be measured not only by conviction rates or procedural efficiency but by its capacity to deliver justice in a manner that respects human dignity and promotes social harmony. A system that neglects victims risks perpetuating cycles of trauma, resentment, and distrust. Conversely, a victim-centric approach has the potential to transform criminal justice from a punitive apparatus into a responsive and empathetic institution that addresses the full spectrum of harm caused by crime.<sup>12</sup>

In conclusion, crime is a deeply human experience that affects victims in complex and enduring ways. The historical emphasis on the State–accused relationship within the Indian criminal justice system has resulted in the systemic marginalization of victims and the perpetuation of secondary victimization. The emerging shift towards a victim-centric framework reflects a growing recognition of the need to rebalance the scales of justice in favor of inclusivity, dignity, and substantive fairness. A truly effective criminal justice system must move beyond a narrow focus on punishment and procedure to embrace a holistic vision of justice that acknowledges victims as central participants. By balancing the rights of the accused with the rights, interests, and dignity of victims, the criminal justice system can better fulfill its constitutional mandate and moral purpose.

### **Objectives of the Study**

The objectives of this research are:

1. To examine the conceptual framework of a victim-centric criminal justice system.
2. To analyze the legal position of victims under Indian criminal law.
3. To evaluate judicial responses towards victim rights and participation.
4. To assess the effectiveness of victim compensation and rehabilitation mechanisms.
5. To identify challenges in implementing a victim-centric approach.
6. To suggest reforms for strengthening victim rights in India.

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<sup>11</sup> *ibid*

<sup>12</sup> National Human Rights Commission, *Guidelines on Victim Compensation Schemes* (2012).

## Research Questions

1. What is meant by a victim-centric criminal justice system?
2. How does Indian criminal law recognize and protect victims' rights?
3. To what extent has the judiciary contributed to strengthening victim participation?
4. Are existing victim compensation schemes adequate and effective?
5. What structural and procedural barriers hinder victim-centric justice in India?
6. How can the Indian criminal justice system be reformed to better serve victims?

## Hypothesis

1. The Indian criminal justice system remains predominantly offender-centric despite recent reforms.
2. Legal recognition of victim rights exists but suffers from weak implementation.
3. Judicial activism has played a crucial role in expanding victims' rights in the absence of comprehensive legislative reform.
4. Victim compensation schemes are inadequately funded and unevenly implemented across states.
5. A rights-based, victim-centric framework can enhance public trust and the overall effectiveness of the criminal justice system.

## Research Methodology

This research adopts a **doctrinal and analytical methodology**. Primary sources include constitutional provisions, statutory laws, judicial decisions, and government reports. Secondary sources include books, journal articles, research papers, and international instruments on victim rights. The study critically analyzes existing legal frameworks and judicial trends to assess their impact on victims of crime. Comparative and evaluative techniques are also employed to highlight gaps and best practices.

## Literature Review

Scholarly discourse on victimology emphasizes that victims have historically been neglected in criminal justice systems worldwide. Early criminological studies focused on offenders, while victims were treated as passive participants. Indian scholars have highlighted that procedural laws largely view crimes as offenses against the State rather than against individuals, thereby

minimizing victim autonomy.<sup>13</sup>

Several studies argue that constitutional jurisprudence expanding the scope of personal liberty and dignity has indirectly strengthened victim rights. Judicial pronouncements have increasingly acknowledged victims' rights to fair investigation, speedy trial, compensation, and participation in proceedings. However, empirical studies reveal that victims continue to face intimidation, lack of legal assistance, and poor awareness of their rights.

International literature underscores the importance of victim impact statements, restorative justice, and state-funded compensation schemes. Indian scholarship supports these approaches but notes institutional resistance, lack of infrastructure, and inconsistent implementation at the ground level.

### **Victim Rights under Indian Criminal Law**

Indian criminal law has gradually evolved to recognize victims as meaningful participants in the criminal justice process rather than as passive spectators or mere witnesses. This recognition is reflected in statutory provisions that acknowledge victims' rights to compensation, legal assistance, and limited participation in criminal proceedings. While the traditional framework of criminal law conceptualized crime primarily as an offense against the State, contemporary legal developments signal a shift towards acknowledging the individual harm suffered by victims and the State's corresponding obligation to address that harm.

One of the most significant developments in this regard is the statutory recognition of victim compensation. The incorporation of compensation as a legal right represents a departure from the earlier model of symbolic justice, which focused almost exclusively on punishing the offender while leaving victims to bear the consequences of crime largely on their own. Compensation provisions aim to provide financial relief to victims who have suffered physical injury, emotional trauma, loss of livelihood, or other economic hardships as a direct result of criminal acts. This approach reflects the principles of restorative justice, which emphasize repairing harm, restoring dignity, and enabling victims to rebuild their lives. By acknowledging that punishment alone cannot fully address the consequences of crime, the law recognizes the

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<sup>13</sup> N. V. Paranjape, *Criminology and Penology*, Central Law Publications – discussing victimology and restorative justice principles.

State's responsibility to play an active role in victim rehabilitation.<sup>14</sup>

In addition to compensation, Indian criminal law allows victims to engage private legal counsel to assist the prosecution. This provision enhances victim participation by enabling them to protect their interests, ensure that relevant evidence is brought on record, and raise concerns regarding procedural fairness. Although the prosecution remains under the control of the State, the presence of victim counsel serves as a crucial safeguard against prosecutorial indifference or oversight. It also empowers victims by giving them a voice within a system that has historically marginalized their perspectives. However, the effectiveness of this right often depends on the victim's financial capacity, highlighting the need for stronger legal aid mechanisms to ensure equal access to justice.

Victims also possess the right to seek constitutional remedies when their fundamental rights are violated during the criminal justice process. Access to constitutional courts enables victims to challenge arbitrary investigations, procedural delays, failure to register complaints, and other forms of institutional neglect. Judicial intervention in such cases underscores the principle that access to justice is not limited to accused persons but extends equally to victims. This expanded understanding of justice reinforces the constitutional mandate of fairness, equality, and protection of human dignity.<sup>15</sup>

Judicial interpretations have played a pivotal role in strengthening victim rights and expanding the conceptual boundaries of access to justice. Courts have consistently held that victims have a legitimate interest in ensuring that investigations are conducted in a fair, impartial, and effective manner. A defective or biased investigation not only undermines the prosecution's case but also violates the victim's right to justice. By recognizing this right, the judiciary has repositioned victims as stakeholders whose confidence in the legal system must be preserved.

The judiciary has also emphasized that justice must not only be done but must be seen to be done from the victim's perspective. This principle acknowledges that procedural fairness and transparency are essential to maintaining public trust in the justice system. For victims, the perception of justice is shaped not only by the final outcome of a case but also by the manner

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<sup>14</sup> Ibid

<sup>15</sup> Supra at 2

in which the process is conducted. Delays, lack of communication, insensitive treatment, and procedural opacity can create a sense of injustice even where legal requirements are technically fulfilled. Judicial insistence on visible and substantive fairness seeks to address this gap between formal legality and lived experience.

Furthermore, courts have increasingly recognized the psychological and emotional dimensions of victimization. Judicial pronouncements have stressed the importance of protecting victims from harassment, intimidation, and unnecessary trauma during investigation and trial. This includes regulating aggressive cross-examination, ensuring confidentiality in sensitive cases, and adopting procedures that minimize re-victimization. Such measures reflect a growing awareness that justice cannot be reduced to procedural compliance alone but must be responsive to human suffering.

Despite these progressive developments, challenges remain in translating legal recognition into practical realization. Victims often lack awareness of their rights, face resource constraints, or encounter institutional resistance. Inconsistent implementation across jurisdictions and dependence on judicial discretion have resulted in uneven protection of victim interests. Nevertheless, the evolving legal and judicial framework marks a significant step towards transforming the Indian criminal justice system from a purely punitive model to a more inclusive and restorative one.

In essence, the recognition of victims through provisions relating to compensation, legal assistance, and judicial oversight signifies a fundamental reorientation of criminal justice in India. By affirming victims' rights to participation, redress, and dignity, Indian criminal law moves closer to fulfilling its constitutional promise of justice that is not only legally sound but also morally and socially responsive.

### **Judicial Approach towards Victim-Centric Justice**

The judiciary has played a transformative and often indispensable role in advancing the rights of victims within the Indian criminal justice system. In the absence of a comprehensive legislative framework dedicated exclusively to victim rights, courts have emerged as the primary drivers of reform, gradually reshaping the victim's position from a marginal participant to a recognized stakeholder in the criminal process. Judicial pronouncements have increasingly

acknowledged that victims are not merely sources of information for the prosecution or passive witnesses summoned to testify, but individuals whose rights, dignity, and interests are directly implicated by the administration of criminal justice.<sup>16</sup>

Through progressive interpretation of constitutional and statutory provisions, courts have expanded the conceptual understanding of justice to include the victim's right to be heard, informed, and protected. Judicial interventions have reinforced the idea that the criminal process must respond not only to the guilt or innocence of the accused but also to the harm suffered by victims. This shift has been particularly significant in recognizing that procedural fairness must operate in a manner that instills confidence in victims and reassures them that the legal system acknowledges their suffering.<sup>17</sup>

One of the most notable areas of judicial contribution has been the strengthening of victim compensation mechanisms. Courts have repeatedly emphasized that compensation is not a discretionary or charitable act of the State but a substantive right flowing from the obligation to provide meaningful redress. Judicial directives have encouraged proactive assessment of victim harm, timely disbursement of compensation, and a more victim-sensitive approach to rehabilitation. These interventions reflect a broader commitment to restorative justice, which seeks to repair harm and restore victims to a position of dignity rather than limiting justice to punitive outcomes.

The judiciary has also played a crucial role in developing witness and victim protection mechanisms. Recognizing that fear, intimidation, and retaliation often prevent victims from participating freely in criminal proceedings, courts have underscored the necessity of safeguarding victims from secondary victimization. Judicial guidelines have highlighted the importance of confidentiality, security arrangements, and procedural accommodations, particularly in cases involving serious offenses, organized crime, or crimes against vulnerable groups. By addressing the power imbalances between victims and accused persons, the judiciary has sought to create an environment in which victims can engage with the justice system without fear or coercion.<sup>18</sup>

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<sup>16</sup> State of Gujarat v. Hon'ble High Court of Gujarat, (1998) 7 SCC 392.

<sup>17</sup> Victim Compensation Schemes (State-specific rules, e.g., Delhi Victim Compensation Scheme, 2018).

<sup>18</sup> Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996).

Victim participation during trial and sentencing has likewise been enhanced through judicial interpretation. Courts have increasingly acknowledged the relevance of victim perspectives in understanding the full impact of crime. Judicial openness to victim submissions at various stages of proceedings reflects an emerging recognition that justice is incomplete without accounting for the lived experiences of those harmed. Such participation contributes to a more nuanced and empathetic adjudicatory process, enabling courts to tailor remedies and sentencing decisions in a manner that aligns with principles of proportionality and fairness.

Despite these progressive developments, the heavy reliance on judicial activism has resulted in a fragmented and uneven evolution of victim jurisprudence. Judicial interventions, while impactful, are often case-specific and dependent on the discretion and sensitivity of individual judges. This has led to inconsistencies in the recognition and enforcement of victim rights across different courts and jurisdictions. Victims in similar circumstances may receive varying degrees of protection and support, undermining the principle of equality before the law.<sup>19</sup>

The absence of a comprehensive and codified victim rights statute has further exacerbated this fragmentation. Without a uniform legislative framework clearly defining victim rights, duties of State authorities, and enforcement mechanisms, judicial pronouncements operate in isolation rather than as part of a coherent policy structure. This legislative vacuum places an excessive burden on courts to fill systemic gaps, a task for which adjudicatory institutions are not ideally suited. Courts can interpret and enforce law, but sustained reform requires legislative clarity, institutional capacity, and administrative commitment.

Moreover, overreliance on judicial remedies may limit access to justice for victims who lack the resources or awareness necessary to approach higher courts. Victim rights that exist primarily through judicial interpretation risk remaining aspirational rather than universally accessible. The absence of standardized procedures and institutionalized support services further restricts the practical realization of judicially recognized rights.<sup>20</sup>

In essence, while the judiciary has undeniably acted as a catalyst for victim-centric reform in India, judicial activism alone cannot substitute for comprehensive legislative action. The

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<sup>19</sup> Ministry of Women and Child Development, *Report on Victims of Crime and Rehabilitation* (2015).

<sup>20</sup> United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985.

transformative role played by courts highlights both the potential and the limitations of judge-made law in addressing systemic injustices. A sustainable and equitable victim-centric criminal justice system requires the consolidation of judicial principles into a coherent statutory framework that ensures uniform protection, predictability, and accessibility. Until such reforms are undertaken, victim rights in India will continue to depend largely on judicial discretion, resulting in uneven and fragmented justice outcomes.

### **Challenges in Implementing a Victim-Centric System**

Despite progressive developments, several challenges persist:

1. Lack of awareness among victims regarding their rights.
2. Procedural delays causing prolonged trauma.
3. Inadequate funding and infrastructure for victim compensation and rehabilitation.
4. Absence of trained victim support services.
5. Social stigma and fear of retaliation.
6. Limited use of restorative justice mechanisms.

These challenges highlight the gap between legal recognition and actual realization of victim rights.

### **Suggestions and Reforms**

1. Enactment of a comprehensive Victims' Rights Legislation.
2. Strengthening victim legal aid and counseling services.
3. Uniform implementation of victim compensation schemes.
4. Incorporation of victim impact statements in sentencing.
5. Expansion of witness protection and support mechanisms.
6. Promotion of restorative justice models where appropriate.
7. Sensitization of police, prosecutors, and judiciary towards victim needs.

### **Conclusion**

A victim-centric criminal justice system is not antithetical to the rights of the accused; rather, it complements the broader objective of justice. While India has made notable strides in recognizing victim rights through judicial interpretation and statutory amendments, the system remains largely offender-oriented in practice. True victim-centric justice requires structural reforms, institutional support, and a shift in legal culture. Strengthening victim participation,

protection, and rehabilitation will not only restore faith in the justice system but also enhance its legitimacy and effectiveness. A balanced, humane, and rights-based criminal justice system must place victims at its core while preserving fundamental procedural safeguards.

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