

Maharaja Surajmal Institute Law Journal  
Year 2025, Volume-2, Issue-2 (July - December)



## Towards Participatory Justice: Re-envisioning India's Criminal Justice Framework for Viksit Bharat 2047

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### ARTICLE INFO

**Keywords:** Victim-Centric Justice, Decolonizing Criminal Justice, Colonial Legacy, Viksit Bharat 2047, BNS-BNSS-BSA Reforms, Restorative Justice, Victim Rights in India

Doi: 10.48165/msilj.2025.2.2.1

### ABSTRACT

The redesign of a modern, Indian-origin and fair legal order in the twenty first century requires a transformation of the criminal justice institution regarding its imperial, sanctioned, roots to victim-based paradigms. The statutes in Britain-era focused on preservation of dominion and maintenance of order by means of retribution and intimidation, neglecting any victim interests or involvement and redress. Centrality of states and offenders leans toward continuity after independence, and implicates victims. With the requirements of Am Viksit Bharat 2047, it is necessary to shift the focus of decolonization to shift away the vengeful remains onto participatory, empathetic victim primacy.

This victim justice analysis is sensitive to the discourse of victim justice in India by exploring the shift of imperial punitive models to the participatory restorative architectures through Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA). It evaluates the effectiveness of reform in cutting the colonial ties and putting the victims at the center stage. Endless obstacles arise: restricted trial participation, inadequate redress and recovery, extended periods.

Citing such international guidelines as the EU Victims Rights Directive, UK Victims Code and US Crime Victims Rights Act, the discussion puts the context of India in law development on the world stage and highlights the need to be culturally sensitive when adapting the law to fit the constitution. Doctrinal and cross-jurisdictional interrogation fosters a cohesive roadmap that strengthens victim rights by making formal and extended restorative usage and powerful redress structures. Finally, reformulation of punitive colonial law into victim-responsive and redressive laws is the key to indigenous just jurisprudence, which offers increased justice access, institutional credibility, and constitutional hopes of justice, honour, and equality on the road to Viksit Bharat 2047.

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## INTRODUCTION

India wants to establish the future-oriented, culturally based, and fair order of law, which requires renewed critique of the philosophy and the criminal justice systems. Criminal law is one of the most powerful levers of the government that not only regulates the resolution of cases but also the interaction of citizens and the state. The shadow of colonial power with its emphasis on control, discipline, and reprimand is very long; despite the post-independent changes, the traces of those times still remain.<sup>1</sup> There has been a very strict focus on punishment, routine, and government-initiated cases that have consistently ignored the real sufferings of crime victims and their neighbourhoods. As a result, justice procedures revolve around the state-versus-offender confrontations taking peripheral, token roles on the sidelines.<sup>2</sup>

The twenty-first century introduces the changed social-legal landscape. The public expectations regarding justice are raised by constitutional governance, promotion of human rights and democratized judiciary. In addition to retribution or deterrence, modern justice is concerned with repairing injuries, restoring dignity, repairing harm, and fair-minded participation. They are expressed through strong rights of victims, increased access to courts and well-polished processes.<sup>3</sup> Criminal justice is therefore no more the punitive, authority-centered operation but the humane, inclusive systems that are sensitive, to individual and societal needs.

The urgency of such renewal is increased by Viksit Bharat 2047. Legal institutions as India works towards the status of developed, just societies, need to include openness, efficiency and cultural resonance. Contemporary justice has removed the colonial remnants to align with the principles of constitutionalism, cultural experiences and the goals of national development. Criminal justice goes beyond regulation to promote confidence, responsibility and promotion of the welfare of the victims.<sup>4</sup> Criminal justice needs to undergo a shift of models that are retribution-based, controlled by the state to models focusing on the collective and needs of individuals in a compassionate and inclusive system.

Viksit Bharat 2047 stimulates this evolution. The expansionist efforts of India towards building modern status in an equitable manner bind the legal systems to incorporate transparency, timeliness and cultural richness. The present-day justice does not uphold colonial leftovers as it follows the principle of constitutionality, community life, and developmental concerns. Instead of control, criminal justice goes further to rebuild confidence, impose accountability and empower victims.

The move toward disengagement to engagement is a crucial step toward the contemporary culturally sensitive justice. Bharatiya Nagarik Suraksha Sanhita, Bharatiya Nyaya Sanhita and Bharatiya Sakshya Adhinyam are pointers to radical reconstitution of legal arrangements. These enactments modernize penal and procedural norms, remove archaic language and technology has been introduced to speedy and easy operations. Adaptation to the existing context is thereby affirmed by the lawmakers. The long-term value however lies in substantive prioritization of victims, as opposed to cosmetic changes. Real decolonization does not merely replace the statutory replacement with the reform of the institutional functions, the legal views and the victim agency.<sup>5</sup>

The victim centrality comes out as key during these developments. Victims should be given special consideration once again as they have been relegated to the background during the proceedings with little input, information, or support. The dominant discourse states that holistic justice is respectful to individual stories, allows entitlements and aids in the healing.<sup>6</sup> Victim advancement involves more than nominal recognition, and covers concrete steps like procedural roles, restorative instruments, and strong and enforceable protections. It restructures criminal justice as cooperative business bringing together state organs, offenders, victims, and societies.<sup>7</sup>

This discussion is a foundation of decolonized criminal justice in empowering the victim. It investigates colonial roots of retributive-focused systems, evaluates the effects of Bharatiya Nyaya Sanhita, Bharatiya Nagarik Suraksha Sanhita, and Bharatiya Sakshya Adhinyam, and accepts chronic hindrances to victim participation. The integration of them should be subject to thorough scrutiny with

<sup>1</sup>Law Comm'n of India, 154th Report on the Code of Criminal Procedure (1996).

<sup>2</sup>G.A. Res. 40/34, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Nov. 29, 1985).

<sup>3</sup>*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India).

<sup>4</sup>NITI Aayog, Strategy for New India @75 (Gov't of India).

<sup>5</sup>K.N. Chandrasekharan Pillai, R.V. Kelkar's Criminal Procedure (Eastern Book Co.).

<sup>6</sup>*Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770 (India).

<sup>7</sup>Directive 2012/29/EU of the European Parliament and of the Council Establishing Minimum Standards on the Rights, Support and Protection of Victims of Crime, 2012 O.J. (L 315) 57.

the international victim rights precedents, the study supports a plausible, victim-based paradigm that is consistent with the constitutional requirements, cultural underpinnings and the deployment of practical solutions.<sup>8</sup> This framework is critical to increasing access to justice and institutional credibility in enhancing constitutional commitments to dignity, equity and fairness in society on the road to Viksit Bharat 2047.

## Colonial Punishment-Oriented Criminal Justice and Victim Marginalization

The colonial criminal justice practiced in India focused on governance, order and imperial supremacy rather than justice based on rights. Sovereign power was also protected under the penal laws, rebellions deterred, and stability was established in conquered states. The crimes were therefore violations of state prerogative and not any harm to individuals or communities. Marginal roles were held by victims whose primary role was as sources of evidence.<sup>9</sup>

This orientation provided long-term criminal justice philosophical outlines of India. The focus on deterrence and punishment and rigid processes and centralized prosecutions deprived the victims of substantive power. Justice was equivalent to conviction and sentence, without considering compensation of damages or recognition. These deficiencies were manifestations of underlying design deficiencies, the lack of normative respect towards victim respect, involvement, or remediation.<sup>10</sup>

The continuity after independence held onto several colonial principles. The presence of constitutional guarantees of equality, respect, and access to justice was in balance with the primacy of the state power and confrontational competitions. The victims were not considered as right holders; they were just used as prosecutorial tools. The compensatory, rehabilitative and psychological support remedies were irregular and inadequate.<sup>11</sup>

This is a direct result of victim exclusion and penalty and control colonial emphases which overshadowed inclusion and sensitivity under stability and power. According to Viksit Bharat@2047 goals, criminal justice decolonization

repackages wrongdoing with communal harm that needs to be mended, rather than a sovereign violation. Raising the victims requires systemic transformation as opposed to marginal modification.<sup>12</sup>

## Victim-Centric Justice under BNS, BNSS and BSA Reforms

Bharatiya Nyaya Sanhita, Bharatiya Nagarika Suraksha Sanhita and Bharatiya Sakshaya Adhinyam move far beyond the foundations of colonial penal. These tools streamline operations, bring-in digital solutions and enhance organizational performance. They represent dedication to the laws that are close to the Indian spirit and developmental goals.

Administrative improvements are the main benefits that can be scrutinized. Transformative capacity is based on redefining of positions of victims in the delivery of justice. The substitution of obsolete vocabulary with native ones is valuable but it is not enough to decolonize. Productivity comes into play of re-aligning the core tenets of justice.

Victim-oriented assessment indicates the enhancement of the notification of the offense, case control, and expediency. These ease secondary damage and expand points of vulnerability. Participatory entitlements are however improperly imprinted. The victims have less control over the decisions to prosecute, sentencing conditions, or after adjudication corrections.

Finally, there are conflicting results about reforms. The will to renew and historical departure does not disappear, but with the dominance of state-prosecution over time. The victim prioritization requires normative elevation of respect, agency and remedial beyond the refinement of procedures.

## Structural Challenges in Victim Repositioning

The integration of victims into the criminal justice of India faces deeply rooted institutional challenges that are beyond legislative provisions. Procedural architectures continue to promote prosecutorial expediency at the expense of expansiveness. Victims are usually not involved during investigations, negotiations, sentencing or appellate.<sup>13,14</sup>

<sup>8</sup> Ministry of Justice (UK), The Code of Practice for Victims of Crime.

<sup>9</sup>Upendra Baxi, The Crisis of the Indian Legal System (Oxford Univ. Press 1982).

<sup>10</sup>United Nations, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985).

<sup>11</sup>Comm. on Reforms of Criminal Justice Sys., Justice V.S. Malimath Committee Report (2003).

<sup>12</sup>B.N. Mani Tripathi, Victimology and Criminal Justice System.

<sup>13</sup> Law Comm'n of India, 154th Report on Criminal Procedure (1996).

<sup>14</sup>*Pooja Pal v. Union of India*, (2016) 3 SCC 135 (India).

Delays in the judicial system make it difficult to disenfranchise victims. Long litigation is both costly and emotionally debilitating, damaging credibility on a larger scale. Delayed justice is delayed justice, which is a delay to substantive recovery. The lack of awareness of the law and economic disparities additionally deepens marginalization in underprivileged groups of people.<sup>15</sup>

There are other impediments in institutional norms of law enforcement, prosecution and judiciary. The hierarchical structures rarely allow the input of the victims. The accrual of secondary trauma happens due to insensitive interrogations, bureaucracy, and the lack of psychosocial support.<sup>16</sup> The recovery programs are on paper but they do not roll out even distributed and there is too little cash behind them.<sup>17</sup>

The enduring difficulties reflect the idea that empowerment of victims is better than the law. Extensive reform implies an increase in institutional capacity, localized delivery of services and inculcation of welfare mindsets into the justice administration.<sup>18</sup>

## Comparative Perspectives and the Global Movement toward Victim Rights

International developments of the rights of victims sheds light on opportunities between the retributive and collaborative justice models. The European Union, the United Kingdom, and the United States incorporate the in-depth safeguards that include the procedural notifications, the courtrooms representation, the safeguards measures, and the compensatory reparation.<sup>19</sup>

These regimes also are unique in the sense that they place victims as stakeholders in the process and not spectators. Some of the entitlements are continued case briefing, contribution on prosecutor decisions, and restitution and support services. Most importantly, such mechanisms avoid accused due process and increase judicial authority.

India does not enjoy wholesale adoption but contextual adaptation. It focuses on adopting principles which lack mechanical emulation. The processes of reconciling the global standards with constitutional needs and societal expectations bring about nation-domestically sensitive

inclusive justice architecture. This echoes internationalist themes in conferences of progressive legislation based on indigenous heritage and informed by international viewpoints.<sup>20</sup>

## Restorative Justice, Indigenous Traditions, and Participatory Governance

Restorative justice shifts the focus of criminal justice away towards sanctions imposed by the state and resolves that are community-based, reinventing the aims of criminal justice. It does not focus on retribution or intimidation but emphasizes harm identification, the responsibility of the offenders and the role of the victim to reparative measures. It replaces state-accused adversarialism with empathy-based, human-centric processes anchored on accountability, relational repair, and empathy. Overall objectives include relationship renewal, rebuilding of trust and alleviation of the consequences of offenses.<sup>21</sup>

This model also changes victims as bystanders into key participants and their experiences, needs, and views become the sources of guidance through which justice is achieved. Mediation among victims and offenders, community panels, and restitution are some of the tools that will allow victims to express their plight, be heard and assist in developing solutions. This participation leads to emotional closure, reintegration into the society and a sense of fairness often lacking in the conventional court processes.<sup>22</sup>

The traditional solutions of settling disputes in India are very close to restorative approaches. Most Indian societies in the past dealt with justice in an inclusive group-based approach that aimed at re-establishing ties, individual responsibility and community balance. Local practices and panchayat stressed collective responsibility and mutual agreements as opposed to court battles. Integrating these practices into the criminal justice system of the modern world facilitates the process of decolonization and increases the role of victims in it. This direction will help India to develop a system based on their traditional culture and moral values, not just giving foreign examples.<sup>23</sup>

The incorporation of restorative justice would need to be considerate to assist rather than replace the legal provisions

<sup>15</sup>*Hussainara Khatoon v. State of Bihar*, AIR 1979 SC 1360 (India).

<sup>16</sup>*State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384 (India).

<sup>17</sup>*Delhi Domestic Working Women's Forum v. Union of India*, (1995) 1 SCC 14 (India).

<sup>18</sup>B.N. Mani Tripathi, *Victimology and Criminal Justice*.

<sup>19</sup> Canadian Victims Bill of Rights, S.C. 2015, c. 13 (Can.).

<sup>20</sup>Upendra Baxi, *Access to Justice and Social Action Litigation in India*.

<sup>21</sup>John Braithwaite, *Restorative Justice and Responsive Regulation*.

<sup>22</sup>Mark Umbreit, *Victim Meets Offender: The Impact of Restorative Justice*.

<sup>23</sup>M.P. Jain, *Outlines of Indian Legal History*.

that have been put in place. Protections should guard against pressure tactics, safeguard vulnerable victims, and deny the accused his constitutional rights. A calculated mixture of these practices into the official system produces a hybrid structure that incorporates the community healing with the formal responsibility.<sup>24</sup>

The participation of the victims, communities and the civil society in the justice processes enhances democratic credibility. This involvement makes law institutions more sensitive, transparent and accessible to society. It fosters trust, enhances crime reporting, and bridges the gap between laws and the real life. This would make it more impactful as justice is reflected on the contexts and values of the community.<sup>25</sup>

This participatory model goes hand-in-hand with the Viksit Bharat@ 2047 objectives of inclusive, responsible and people-led governance. Integrating restorative practices and community involvement into justice enhances social connections and empowers democracies. Criminal justice becomes a collaborative endeavor rooted in responsibility, awareness and values, which leaves top-down state determines behind it.<sup>26</sup>

## Towards a Decolonized and Victim-Oriented Justice Framework

A decolonized criminal justice system is not possible solely in terms of the passing of new laws, but a complete transformation of the fundamental institutional objectives, the way such objectives are executed and the very notion of justice. Repositioning victims brings about participation, safeguarding, and recovery to the list of key elements of justice and not accessories to it. Such a change is that which has been seen in the form of state dominated systems to systems of evaluating success by means of reclaimed human dignity and an institutional responsibility to human suffering as opposed to convictions and punishment in the solitude.<sup>27</sup>

This development demands the amalgamation of law reform and the broad-based social policy. Criminal justice needs to be integrated with the welfare programs, health services, and the local support systems. Compensation must take the form of immediate, accessible, enforceable, rehabilitation involves psychological, community and financial assistance in

forms other than payment; the support of the victim must be institutionalized into the police work, prosecutorial activity, and judicial procedures.<sup>28,29</sup> It is important to recognize the psychological damage as part of justice deliverables because in most cases, the victims are left with long lasting emotional impacts, which are not considered by the normal justice system.<sup>30</sup>

Digital technology has potential in expanding the access to justice by replying to cases online, holding court sessions remotely, and transparently following cases. However, technology alone does not abolish ingrained disparities. The victory will be determined by the social law education, the participation of the masses and the accountability of the systems. Without a widely available presence and comprehension, tech upgrades can be seen to further segregate rather than eliminate separations. Technological innovations therefore go hand in hand with the training, special victim support centers, and local justice offices that cater to the remote communities.

In a contemporary justice system, constitutional principles are aligned with local manners and universal norms. Ethical foundation on principles of human dignity, fairness and justice access, indigenous practices provide ethics centered on reconciliation, roles of the community and exploration of responsibility. This is because worldwide victim rights progress provides improvement of the processes and organization frameworks to control local reforms. The challenge is to integrate these components to create an Indian model that incorporates progress and cultural richness.<sup>31</sup> At the center of this transformation lies the perception of victims as important participants, rather than beneficiaries, whose knowledge informs a legal transformation of direction and purpose. Policies, sentencing decisions, and recovery are influenced by their contribution. By consulting and involving the victims, as well as offering them aftercare, institutions establish trust, which enhances the reputation of justice institutions and citizen trust.

Decolonization in this case is a step towards domination to responsibility, rigid processes to compassionate treatment, penal-oriented responses to holistic healing. It redefines the task of criminal law as a means of maintaining order

<sup>24</sup>*State of Punjab v. Gurmit Singh*, (1996) 2 SCC 384 (India).

<sup>25</sup>Amartya Sen, *The Idea of Justice*.

<sup>26</sup>B.N. Mani Tripathi, *Victimology and Criminal Justice*.

<sup>27</sup>Upendra Baxi, *The Crisis of the Indian Legal System*.

<sup>28</sup>*Bodhisattwa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490 (India).

<sup>29</sup>*Laxmi v. Union of India*, (2014) 4 SCC 427 (India).

<sup>30</sup>National Legal Services Authority, *Victim Compensation Scheme* (India).

<sup>31</sup>Granville Austin, *The Indian Constitution: Cornerstone of a Nation*

into building up of communities. Victim elevation is a pragmatic as well as moral point of departure, which re-designs justice, which is delivered and evaluated.

Under Viksit Bharat@2047, the strategy enhances a friendly system of law that fits a spirited democracy. It relates law to the life of the community by providing assistance in recovery, injury, and engagement. Criminal justice becomes a place of interaction rather than segregation, the observance of basic rights and the creation of a closer social fabric.

## CONCLUSION

The reconstruction of criminal justice in India is not about updating the laws or streamlining the system but it requires a complete overthink of justice. The colonial system focused on punishments and governmental authorities at the expense of victim participation and healing. Decolonization is therefore processual and attitudinal: it reaches a stage of coercive management and develops to be inclusive and dignity-enforcement.

This evolution has victim elevation anchored to it. It redefines justice as recognition of harm, restoration of dignity and empowering the self. This is a reversal of the state-blame game and brings about humanitarian, cooperative frameworks. In addition to the legal adjustment, it satisfies democratic requirements of equity, respect and access to justice.

The BNS, BNSS, and BSA reforms represent an important step in the development of law, albeit based on a redirection of institutional attention. The real decolonization goes beyond the renaming of things to correct the structural inequalities, institutional acclimatization, and marginalization.

With Viksit Bharat@2047, the criminal justice contributes to the development of the country through instilling confidence, responsibility, and belonging. A developed system does not only measure success through case dismissals or severity of punishment but dignity restoration and societal cohesiveness.

The repositioning of victims is a precursor to the transition of retributive control to active equity. It introduces a legal system that is responsive in perception, has native values, and is open in form. This kind of structure brings together law and society and is expressing the aspirations of democratic India of justice in the form of concrete expression of respect and sense of belonging.

This transformation becomes legal, social and progressive facet. The state integrity is heightened by one system that considers the needs of victims and strengthens their status and honour. It fosters reliance of the people, instigates

disclosure of offense and enhances institutional scrutiny. Most importantly, it puts justice within the context of people-oriented activity rather than administrative routine.

With Viksit Bharat@2047 India is seeking, the efficacy of reform is not found through rapid steps or harsh penalties in isolation but rather through protecting the value, empowering the victims and ensuring access to fair justice. The concepts of decolonization and victim centrality go hand in hand. In this rebirth, India creates a modern justice, genuine in nature, true in spirit and inclusive in practice.

## LIST OF CASES

### **Maneka Gandhi v. Union of India, (1978) 1 SCC 248**

Established that criminal procedure must be just, fair and reasonable, forming the constitutional foundation for humane and participatory justice.

### **Hussainara Khatoun v. State of Bihar, AIR 1979 SC 1360**

Recognized speedy trial as a fundamental right and exposed structural deficiencies affecting access to justice.

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

Affirmed victims' right to legal assistance, compensation and dignified treatment within criminal proceedings.

### **Bodhisattwa Gautam v. Subhra Chakraborty, (1996) 1 SCC 490**

Recognized interim compensation and acknowledged that criminal justice must respond to victim suffering and dignity.

### **State of Punjab v. Gurmit Singh, (1996) 2 SCC 384**

Emphasized protection of victim dignity and sensitivity in trial procedures, particularly in sexual offence cases.

### **Zahira Habibullah Sheikh v. State of Gujarat, (2004) 4 SCC 158**

Held that a fair trial is a right of victims and society, not only the accused.

### **Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770**

Made victim compensation a mandatory judicial responsibility within sentencing.

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

Strengthened victim rehabilitation jurisprudence and State responsibility toward survivors.

**Pooja Pal v. Union of India, (2016) 3 SCC 135**

Recognized victims' right to seek fair investigation and judicial intervention when justice fails.

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