

Protecting The Vulnerable: A Study Of Victim Rights And Compensation In The Indian Criminal Justice System

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Cite this paper as: Akanksha Srivastava, Nagesh Sawant, Ramratan Dhumal (2024) Protecting The Vulnerable: A Study Of Victim Rights And Compensation In The Indian Criminal Justice System. *Frontiers in Health Informatics*, 13 (3), 8031-8041

Abstract:

This paper explores the complex terrain of victim rights and compensation in the Indian criminal justice system. This study analyses the current legal structure, policy measures, and difficulties in protecting the rights and well-being of victims of crime. The study examines the efficacy of victim compensation systems, the role of victim support services, and the degree to which victims' rights are implemented in reality.

The research seeks to analyse the experiences of victims and stakeholders in order to identify shortcomings in the system and propose methods to improve victim protection and empowerment. This study ultimately adds to the continuing discussion on constructing a criminal justice system in India that prioritises the needs and rights of victims.

Keywords: Victim, Victim compensation, Indian Criminal Justice system, Victim rights, Victim support.

Introduction

The United Nations General Assembly's adoption of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (referred to as the 'U.N. Declaration') at its 96th plenary on November 29, 1985, was a significant acknowledgement of the necessity to establish norms and minimum standards in international law to safeguard victims of crime. The U.N. Declaration acknowledged four primary elements of the rights of crime victims - the right to access justice and receive fair treatment, the right to restoration, the right to compensation, and the right to aid. This research aims to assess the extent to which the current legal system in India aligns with the principles and standards established by the U.N. Declaration almost twenty years ago. Additionally, it acknowledges pertinent judicial statements that have aimed to fulfil the requirements of crime victims. Further it provides a concise overview of the current global trends and recent local advancements. The concluding section provides specific recommendations regarding the necessary modifications to ensure that the system adequately addresses the requirements of crime victims.

The Anglo-Saxon adversarial approach is the basis of the Indian criminal justice system. The prosecution has the burden of establishing the case against the accused beyond a reasonable doubt. The ideas of treating and rehabilitating prisoners as well as preventing crime have been embraced by India's penal philosophy and have been affirmed by numerous Supreme Court rulings. Under the criminal justice system, victims had no rights and were treated as mere witnesses, with the state bearing the whole burden of prosecuting and punishing the offenders.

Initially, the criminal justice system in India could not provide victims with a significant role, despite the fact that victims of crime were provided with abundant protection, assistance, restitution, and compensation in various countries around the world through the implementation of appropriate laws and regulations. The Indian criminal justice system was predicated on the premise that the conviction of the perpetrator adequately addressed the claims of a victim of crime.

However, the criminal justice system has been the subject of numerous reforms in recent years, one of which is the promotion of a victim-oriented approach to criminal justice administration.¹ Victim-orientation encompasses a system of reparation/compensation that is specifically designed for victims of violent crimes, as well as increased respect and consideration for the rights of victims during the investigation and prosecution process. Additionally, victims are granted a greater number of choices in the trial and disposition of the accused.²

Four significant laws regulate the Indian criminal justice system.

(1) The Constitution of India, 1950; (2) The Indian Penal Code, 1860; (3) The Code of Criminal Procedure, 1973; and (4) The Indian Evidence Act, 1872.

In addition to these primary statutes, there are a few specific legislations that address the interests of victims. They are-

(i) Fatal Accident Act, 1855 (ii) Motor Vehicles Act, 1988 (iii) Probation of Offenders Act, 1958 (iv) The Protection of Children from Sexual Offences Act, 2012 (v) The Protection of Women from Domestic Violence Act, 2005 (vi) The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and (vii) The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (ix) The legislation known as the Juvenile Justice (Care and Protection) Act of 2000.

Victim Rights: A Legal Overview

1. Constitution of India

The Constitution of India is the highest legal authority in the country and is regarded as the mother of all laws. The Constitution of India ensures equal protection for all individuals³ and prohibits the state from depriving someone of their life and personal liberty without following the legal procedures that have been established⁴. The principles of social justice, which form the foundation of the Indian Constitution, are also evident in the criminal justice system. The Supreme Court has declared the 'Rule of Law' as the fundamental characteristic of the Indian Constitution, and it has also been incorporated into the criminal justice system.

The Indian Constitution has several provisions that address victim protection, their rights, and the notion of victim compensation. Article 14 and Article 21, which encompass significant fundamental rights, must be interpreted in conjunction with the directive principles of state policies outlined in Articles 39A, 41, 46, and 51C.⁵

Article 14's initial part has a negative connotation, as it forbids the state from denying equality before the law to any individual. The following part of the Article contains a favourable statement that imposes a duty on the government to provide equal legal protection to all individuals.⁶

¹ Vibhute, K. I. (Ed.). (2004). Criminal justice: a human rights perspective of the criminal justice process in India. Eastern Book Company.

² Menon, M. (2004). Victim compensation law and criminal justice: A plea for a victim orientation in criminal justice. Criminal justice: A human rights perspective of the criminal justice process in India, 362-369.

³ Jain, M. P. (1959). Administrative Discretion and Fundamental Rights in India. Journal of the Indian Law Institute, 1(2), 223-250.

⁴ Jain, R. (2021). Article 21: Understanding The Right to Life and Personal Liberty from Case Laws-Academike Explainer. Lawctopus. Retrieved December, 10, 2023.

⁵ Bhatia, G. (2015). Directive principles of state policy: theory and practice.

⁶ Shukla, A. (2021). Right to Equality (Art. 14 to 18) in Indian Constitution. Issue 5 Int'l JL Mgmt. & Human., 4, 508.

Article 21 guarantees the right to life with dignity, including the right to legal assistance and a fair trial, as an inherent and non-transferable right to life and personal liberty. ⁷This Article ensures protection against arbitrary restriction of life and freedom and places the responsibility on the state to provide compensation to victims of violent offences.

The notion that the state is to be held accountable for crimes against its own citizens acknowledges the state's duty to safeguard human rights. Additionally, it serves the public interest since, in accordance with the guiding principles of state policy, it tends to enhance the criminal justice system and advance welfare in general. The state is obliged by Article 39A to guarantee the advancement of justice based on equal opportunity and to offer free legal aid. Article 41 guarantees the right to employment, education, and public aid in situations when there is not enough resources. Every Indian citizen is obligated by Article 51-A to "develop humanism, have compassion for living things, and protect and improve the natural environment." The state is directed by Article 51(c) to strive to promote respect for international law and treaty obligations in the interactions of organised people with one another.

The human values enshrined in Part III and Part IV of the Constitution are crucially relevant to the criminal justice system. The phrases "We the people of India," "justice-social, economic and political," "equal protection of laws," dignity of the individual, basic freedoms, fair procedure, and free legal aid, along with other provisions stated in the Constitution, have imbued the criminal justice system with a sense of humanity and social protection. Although these rights and principles are inherent in our Constitution, they are given little consideration by the agencies within the criminal justice system, such as the Police, Prosecutors, and Courts⁸.

2. Indian Penal Code

After being successfully tested for several years, the Indian judicial system has developed into a fair and stable system of detention and penalisation. The judiciary of the nation is responsible for the enforcement of the laws established by the state. Nevertheless, it is unable to evaluate the cases of misconduct or offences based on its own perceptions or regulations. A single system or document must serve as a standard for the decision-making process and the penalising norms. A document of this nature is present in all countries, and in India, it is known as the Indian Penal Code (IPC). ⁹The Indian Penal Code (IPC) is applicable to all Indian citizens who commit offences within the Indian Territory. The legislation applies to aircraft and ships operating in the Indian seas or airspace.

The Indian Penal Code (IPC) was founded in 1860 as a British legislation during the British rule of India. The First Law Commission, chaired by Lord Macaulay, oversaw the preparation of the initial and introductory drafts in the 1860s. It was established in 1862. The IPC is divided into twenty-three chapters and five hundred and eleven sections. The code commences with an introduction, which elucidates the exceptions and explanations employed within it. It also encompasses a broad spectrum of offences. The Code provides a comprehensive list of offences and their respective penalties. "Offence" is defined in the Code as any act or omission that is punishable by law. The punishments outlined in the Code are the sole penalties in India, and all other penalties have been abolished.¹⁰

It is noteworthy that the Indian Penal Code, which has been in effect for over 150 years, has undergone

⁷ Jani, N. (2013). Article 21 of Constitution of India and right to livelihood. *Voice of Research*, 2(2), 61-66.

⁸ Saumendra, D., & Saibabu, N. (2014). Indian constitution: an analysis of the fundamental rights and the directive principles. *ARS-Journal of Applied Research and Social Sciences*, 1(17), 2350-1472.

⁹ Patra, A. C. (1961). An Historical Introduction to the Indian Penal Code. *Journal of the Indian Law Institute*, 3(3), 351-366.

¹⁰ *ibid*

minimal amendments in the post-British era. The original twenty-three chapters of the Code now include three new chapters that address criminal conspiracy, election-related offences, and offences against married women. The Criminal Law (Amendment) Act, 2018 has made appropriate modifications to the Indian Penal Code, specifically to the sections pertaining to sexual offences such as rape.

3. Code of Criminal Procedure, 1973

The primary goal of criminal law is to defend society against lawbreakers and criminals. For this reason, the law strives to compel actual criminals to face the penalties specified for their offences as well as threatens them with punishment if they disobey the law. Consequently, both substantive and procedural criminal law comprise criminal law in its broader sense. While procedural criminal law is responsible for enforcing the substantive law, substantive criminal law defines offences and establishes penalties for them¹¹. The substantive criminal law would be nearly useless without procedural criminal law. Empty threats do not discourage, because without the deterrent effect, the law of crimes has little meaning or rationale. It is crucial to identify and examine the several provisions of the Criminal Procedure Code (Cr.P.C.) that pertain to victims. The three primary components of criminal procedure are pre-trial procedure, intermediate procedure, and trial procedure. Multiple mechanisms are employed in each of these processes to ensure justice for victims. The Code explicitly delineates the powers and functions of several agencies, such as the police, prosecution, court, and prison authorities, that are to be exercised throughout the criminal procedure.¹² However, the victim, who is the most crucial entity for whom the entire system operates, is utterly overlooked. He is not given any opportunity to participate, oppose the granting of bail, or file an appeal against the verdict. Currently, the victims bear the most burden in a crime and have limited involvement in the legal proceedings.

4. Indian Evidence Act

The Indian Evidence Act establishes the guidelines for the use of evidence in legal proceedings. It outlines the standards for establishing the veracity of a fact. The term 'evidence' originates from the Latin term 'evident' or 'evidere', which denotes 'to show clearly, to discover, to ascertain, or to prove.' Prior to the passing of the Act, the Indian courts were subject to varying rules of evidence established by many social groupings and communities, which were contingent upon factors such as caste, religion, and social standing. The Indian Evidence Act establishes the guidelines that Courts must follow in order to ascertain the truth.¹³

The Act, being a procedural legislation, contains a limited number of measures that safeguard the rights of victims throughout the trial process. The victim need not actively participate in the investigation process, unless it is necessary for the identification of individuals or any recovered material objects by the investigating officer.¹⁴

The Indian criminal justice system operates on the basis of an adversarial system. The primary premise behind this is that every accused individual is presumed innocent until proven guilty. The burden of proving allegations against the accused is typically placed on the prosecution due to this reason.

¹¹ Agrawal, V. (1978). The Code of Criminal Procedure, 1973. Allahabad Law Agency, Allahabad.

¹² Mukhopadhyay, P. P. (2012). The criminal procedure code (amendment) act of 2005 and its relevance in examination of victim of sexual assault: good practice in medico legal perspectives. International Journal of Medical Toxicology & Legal Medicine, 14(3and4), 133-138.

¹³ Stephen, J. F. (2023). The Indian evidence act. BoD–Books on Demand.

¹⁴ Baladhikari, S. K. (2020). Victim: A Forgotten Story in The Indian Criminal Justice System. System, 9(2), 31-52.

According to the Act, in some cases, the accused is presumed to be guilty and the burden of proving innocence falls completely on the accused. In cases such as dowry deaths, abetment of suicide by a married woman, and rape cases, the presumption shall be against innocence of accused.¹⁵

The Criminal Law (Amendment Act), 2013, amends the Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973, specifically addressing sexual offences. It introduces section 53A after section 53, which states that evidence of character or previous sexual experience is irrelevant in certain cases. This additional section was included to align the Act with the modifications made in the Indian Penal Code (I.P.C.) regarding sexual offences, specifically rape.¹⁶

According to sections 151 and 152 of the Indian Evidence Act, 1872, victims are safeguarded from being subjected to inappropriate, scandalous, rude, and intentionally provocative or insulting questioning. Furthermore, no further measures are in place to safeguard victims against threats, intimidation, or any form of coercion that may hinder their ability to disclose the truth. Frequently, when a defendant is granted bail, the Courts may set a condition that the defendant must not interfere with the evidence or contact the witnesses.¹⁷ This rule does not serve to shield the witnesses, but rather to prevent the trial from becoming futile. Judges also conduct in-camera trials to guarantee that witnesses can give their testimony without feeling afraid or embarrassed. Recently, the Supreme Court has authorised the use of video-conferencing to record evidence. All of these are insufficient in the absence of a specific legal provision that ensures victims receive protective measures prior to, during, and following the trial.¹⁸

The defence counsel was previously permitted to discredit the victim's testimony by asserting that she was of "immoral character" under Section 155 (4) of the Act. The fact that she was subjected to an assault in the name of a legally permissible cross-examination, which involved enquiries regarding her personal life, past sexual activities, and other private matters, served as a deterrent to numerous victims of rape from filing complaints. Section 155 (4) was eliminated and section 146 was amended by the Indian Evidence (Amendment) Act of 2002. Questioning the prosecutrix regarding her general moral character during cross examination is prohibited by the new provision. This facilitated the end of inappropriate attacks on the victim of rape's prior sexual activities.¹⁹

Victim Compensation

The efficacy of the criminal justice system relies on the provision of sufficient reparation to the victims for the harm they have endured. Justice necessitates the provision of compensation to an individual who has experienced harm, as well as their dependents. The accused is always held accountable for compensating any damage inflicted upon the victim in all circumstances. However, in cases where the accused is impoverished or without the means to provide restitution, the state will assume the obligation of paying the compensation. Compensation serves multiple purposes, including providing benefits to the victims, acknowledging their pain, and most crucially, acting as a deterrent for the criminal. Additionally, the act of making restitution to the offender has a transformative impact, as it possesses an inherent moral worth. In India, various statutory provisions exist by which compensation may be

¹⁵ *ibid*

¹⁶ Mishra, P., & Kumar, V. (2016). Criminal Justice Delivery System and Rights of Victim: Need for Introspection. *Indian JL & Just.*, 7, 42.

¹⁷ Gast, D. (2010). Victim Rights Issues in Indian Country. *US Att'ys Bull.*, 58, 38.

¹⁸ *ibid*

¹⁹ Nagpal, M., & Rawandale, C. (2023). Tracing journey of crime victim's position under Indian law with evolutionary insights from the United States' federal code on victims' rights. *Cogent Arts & Humanities*, 10(2), 2286071.

granted to crime victims.

These laws are as follows:

- (i) The constitutional Remedy for victim compensation.
- (ii) The Fatal Accident Act of 1855.
- (iii) The Motor Vehicles Act of 1988
- (iv) The Criminal Procedure Code of 1973-74
- (v) The Probation of Offenders Act, 1958
- (vi) Additional Legislation

• **Victim Compensation under The Constitution of India**

The Indian judiciary implemented a novel approach to victim compensation and developed a constitutional remedy for the violation of fundamental rights through Articles 32 and 226. Chandrachud C.J. for the first time invoked the extraordinary power vested in the Supreme Court under Article 32 in *Rudul Shah v. State of Bihar*²⁰ to award compensation to the petitioner for illegal detention in violation of his fundamental right to life and personal liberty under Article 21²¹. In the case of *State of Punjab v. Ajaib Singh*,²² the Supreme Court took an additional measure and awarded the accused a compensation of Rs. 5 lakhs, despite the fact that they had been acquitted.

The Supreme Court of India came up with new ideas for victimology and victim justice in the important case of *Boddhisattwa Gautam v. Subhra Chakraborty*²³. First, it said that giving compensation as an interim measure is important to make sure that victims of crime don't have to wait too long for justice to be done. Second, it said that because the criminal process is taking so long, the court had the power to give the victim an equivalent amount of pay even though the accused person has not been found guilty. The court came up with these future regulations, which may have been a form of judicial activism. They were later added to the Cr.P.C. through changes made in 2008, which were made public in 2009.

A groundbreaking judgement was rendered by the Allahabad High Court in the *Uttarakhand Stir (Rallyist) case*²⁴, which was one of six cases that originated from the incidents in Khatima, Mussoorie, and Muzaffarnagar. The case's brief facts are as follows: twenty-four individuals were killed, seven women were raped, seventeen were sexually molested, and numerous others were injured and illegally detained as a consequence of police firing and atrocities committed during a peaceful demonstration for a separate state of Uttaranchal in 1994. The court awarded Rs 5 lakh to the victims of sexual molestation, Rs10 lakh to the families of deceased victims, Rs 2.5 lakh to Rs 50,000 to the victims of injuries, and Rs10 lakh to each victim of rape. In this case, the court strengthened Article 21, which guarantees the right to exist with dignity, in order to advance the cause of human rights.

In this case, the State was held vicariously responsible for the crimes committed by its officers and was

²⁰ Yadav, S. (2001). STATE LIABILITY: A NEW DIMENSION FROM "RUDUL SAH". Journal of the Indian Law Institute, 43(4), 559-569.

²¹ Joshi, K. C. (1988). COMPENSATION THROUGH WRITS: RUDUL SAH TO MEHTA. Journal of the Indian Law Institute, 30(1), 69-77.

²² Garg, A. (2022). Individual Liberty-A Moulded Weapon to Erode the Rule of Law in India. Jus Corpus LJ, 3, 784.

²³ Challa, S. (2008). The Enforcement of Fundamental Rights Vis-a-Vis Private Persons: An Analysis of the Interpretation of the Supreme Court. NALSAR Stud. L. Rev., 4, 141.

²⁴ Narang, I. K. (2019). Role of Judiciary in Genesis of Compensatory Jurisprudence in India. Think India Journal, 22(14), 17372-17393.

ordered to compensate the victims. The officers responsible for perpetrating the crimes were liable to be prosecuted under the Indian Penal Code, both individually and collectively.

- **Compensation under Fatal Accident Act, 1855**

The purpose of this Act is to compensate dependents' families for the damages they suffer when a person dies as a result of a legally actionable wrong. The wife, husband, and children may sue the accused for damages under sections 1-A of the Act. The two decisions that the Lahore and Allahabad high courts decided are noteworthy in this regard.²⁵

The High Court stated in *Saradara Singh v. Charan Singh*²⁶ that "Under the Act, it is sufficient to award damages to the dependents of deceased, if a person whose wrongful act, negligence, or default has caused the person's death." The High Court also upheld the trial court's decree for Rs.4000. In the same way, the Allahabad High Court decided in *Jagannath Singh v. Pragi Kunwar*²⁷ that the widow of the deceased, who was shot to death, was entitled to compensation in the amount of Rs.2000.

But the Fatal Accident Act of 1855 is as time-consuming, expensive, and difficult to use as civil lawsuits, which is why victims don't use it very often. These days, there are many other choices, so the Act almost became useless. The Act is no longer in force now.

- **Compensation under Motor Vehicle Act, 1988**

Considering the rise in road accidents caused by reckless and careless driving, a distinct provision has been established to offer compensation to the victims according to the Act. Sections 140 to 142 of Chapter X of the Act offer compensation to victims, even in circumstances where there is no culpability, in order to prevent hardship to the dependents. This compensation is provided for the loss caused by the death of the deceased or the victim's permanent disability. The Act also established standardised rates of compensation to prevent any inconsistencies in the instances, which is a commendable effort.²⁸

- **Compensation under Probation of Offenders Act, 1958**

The Probation of Offenders Act, 1958 aims to grant probation to the convicted offender. The Act grants the trial court the authority to release the criminal through admonition and probation for exhibiting good behaviour, as outlined in sections 3 and 4. Section 5 grants the trial court the authority to order compensation. The literal interpretation of this section unambiguously indicates that the authority under this Act is exclusively vested in the trial court and no one else. According to the provision, a court can compel an offender to pay compensation for any harm or damage they caused by their actions or failure to act, whether the court releases them after a warning or on probation for good behaviour. The court has the discretion to determine what amount of compensation is acceptable. The court has the authority to issue an order to cover the expenses of legal procedures. Clause (2) stipulates that the victim has the right to receive any compensation awarded under clause (1) in the form of a fine.

²⁵ Handford, P. (2013). Lord Campbell and the Fatal Accidents Act. *The Law Quarterly Review*, 420, 1-28.

²⁶ Singh, S. (1972). KHANNA, J.-.

²⁷ AIR 1949

²⁸ Jai, J. R. (2002). *Compensation Under the Motor Vehicles Act: A Critique*. Daya Books.

However, in reality, the courts in India are not giving sufficient consideration to this provision.

The Act grants the court a certain amount of discretionary jurisdiction to order compensation in situations when the criminal must be released on probation. Nonetheless, the Act safeguards the rights of the victim by providing compensation while also demonstrating concern for offenders falling into specific categories, such as first-time offenders, those under 21, and women of all ages. As a result, the Act attempts to strike a balance between the interests of the victims and criminals.³⁰

- **Compensation under other Legislation**

- **The Protection of Children from Sexual offences Act, 2012**

The Protection of Children from Sexual Offences Act, 2012 is a comprehensive law that aims to protect children from the offences of sexual assault, sexual harassment, and pornography. It also ensures the child's interests are protected at every stage of the judicial process by incorporating child-friendly mechanisms for reporting, recording of evidence, investigation, and speedy trial of offences through designated Special Courts established under section 28 of the Act and Compensation may be granted to the juvenile victim in order to facilitate their rehabilitation and relief. This compensation may be granted at the conclusion of the trial, during the pendency of the trial, or at an interim stage.³¹

The Act is beneficial in providing justice to victims of child sexual abuse; however, it is imperative that the machinery involved in the justice delivery system coordinate and collaborate in the performance of their duties. The prevention of child sexual abuse, the protection of victims, the delivery of justice, and the rehabilitation of victims are not distinct issues.³² A coordinated response from all key stakeholders, including the police, prosecution, courts, medical institutions, psychologists and counsellors, and institutions that provide social services to minors, is necessary to achieve these objectives.

- **The Protection of women from Domestic Violence Act, 2005**

The Protection of Women from Domestic Violence Act 2005 (PWDVA) is a legal framework designed to enhance the safeguarding of women's rights as guaranteed by the constitution, specifically in cases where they are subjected to any kind of violence inside the family. The name of the Act itself suggests that it applies to more than only violence committed by a woman's husband or in-laws. It encompasses all women who are part of a domestic relationship with a person who engages in violent behaviour, providing them with protection. The legislation aims to safeguard women against abuse that takes place within the confines of the family or in a domestic relationship.³³ The Act has been formulated to provide certain civil rights, including both declaratory rights (such as the right to protection against Domestic Violence) and substantive rights (such as the right to maintenance, right to compensation, and right to shared household).

The PWDVA mandates the provision of protection officers in every district of each state to aid women victims throughout the judicial proceedings. They submit domestic incident reports to the magistrates who adjudicate their cases, aiding in the preparation of complaints and providing information and support to victims in exercising their entitlement to complimentary legal and medical assistance, counselling, and the option to seek

²⁹ Srinath, S. (2023). A Critical Analysis of the Probation Of Offenders Act 1958.

³⁰ *ibid*

³¹ Varghese, D. P., & John, S. (2021). THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012: STRONG PROVISIONS, WEAK IMPLEMENTATION?. *Iustitia*, 12(1), 95-123.

³² Zameer, N. (2023). Protection of Children from Sexual Offences Act (POCSO) 2012: A Critical Analysis. Part 2 *Indian J. Integrated Rsch. L.*, 3, 1.

³³ Act, D. V., & Judge, A. (2005). The Protection of women from domestic violence act. 2005. Retrieved March, 12, 2009.

refuge in shelter houses for their protection. Additionally, they guarantee that the orders passed in their favour and the relief granted are in compliance. Violating the protection order by the respondent is a criminal act that can lead to a maximum penalty of one year of imprisonment or a fine of up to Rs.20,000, or both. In the event that the protection officer fails to fulfil his responsibilities, he will be subject to an imprisonment term of one year or a fine of 20,000 rupees, or both. This legislation is an effective measure to safeguard individuals who have been subjected to domestic abuse, as this form of violence transcends ethnic and age boundaries.³⁴

➤ **The Maintenance and Welfare of Parents and Senior Citizens Act, 2007**

Prior to 2007, there was no distinct or dedicated legislation that was specifically designed for senior citizens. Nevertheless, the government is making an effort to establish a unique law, the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, to oversee and regulate critical issues that affect senior citizens. The Act's name is descriptive and implies that children are responsible for the maintenance of the parents and senior citizens. This Act applies to all Indian citizens, regardless of their religion, and to Indian citizens who reside outside of India and have reached the age of 60 or older. However, there is no age requirement for parents. There are only 32 sections in this Act. It guarantees that the children will have the right to maintain their parents and elders. Children should be responsible for the maintenance of their parents.³⁵

The Act is enacted with the intention of ensuring the maintenance and welfare of senior citizens and parents, as guaranteed and recognised by the Constitution. The Act offers maintenance to senior citizens who are childless, adoptive parents, including stepparents, and grandparents who were not previously covered by social security legislation. The Act offers innovative social security measures and provides better, adequate, appropriate, faster, and less expensive relief. The Tribunal must be established by the State Government in accordance with the Act, and maintenance proceedings must be exclusively adjudicated by the Tribunal³⁶. The Tribunal is presided over by an officer who is not below the rank of Sub Divisional Officer of a State. The Tribunal's jurisdiction is extensive, as it has the ability to take cognizance both suo-moto and upon the receipt of an application from a senior citizen. The senior citizen or parents may submit an application in person, through a representative authorised by them, or through a voluntary organisation that is registered under the Societies Registration Act³⁷.

Suggestions

- The state should revise the definition of crime to encompass not only offences against the state or society, but also offences against people. This would shift the focus of the criminal justice system towards ensuring justice for individuals.
- The victim should be given with a supportive environment throughout the procedure, ensuring their dignity and privacy.
- The victims should be ensured the right to receive information regarding the progress of the case at each level. An appropriate modification should be made to the Code of Criminal Procedure to include a provision mandating the court to provide notice to the victim, notifying them about the various phases and dates of the trial.

³⁴ *ibid*

³⁵ Thakur, R. M. (2012). Philosophy of Maintenance and Welfare of Parents and Senior Citizens Act, 2007 in India: an appraisal. *Int J Advan Res Technol*, 1(4), 47-52.

³⁶ Menon, H. V., & Chiney, S. R. (2021). Critical Evaluation of Maintenance and Welfare of Parents and Senior Citizens Act, 2007. *Indian JL & Legal Rsch.*, 2, 1.

³⁷ Noor, G. (2022). Maintenance, Welfare and Protection of the Rights of Parents and Senior Citizens: A Socio-Legal Analysis. Part 1 *Indian J. Integrated Rsch. L.*, 2, 1.

- The victim should be permitted to participate in the negotiations during plea bargaining cases.
- It is recommended that the victim be given the opportunity to be heard before the prosecution decides to withdraw the case. Additionally, victims shall have the right to challenge the withdrawal of prosecution during the trial phase.
- Victims of specific crimes, such as sexual assaults, should be treated with greater understanding. A dedicated interview facility shall be established within the police station or location of investigation. Female police officers must undergo training to effectively handle victims. It is imperative to establish a protocol mandating collaborative interviews conducted by law enforcement and social workers for cases involving child abuse victims.

Conclusion

The way the laws are applied defines most of society's quality of life. If the realisation of the rights provided by the Constitution or law shows to be more expensive than the rights themselves, there will be no demand for them. The laws and the Constitution serve mostly to satisfy the hopes of the common man. The criminal justice system is that tool the people use to seek justice to raise their quality of life and correct the damage done against them.

As it stands today, the victim's role in the criminal justice system has always been negligible. The criminal justice system has expanded its jurisdiction, and the legislature and courts have been instrumental in advancing the rights of victims of crime within the nation's criminal justice system; however, victims' concerns and rights have not been adequately addressed. The research on victims' status in criminal justice presented in this paper exposes the unpleasant reality that victims do not always receive the attention they deserve. He is virtually overlooked within the system.

It is imperative that our legislature establishes laws and programs that are comprehensive, effective, and consolidated, with a particular emphasis on ensuring that victims receive justice. This is essential to rectify the disparity in the availability of rights between accused individuals and victims. The administration of the Criminal Justice System (CJS) guarantees the protection and enforcement of the rights of both the accused and the victim. Therefore, it is imperative to strike a balance.

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