

Concept of Victimology and Restorative Justice

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What is Victimology

The study of crime victims

Encompasses a wide range of topics

Causes and consequences of victimization

Needs of victims

Best practices for victim services

What is Restorative Justice

A form of criminal justice

Focuses on repairing harm and restoring relationships

Victims, offenders, and community

Theories of victimization

Positivist Victimology

Radical Victimology

Critical Victimology

Types of victims

Primary victims

Secondary victims

Tertiary victims

Principles of restorative justice

Victim centrality

Offender accountability

Community involvement

Forms of restorative justice

Victim-offender mediation

Circle processes

Conferencing

The study of the victims of crimes, the impact that crime has on victims, and the relationship between criminal offenders and victims.

Victimology is the scientific study of the causes of victimization, its consequences, how the criminal justice system accommodates and assist victims and how other elements of society, such as media deals with the victims

Benjamin Mendelsohn was the first person to use the term Victimology in 1947nto describe the scientific study of victims of crime.

CONCEPT OF VICTIMOLOGY

KEY CONCEPTS IN VICTIMOLOGY

1. “Victim” has its roots in the early religious notions of suffering, sacrifice and death. This concept of “victim” was well known in the ancient civilizations, especially in Babylonia, Palestine, Greece, and Rome. In each of these civilizations the law mandated that the victim should be recognized as a person who deserved to be made whole again by the offender.
2. “Crime victim” is a person who has been physically, financially or emotionally injured and/or had their property taken or damaged by someone committing a crime.
3. “Victimogenesis” refers to the origin or cause of a victimization; the constellation of variables which caused a victimization to occur.

4. “Victim Precipitation” a victimization where the victim causes, in part or totally, their own victimization.
5. “Vulnerability” is a physical, psychological, social, material or financial condition whereby a person or an object has a weakness which could render them a victim if another person or persons would recognize these weaknesses and take advantage of them.
6. “General Victim” is a person who has been physically, financially or emotionally injured and/or had their property taken or damaged by someone, an event, an organization or a natural phenomenon.
7. “Victimization” refers to an event where persons, communities and institutions are damaged or injured in a significant way. Those persons who are impacted by persons or events suffer a violation of rights or significant disruption of their well being.

8. “Victim Assistance, Support or Services” are those activities which are applied in response to victimizations with the intention of relieving suffering and facilitating recovery. This includes offering information, assessments, individual interventions, case advocacy, system advocacy, public policy and programme development.

9. “Compensation” is a formal administrative procedure provided by law which provides only money to victims for “out of pocket” real expenses directly resulting from the victimization to be paid by the state after the victim is found to qualify according to specific criteria determined by the respective state or federal law.

10. “Restitution” is a formal judicial procedure used by a judge after guilt is determined as part of a sentence which can provide money and/or services to the victim for damages or suffering which resulted from the victimization to be paid or performed by the offender.

11. “Victim Rights” are privileges and procedures required by written law which guarantee victims specific considerations and treatment by the criminal justice system, the government and the community at large.

Definition of Victim: UN Declaration on Basic Principles for Justice to Victims of Crime (1985)

Victims means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

1. Person may be considered a victim, regardless of the status of perpetrator
2. Person may be considered a victim regardless of familial relationship with perpetrator.
3. “Victim” includes: family, dependants, persons who suffered harm during intervention
4. Victim rights must be assured without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability

Primary

Primary victims are those who are directly harmed by a crime. Examples of primary victims:

A person who is assaulted is a primary victim of assault.

A person who is robbed is a primary victim of robbery.

A person who is the victim of identity theft is a primary victim of identity theft.

Secondary

Secondary victims are those who are indirectly harmed by a crime. This may include family members, friends, witnesses, and first responders.

Examples of secondary victims:

- The family of a person who is murdered are secondary victims of murder.
- The friends of a person who is sexually assaulted are secondary victims of sexual assault.
- The witnesses to a car accident are secondary victims of the accident.

Tertiary

Tertiary victims are those who are affected by a crime but who are not directly or indirectly involved. This may include the community as a whole, businesses, and the economy.

Examples of tertiary victims:

- The community is a tertiary victim of a crime if the crime is high-profile.
- Businesses are tertiary victims of crime if they are targeted by criminals.
- The economy is a tertiary victim of crime if crime rates are high.

Section 2(wa), Cr.P.C

Victim means a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged and expression victim includes his or her guardian or legal heir.

Deficiencies:

1. Loss or Injury not defined and is subject to Judicial Interpretation.
2. Fails to account for Secondary Victimization
3. Fails to provide rights to all persons who suffer harm in the process of assistance or while stopping the crime
4. The victims of abuse of power have not been recognized

HISTORY OF VICTIMOLOGY

- The term Victimology was coined in mid 1900. The modern interest in victimology may be traced in the United States of 1960s.
- During middle age crime was considered a harm against the victim not state. The justice system operated on the principle of Lex Talionis, an eye for an eye.
- Status of victims in the criminal justice system has changed dramatically during the last 30 years.
- Policy initiatives, special units, and financial resources have been created to help improve the plight of victims.
- The victims' rights movement strived to address many complaints.

- Victimology must find fulfilment said the Court, not through barbarity but by compulsory recoupment by the wrongdoer of the damage inflicted not by giving more pain to the offender but by lessening the loss of the forlorn. (*Hari Singh (Hari Kishan) v. Sukhbir Singh and other, (1988) 4 SCC 551*)
- BALRAJ V. STATE OF U.P., (1994) 4 SCC 29 : (AIR 1995 SC 1935); DILIP S. BHANUKAR V. KOTAK MAHINDRA CO. LTD. & ANOTHER, (2007) 6 SCC 593: The long line of judicial pronouncements of this Court recognized in no uncertain terms a paradigm shift in the approach towards victims of crime who were held entitled to reparation, restitution or compensation for loss or injury suffered by them. This shift from retribution to restitution began in the mid 1960s and gained momentum in the decades that followed. Interestingly the clock appears to have come full circle by the law makers and courts going back in a great measure to what was in ancient times common place.

Theories and Types of Victimology

An overview of early criminological works, particularly before the 20th century, shows a notable dearth of information on victims of crime

Discussion focussed focused on perpetrators of crime.

Early criminological works reveals some discussion of crime victims as seen through the writings of : Beccaria (1764) and Lombroso (1876) but, again, many criminology studies during this time focused on understanding the origins of crime through examining only the actions of the offender (Schneider, 2001).

Interest in the suffering of victims accelerated in the aftermath of World War II, and victimology began emerging from the broader field of criminology (Fattah, 2000).

Positivist Victimology

Positivist criminology is concerned with finding the causal conditions for criminal behaviour and it thus assumes that the presence of these conditions makes the criminal 'different' in some way from law-abiding members of society.

Same Logic in victimology: Positivist victimology deals with the measurement of the amount of victimisation, the development of typologies of victimisation, explanations of why some people are more prone to victimisation than others, and the relationship between the criminal and the victim which may indicate the ways in which victims may precipitate crime.

Question: **What distinguishes victims from the ideal-typical individual who does not suffer crime?**

Hans von Hentig and Benjamin Mendelsohn were key early figures in the development of victimology. Both writers were concerned with the relationship between the criminal and the victim.

Von Hentig : 'doer–sufferer' relationship

Von Hentig's study implied that there were psychological or social variables which made an individual prone to victimisation.

In *The Criminal and His Victim* (1948), he referred to the victim's contribution to the genesis of crime and the 'causative' role of the victim. He insisted, for instance, that victims may incite, provoke or create a situation conducive to the committing of crime.

➤ He was especially concerned about the interaction between victims and offenders and the exchanges that led to criminal events. (Etiology is the study of causation or origination.). His work contributes to the question whether victims are responsible for their victimisation.

Table 1.2 *Von Hentig's Victim Risk Factors*¹

Victim Characteristics	Proneness to Crime Stems From
1. The Young	Emotional and Physical Vulnerability
2. Females	Physical Vulnerability
3. The Old	Mental and Physical Vulnerability; Access to Wealth
4. The Mentally Defective or Deranged	Vulnerability From Defect or Through Substance Use
5. Immigrants	Challenges in Assimilation into a New Culture
6. Minorities	Discrimination and Prejudice From Inequality
7. Dull Normal	Lack of Awareness and General Naïvete
8. The Depressed	Failing to Exercise Due Care
9. The Acquisitive	Greed and Recklessness
10. The Wanton	Lack of Appropriate Sensibilities
11. The Lonesome and Heartbroken	Desire for Companionship and Recklessness
12. Tormentor	An Abusive Environment That Often Spans Years
13. The Blocked, Exempted, Fighting	The Inability to Defend Against Attacks

(Von Hentig, 1948; Schafer, 1977)

Mendelsohn: 'penal couple'

Benjamin Mendelsohn (1900–1998) was an Israeli criminal law scholar who coined the term victimology in a paper presentation in Bucharest, Romania, in 1947 and used it in a paper entitled “*A New Branch of Bio-Psycho-Social Science: Victimology*” in 1946.

As a criminal defense lawyer, Mendelsohn, like many victimologists of the day, was interested in understanding how victims' actions contributed to criminal activity.

Some debate on whether he coined the term or whether it was an American psychiatrist named Frederick Wertham in 1949.

Still Mendelsohn continued to shape the field with his writings until his death in January 1998 (*The Victimologist*, 1998).

Mendelsohn's 'bio-psycho-social and legal' approach led to an estimation of victim culpability in the incidence of crime.

He gives an example, in which a woman continued to encourage her ex-husband to visit their child regularly for several years after their divorce, and to stay overnight, only to be sent away after he had handed over all his money. Commenting on a crime passionnel which involved the murder, by the husband, of his wife and her lover, he concluded that '[t]here can be no doubt that, had it not been for the perversity of his former wife, he (the husband) would never have been guilty of two crimes.

Indeed, one of his lasting contributions to the field was the creation of a typology delineating the responsibility of the victim versus the offender in criminal events, which ranged from completely innocent to completely guilty.

Table 1.1 Mendelsohn's (1956) Victim Culpability Spectrum With Examples

Level of Victim Culpability	Examples
Completely Innocent	An individual killed while sleeping at home
Victim With Minor Guilt	An individual robbed after displaying money
Victim as Guilty as Offender	An individual killed during a drug transaction
Victim More Guilty than Offender	An individual killed after initiating a physical altercation
Most Guilty Victim	An individual killed while committing a robbery
Imaginary Victim	An individual who pretends that he/she was victimized

(as cited in Schafer, 1977)

Criticism of positivist victimology

It is argued that the positivist concern with the role of the victim may be interpreted as 'victim blaming'.

Positivist victimology relies on several assumptions .e.g. focus is on conventional crimes, such as street crime or domestic burglary.

There is also the assumption that the home is a safe place and that crime largely occurs in public places

It overlooks the crimes committed by corporations in the pursuit of their business activities.

Contribution of Positivist Victimology: Development of ways of measuring the nature and extent of crime; Crime surveys and victims have become one of the most frequently utilised methods of measuring crime.

Radical Victimology

Marxist Victimology

1. Taylor, Walton and Young turned to Marxism because of a belief that deviance should be considered as authentic human action, namely as a result of the ways that people confront structures of power, domination and authority rather than as some form of individual or social pathology.
2. Emphasised on the initiative of the state.
3. Crimes of the economically deprived as well as the economically privileged

Feminist concerns with the victims of crime : Radical feminism was concerned to develop a critique of the institution of patriarchy, which was regarded as the most fundamental, widespread and enduring form of oppression which permeates all social institutions and beliefs. E.g. Mckinnon.

Critical Victimology

- Critical victimology is a product of the work of Mawby and Walklate (1994). Mawby and Walklate developed a critical victimology that is concerned to document victims' lived realities as well as the way in which the social structure shapes these lived realities. Focus on what is seen as well as what is hidden.
- Mawby and Walklate criticised positivist victimology for searching for regularities or patterns which precipitate victimisation.
- They criticised radicals for emphasising too much on state.

ROLE OF VICTIM IN CRIME

Victim Precipitation

- The extent to which a victim is responsible for his or her own victimization.
- Victim precipitation acknowledges that crime victimization involves at least two people- an offender and a victim- and both parties are often acting and reacting before during and after the incident.
- Marvin Wolfgang, an American sociologist, and criminologist was the first to formulate a systematic study of the involvement of a victim in the crime. He introduced the term “Victim Precipitation”, which became popular as an identifier to all violent crimes including homicide, aggravated assault, etc., in which the victim’s interaction with the offender may contribute to the crime being committed.

▪ **Victim Facilitation**

Occurs when a victim unintentionally makes it easier for an offender to commit a crime.

A victim may in this way, a catalyst for victimization

Ex: A women who accidentally left her purse in plain view in her office and went to the rest room and then had it stolen would be a victim who facilitated her own victimization.

▪ **Victim Provocation**

Occurs when a person does something that incites another person to commit an illegal act.

Father of Victimology, Benjamin Mendelsohn, describes the field as “the science of victims and victimity.

By victimity, we mean the general concept, the specific common phenomenon which characterizes all categories of victims, whatever the cause of their situation.”

Two goals:

1. To prevent victimization from happening in the first place
2. To minimize the harm post-victimization as well as prevent repeat victimizations.

UN DECLARATION OF BASIC PRINCIPLES OF JUSTICE FOR VICTIMS OF CRIME AND ABUSE OF POWER, 1985

Under the declaration, four basic rights of victims are recognized. They are

- (i) Access to Justice and Fair Treatment
- (ii) Restitution
- (iii) Compensation
- (iv) Assistance

COMPENSATION

- “Compensation” is a formal administrative procedure provided by law which provides only money to victims for “out of pocket” real expenses directly resulting from the victimization to be paid by the state after the victim is found to qualify according to specific criteria determined by the respective state or federal law
- When compensation is not fully available from the offender or other sources. States should endeavour to provide financial compensation
- .
- Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
- The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

- Compensation shall be provided for any economically assessable damage resulting from violations of human rights or international humanitarian law, such as :
 - Physical or mental harm, including pain, suffering and emotional distress;
 - Lost opportunities including education;
 - Material damages and loss of earnings, including loss of earning potential;
 - Harm to reputation or dignity;
 - Costs required for legal or expert assistance, medicines and medical services.”

Constitution of India

- The principles of victimology has foundations in Indian Constitutional Jurisprudence. The provision on Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV) form the bulwark for a new social order in which social and economic justice would blossom in the national life of the country (Article 38).
- Article 39 provides for policies to be followed by the state to secure economic justice and the term 'justice' can be interpreted in manifold ways to include victims' rights to compensation. These provisions, which speak about the welfare state, policy measure and equal justice when interpreted creatively, leads to the welfare of all the citizens of the state where the rights of an aggrieved person are also inclusive
- Article 41 mandates inter alia that the State shall make effective provisions for "securing the right to public assistance in cases of disablement and in other cases of undeserved want".

- Part V of the Constitution of India, Art. 51-A makes it a fundamental duty of every citizen of India “to protect and improve the natural environment and to have compassion for living creatures” and “to develop humanism”. If empathetically interpreted and imaginatively expanded, we find here the constitutional beginnings of Victimology
- (Article 21) has in its elements obligating the State to compensate victims of criminal violence
- The most imperative one is the provision for constitutional remedies under Art. 32 and 226, which is enforceable before the courts for violation of human rights of an individual, and also extensively applicable to the victims of crime

ROLE OF JUDICIARY

- Compensatory jurisprudence was evolved by the Supreme Court on the grounds that it is the duty of the welfare state to protect the fundamental rights of the citizens
- The first case which came up before the Court regarding the award of monetary compensation through writ jurisdiction was **Khatri v. State of Bihar A.I.R. 1981 SC 928**
- The petitioners in the case had been blinded in police custody, and thereafter, demanded compensation for violation of their fundamental right to life under Art. 21.
- Here Bhagwati, J. observed that the court ought to be prepared to forge new tools and devise new remedies for the purpose of vindicating the fundamental right to life and personal liberty .
- Though no compensation was awarded by the court, it ordered the government to meet the expenses of maintaining the petitioners stay in a blind home in Delhi, as an interim measure.

- This dynamic move of the Supreme Court resulted in the emergence of compensatory jurisprudence for the violation of right to personal liberty through **Rudul Sah v. State of Bihar AIR 1983 SC 1086**. The court made it clear that the state must repair the damage done by its officers to the petitioner's rights.
- The award of compensation was again apparent in Sebastian **Hongray v. Union of India AIR 1984 SCC 1026**, where a writ of habeas corpus was issued by two women to produce their husbands taken by army personnel, who were found missing.
- Here, the court ordered the award of 'exemplary costs' as compensation.
- The court finally asserted that it had the right to award monetary compensation by way of exemplary costs or otherwise in **Bhim Singh v. Jammu and Kashmir (1985) 4 SCC. 677**
- In **Nilabati Behera v. State of Orissa AIR 1993 SC 1960** the court held that the doctrine of sovereign immunity is no defence to the constitutional remedy under Art. 32 and Art. 226. Art. 32 imposed an obligation on the court "to forge such new tools as may be necessary for doing complete justice and enforcing fundamental rights

- [D. K Basu v. State of West Bengal A.I.R 1997 SC 610](#) is an important case where the court looked at compensating the victims
- The court laid down the principles for awarding compensation to victims of custodial atrocities . Here the court also observed that monetary compensation is based on the principle of strict liability of the State and the State is not allowed to avail the benefit of sovereign immunity
- The Supreme Court allowed a compensation claim to the members of the family of the deceased in 'fake encounter' in [People's Union for Civil Liberties v. Union of India AIR 1997 SC 1203](#).
- In [Forum v. Union of India \(1995\)](#) the court awarded compensation to the rape victim. The court went to the extent of directing the State to pay compensation to a patient for its failure in providing emergency medical assistance and for non-availability of bed in a State-run hospital.
- Again in [M.C. Mehta v. Union of India AIR 1997 SC 3021](#) the Supreme Court held that the scope of Art. 32 is wide enough to award compensation for infringement of Fundamental Rights; however, it limited the remedy to only 'appropriate cases'

LEGISLATIVE FRAMEWORK OF COMPENSATION

- Section 357 of the Criminal Procedure Code is a comprehensive provision which deals with compensation for victims. This section was inserted in the 1973 code on the recommendation of the 154th Law Commissions of India
- **Section 357: Order to Pay Compensation**
- Section 357(1) When a Court imposes a sentence of fine or a sentence (including a sentence of death) of which fine forms a part, the Court may, when passing judgment order the whole or any part of the fine recovered to be applied—
 - a. in defraying the expenses properly incurred in the prosecution;
 - b. in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is, in the opinion of the Court, recoverable by such person in a Civil Court;
 - c. when any person is convicted of any offence for having caused the death of another person or of having abetted the commission of such an offence, in paying compensation to the persons who are, under the Fatal Accidents Act, 1855 (13 of 1855), entitled to recover damages from the person sentenced for the loss resulting to them from such death;
 - d. when any person is convicted of any offence which includes theft, criminal misappropriation, criminal breach of trust, or cheating, or of having dishonestly received or retained, or of having voluntarily assisted in disposing of, stolen property knowing or having reason to believe the same to be stolen in compensating any bona fide purchaser of such property for the loss of the same if such property is restored to the possession of the person entitled thereto.

- Section 357 (2) If the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or if an appeal be presented, before the decision of the appeal.
- Section 357 (3) When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment order the accused person to pay, by way of compensation such amount as may be specified in the order to the person who has suffered any loss or injury by reason of the act for which the accused person has been so sentenced.
- In **Suresh & Anr v. State of Haryana AIR 2015 SC 518** where the court awarded compensation to the victim's family. Here the court laid down that even if the state failed to arrest or identify the accused, the duty to award compensation remains intact upon the state.

S. 357A -VICTIM COMPENSATION SCHEME

In an attempt to bring the Indian Criminal Justice Sytem in line with the 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, the Code of Criminal Procedure, 1973 was amended in the year 2008 on the basis of recommendations in the 154th Law Commission of India Report:

1. Every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim or his dependents who have suffered loss or injury as a result of the crime and who, require rehabilitation.
1. Whenever a recommendation is made by the Court for compensation, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation to be awarded under the scheme referred to in sub-section (1)
1. If the trial Court, at the conclusion of the trial, is satisfied, that the compensation awarded under section 357 is not adequate for such rehabilitation, or where the cases end in acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

- 4. Where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to the State or the District Legal Services Authority for award of compensation.
- 5. On receipt of such recommendations or on the application under sub-section (4), the State or the District Legal Services Authority shall, after due enquiry award adequate compensation by completing the enquiry within two months.
- 6. The State or the District Legal Services Authority, as the case may be, to alleviate the suffering of the victim, may order for immediate first-aid facility or medical benefits to be made available free of cost on the certificate of the police officer not below the rank of the officer incharge of the police station or a Magistrate of the area concerned, or any other interim relief as the appropriate authority deems fit

Restorative Justice

Restorative justice is a new movement in the fields of victimology and criminology. Acknowledging that crime causes injury to people and communities, it insists that justice repair those injuries and that the parties be permitted to participate in that process.

Restorative justice programs, therefore, enable the victim, the offender and affected members of the community to be directly involved in responding to the crime.

The restorative process of involving all parties – often in face-to-face meetings – is a powerful way of addressing not only the material and physical injuries caused by crime, but the social, psychological and relational injuries as well.

When a party is not able, or does not want, to participate in such a meeting, other approaches can be taken to achieve the restorative outcome of repairing the harm. In addressing offender accountability these approaches can include restitution, community service and other reparative sentences. In addressing victim and offender reintegration they can include material, emotional and spiritual support and assistance.

Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behaviour. It is best accomplished through cooperative processes that include all stakeholders. Restorative justice is different from contemporary criminal justice in several ways.

1. First, it views criminal acts more comprehensively -- rather than defining crime as simply lawbreaking, it recognizes that offenders harm victims, communities and even themselves.
2. Second, it involves more parties in responding to crime -- rather than giving key roles only to government and the offender, it includes victims and communities as well.
3. Finally, it measures success differently -- rather than measuring how much punishment is inflicted, it measures how much harm is repaired or prevented.

Objectives of restorative justice

To concentrate fully to victims' needs or requirements i.e. material, financial, emotional and social (including those personally close to the victim who may be similarly affected);

- To prevent re-offending by reintegrating offenders into the society;

To enable offenders to assume active responsibility for their actions;

To recreate or restore a working community that supports the rehabilitation of offenders and victims and is active in preventing crime;

To provide a means of avoiding escalation of legal justice and the associated costs and delays.

Forms of Restorative Justice

Victim-Offender Mediation (VOM):

- VOM brings together victims and offenders in a facilitated meeting to discuss the impact of the crime, express their feelings, and reach an agreement on how the offender can make amends. A trained mediator helps facilitate the conversation and ensures that both parties have a chance to be heard.

Circle Processes: ‘

- Circle processes involve bringing together a group of individuals, including the victim, offender, family members, community members, and facilitators, to discuss the crime and its impact. The circle format promotes open communication, mutual respect, and a shared sense of responsibility for healing and restoration.

Conferencing:

- Conferencing is a structured and facilitated meeting that typically involves the victim, offender, family members, and community representatives. The goal of conferencing is to develop a plan for how the offender can make amends and restore relationships. The plan may include specific actions, such as restitution, community service, or participation in support groups.

Example:

Victim Offender Mediation The programme of Victim Offender Mediation involves a meeting between the victim and offender facilitated by a trained mediator.

The first Victim-Offender Reconciliation Programme (VORP) began as an experiment in Kitchener, Ontario in the early 1970's, when a youth probation officer convinced a judge that two youths convicted of vandalism should meet the victims of their crimes. After the meetings, the judge ordered the two youths to pay restitution to those victims as a condition of probation. Thus, VORP began as a probation-based or post-conviction sentencing alternative inspired by a probation officer's belief that victim-offender meetings could be helpful to both parties i.e. victim as well as offender.

Compoundable offences in India

The victim and offenders can reach to settlement of the matter in accordance with the Section 320 of the Criminal Procedure Code, 1973. This procedural law allows the parties to undergo what is called “compounding of cases” in certain offences without the permission of court and in some cases with the approval of the court. The compounding the offences have connotations to what is now popularly being voiced as “restorative justice”.

There are some offences which affect individuals and do not affect the society. This type of offences can be compounded without the permission of the court under the sub section (1) of 320 of the Criminal Procedure Code, 1973. The offences under this category are: hurting religious feeling of a person, hurt, confinement, mischief, criminal trespass, adultery, defamation etc.

The offences under sub section of 2 of this law contains those offences which are of grave nature and likely to affect people at large. These can not be compounded without the permission of the court. The offences under this class include: grievous hurt, wrongful confinement, misappropriation of property, breach of trust involving heavy amount, fraud, counterfeiting, indecent behaviour towards women etc. The offences reached to successful compounding always result in acquittal. Unlike the system in the US, the procedure is merely a way to dispose off the case. It does not attach any condition of restoration/ reparation of harm afflicted. In the name of restoration, recently higher courts in India have given verdicts in favour of the victims

VICTIMS RIGHTS

- ❑ Victims Rights under CRPC
- ❑ Right to Compensation- Section 357,
- ❑ Right to Assistance- Section 357A
- ❑ Right to Access Justice and Fair treatment
- ❑ Information to the police which is expected to reduce it to writing S.154 (1) of the Code of Criminal Procedure, 1973 (Cr. PC). This is registered as the (the first information report (FIR).
- ❑ The victim as an informant is entitled to a copy of the FIR “forthwith, free of cost” s.154 (2) Cr. PC.
- ❑ Where the officer in charge of a police station refuses to act upon such information, the victim can write to the Superintendent of the Police who is then expected to direct investigation into the complaint.S.154 (3) Cr. PC.
- ❑ Failing these mechanisms, the victim can give a complaint to a Magistrate, S.190 Cr. PC. who will in turn examine the complainant on oath and enquire into the case herself or direct investigation by the police before taking cognizance. S.200, 202 Cr. PC.

- S.160 Cr. PC that “no male person under the age of 15 years or women shall be required to attend any place other than the place in which such male person or woman resides”
- The Supreme Court emphasised the mandatory nature of this requirement in *Nandini Satpathy v. P.L.Dani (1978) 2 SCC 424*. The Rule that an arrest of woman should not be detained beyond sunset was evolved judicially
- The practice of keeping victim women in jails for giving evidence was strongly deprecated in *Hussainara Khatoon v. State of Bihar (1980) 1 SCC 93 (at 96)* as “nothing short of a blatant violation of personal liberty guaranteed under Article 21 of the Constitution.”
- Victim has a right to appeal Section 372 proviso against the acquittal
- Section 24 (8): Right to legal aid under the Legal Services Authorities Act

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

The court indicated the following “broad parameters for assisting the victims of rape”:

- The complainants in sexual assault cases had to be provided with legal representation. It was important to have someone well acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example, mind counselling or medical assistance. It was important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represented her till the end of the case.
- Legal assistance would have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station; the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.

- The police was under a duty to inform the victim of her right to representation before any questions were asked of her and the police report should state that the victim was so informed.
- A list of advocates willing to act in these cases should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable. An advocate would be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorised to act at the police station before leave of the court was sought or obtained.