CHAPTER IX
CONCLUSION

The purpose of a criminal justice system, is to punish the offender of a crime, which is done by the State. The Indian Criminal Justice System right from its inception with the enactment of Code of Criminal Procedure 1898 followed by the Code of Criminal Procedure 1973 and the Indian Evidence Act, 1872 has been accused friendly. Even framers of our constitution emphasized upon the rights of the accused persons. The Constitution by virtue of part IIIrd of the Constitution, has conferred various rights and privileges on a person accused of committing an offence for eg. Article 20 (3) provides for the protection against self-incrimination. A person accused of an offence cannot be compelled to be a witness against himself. He cannot be forced to disclose any information, which incriminates him or may prove his guilt.

Unfortunately, though the framers of the Constitution introduced the concept of welfare State, but did not provide any specific provision to provide for the welfare of the victims of crimes. In other words, the Constitution and the statutory provisions under Cr.P.C 1973 dealing with the offenders, are heavily loaded in their favour.
In other words, the human rights of the offenders came into focus. However, with this change in the focus and thinking towards the offenders especially from deterrent punishment to reformation of offenders, the victims of crime though actually affected by the commission of the crime, became the unforgotten one.

As stated hereinbefore, the Indian Criminal Justice System, is primarily based upon the due process model in which, the interests of the offenders of crime, are protected by many statutory provisions already referred above. An accused, enjoys many rights and privileges under the Code of Criminal Procedure Code 1973 and the Indian Evidence Act 1872. An accused is presumed to be innocent, till it is proved by the prosecution beyond reasonable doubt, that the offender is guilty of the offence charged with. An accused may even remain silent as the burden of proof, is always on the prosecution to prove that he is guilty. He can even get a lawyer at the State expense to defend himself. On the other hand, a victim of crime has no such right to get a lawyer at the State expense, to defend his rights. He can appoint a lawyer, who can only function under the instructions of the public prosecutor. It will not be out of context to say that the offender is a privileged person in the Indian Criminal Justice System enjoying various rights and privileges, whereas a victim of crime is regarded to be an alien to the same criminal justice system.
While on one hand an accused person enjoyed various rights and privileges under the Indian Criminal justice system, including the constitutional rights referred hereinbefore, the victims of crime are not recognized as a part of it. The victims of crime do not have any right to either participate in the investigation process, the same being the exclusive purview of the police nor have any right to participate in the trial proceedings. The prosecution is conducted by public prosecutor. A victim could do anything except watching the Court proceedings, even if the police and prosecution may be helping the accused in one way or the other.

The victims of crime had been, therefore, ignored both by the State as well as by the society. Victims being victimized and ignored, have been various problems especially the victims of offences of rape and molestation, who undergo life long trauma and social stigma. Immense harassment is caused to the victims, at the time of recording of their statements in the trial Courts.

However in view of the misuse of the constitutional privileges by the accused persons, the victims had been made to suffer, due to which the law Commission of India time and again stressed upon the need to compensate the victims in various of its reports such as 42nd report on IPC 1971, 152nd report on custodial crimes 1994. The law Commission's 154th report was perhaps the first report of
the Commission, wherein the term "victimology" was specifically used and defined in the Indian context.

Besides this, the Law Commission, also focused on the protection of the victims, while they depose against the accused. For this purpose, the Commission submitted its 198th report wherein it recommended enactment of an act for the protection of the witnesses. In the said bill, the Commission defined the term "victim" within the definition of the term "witness."

The Central Government too on its part, has been focusing on the rights of victims and has perhaps recognized the emerging role of victimology in the Indian Criminal Justice System. Realizing the need to bring the changes in our criminal justice system and in order to make it more victim friendly, the Central Government in the year 2000 constituted a Committee on criminal reforms under the chairmanship of justice V.S. Malimath. The Committee since then has been popularly known as Malimath Committee on reforms of Criminal Justice System. The notification issued by the Central Government constituting the Committee clearly pointed out the intention of revamping the Indian Criminal Justice System.

The Committee while submitting its final report in the year 2003, recommended the need to give the victims a right to participate in the trial proceedings, grant of
compensation to the victims of crime and various other suggestions.

Besides this, the Central Government further constituted a Committee in the year 2006 to prepare a draft National Policy on Criminal justice under the chairmanship of Prof. (Dr.) N.R. Madhava Menon, former Director of the National Law University at Bangalore and Kolkata and Director of the National Judicial Academy, Bhopal. The said committees specifically stressed upon the concept and relevance of victimology in Indian Criminal Justice System. For this purpose, the Committee recommended to maintain a balanced approach between the rights of the accused and the victims.

Perhaps based upon the recommendations of Malimath Committee and the Committee constituted under the chairmanship of Prof. (Dr.) N.R. Madhava Menon, the Central Government brought about amendments in C.r.P.C 1973, which were passed by the parliament and became a law after being notified in the official gazette. By these amendments, the victims have been relief in two forms. Firstly, introduction of victim compensatory schemes under section 357-A. In fact, some of the States have even notified their respective schemes. Secondly, giving of a right to the victims an appeal not only against the acquittal of the accused but also against imposition of less sentence or grant of inadequate compensation to the accused under section 372. These
amendments clearly point out the emerging role of victimology in the Indian Criminal Justice System.

Besides this, the Ministry of Women and Child development of the Central Government after very detailed deliberations, has come up with a scheme for rehabilitation and compensation for rape victims.

Not only the State, even the judiciary particularly the Higher Judiciary is becoming sensitive towards the rights of the victims, which is another emerging trend in Victimology in our Criminal Justice System. The Supreme Court, has now laid great emphasis on the trial Courts not acting as mere tape recorders but they should play a pro-active role in ensuring that justice is done and that they should be sensitive towards the rights of the victims. The Higher Courts have developed new tools for making the fundamental rights of the victims more meaningful. The concept of public law remedy has been developed based on American concept, where under a writ petition is entertained by the Supreme Court and High Courts under article 32 and 226 of the Constitution respectively, for awarding compensation to the victims, particularly where the officials of the State are evolved. The sufferings of the victims are considered by the Courts and have often refused to reduce the sentence of the accused keeping in view the sufferings of the victims. The Supreme Court has
also changed the interpretation of the term “fair trial” to include in it, the right of the victims to get justice.

Another emerging trend of Victimology in our criminal justice system has been the pro-active role being played by NGO’s such as Indian Society of Victimology and statutory bodies particularly National Human Rights Commission in protecting the rights of the victims. The case of Best Bakery, has been in the hallmark of this emerging trend of Victimology. Besides this, the code of conduct for victims in England and the victim’s charter of Australia, can be useful guide to make further steps for the victims of crime.

The victimology, therefore, has an important role to play in the Indian Criminal Justice System and the trends of the victimology mentioned hereinbefore and also discussed earlier in this research work certainly point out a positive role of victimology in the future.