CHAPTER 1
INTRODUCTION

1.1. OVERVIEW:
A criminal justice system can be termed as fair and effective only when it takes into consideration interests of all concerned. A fair system is a system within which efficient measures are applied to prevent victimization and in case it occurs, system pays due consideration towards protection and assistance needs of victims and provides victims with a dignified and respectful treatment and further provide them with an access to judicial mechanism to obtain redress for the harm undergone by the victim. United Nations describes the responsive criminal justice system as,

“A fair, effective and efficient criminal justice system is a system that respects the fundamental rights of victims as well as those of suspects and offenders. It focuses on the need to prevent victimization, to protect and assist victims, and to treat them with compassion and respect for their dignity. Victims should also have access to judicial and other mechanisms to seek remedy for the harm they suffered and obtain prompt redress.”¹

In present day adversarial criminal justice systems, trial is considered only as a contest between the State and the defendant. Victim plays a limited role as a witness to the crime. It has been very aptly observed that, “the victim of crime is often a forgotten person in our criminal justice system”.²

State is considered as the indirect victim of the crime. It is supposed that this indirect victim that is State is properly representing interests of direct victim of crime so efficiently that victim need not to pay any attention towards his concerns. It is presumed that victims’ interests are being paid due attention by the State. According to Professor Nils Christie,

“So, in a modern criminal trial, two important things have happened. First, the parties are being represented. Secondly, the one party that is represented by the state, namely the victim, is so thoroughly represented that she or he for most of the proceedings is pushed completely out of the arena, reduced to the triggered-off the whole thing. She or he is a sort of double loser; first, vis-à-vis the offender, but

¹CROSS-CUTTING ISSUES, VICTIMS AND WITNESSES, CRIMINAL JUSTICE ASSESSMENT TOOLKIT, UNITED NATIONS OFFICE ON DRUGS AND CRIME, Vienna, 1 (United Nations, New York, 2006)
secondly and often in a more crippling manner by being denied rights of full participation in what might have been one of the most important ritual encounters in life. The victim has lost the case to the state.”

Victim of crime suffers the agony of victimization twice that is one due to the criminal act and another due to the insensitivity and unsympathetic treatment by the agencies of criminal justice system. Victim, though is the direct sufferer of the crime, still is devoid of any attention. To ensure victim justice, it is required that victims’ concerns should be given due recognition within the criminal justice system. Emphasizing upon ‘Victim Orientation to Criminal Justice Administration’, it was recommended by the National Commission to Review the Working of the Constitution that, “Among the many reforms canvassed for improving criminal justice is one that advocates a victim-orientation to criminal justice administration. ‘Victim-Orientation’ includes greater respect and consideration towards victims and their rights in the investigative and prosecution processes—particularly for victims of violent crimes.”

1.2. REVIEW OF THE LITERATURE:

It is a fact that crime committed by a state actor or by a non-state actor affects the victims equally and both types of victims need protection from the acts violating their right to life. In Indian context, prior research work in the field of victims’ human rights centers around and discusses primarily the aspect of human rights of victims of state crimes. Majority of the prior work that deals with the human rights of the victim talks about negative obligations of state which seeks that State or its agencies should not work in a way that interferes with the fundamental rights of individuals. Researcher came across limited literature that pays attention towards the positive obligations of State in providing protection to human rights of victims of crime. In the domain of victimology and criminal justice system, the prior research work in relation to victims of crime discusses prominently the idea of compensatory aspect of justice leaving other justice issues outside the deliberations. Victim suffers the agony of victimization again when he goes through the criminal justice process and deals with the insensitive and unsympathetic attitude of functionaries of criminal justice system. Procedural justice to victims of non-state crimes has been paid very less attention. This research work has tried to fill the gap between the notion of human rights of victims and obligations of State by establishing that victims of non-state crimes are equally entitled for human right to justice and

3 N. Christie, Conflicts As Property, 1 BRITISH J. OF CRIMINOLOGY, 1, 3-4 (1977).
it is the positive obligation of the State to ensure protection to human rights of victims of crime. Under its positive obligation, State should establish such normative measures and institutional measures that recognize victims right to procedural justice.

Internationally, this aspect has been paid much attention, therefore this study has taken into consideration valuable literature from other jurisdictions. This literature played an important role in guiding the researcher in completion of this research work. The work that played a prominent role in the present study include the following:

**BOOKS:**

1. Juan Carlos Ochoa S. in his book, “Rights of Victims in Criminal Justice Proceedings for Serious Human Rights Violations”, MartinusNijhoff publisher, has discussed the procedural obligations of State in case of victims of non-State crimes. He has mentioned that victims of crimes are entitled for protection of their human rights and to ensure this protection, State has procedural obligations to conduct effective investigation and prosecution in cases of violent crimes. He argues for providing of procedural means to ensure protection of victims’ substantive human rights. To substantiate his contention, he has taken recourse to the jurisprudence of UN Human Rights Committee, ECtHR, IACtHR and other human rights monitoring bodies.

2. Jonathan Doak, in his book, “Victims’ Rights, Human Rights and Criminal Justice-Reconceiving the Role of Third Parties”, (2008) Hart Publishing, Oxford and Portland, Oregon, has argued for a unified theory of victims’ rights emphasizing that both types of victims should be given recognition within the criminal justice system. Until and unless, victims’ rights are recognized as human rights with full protection and applicability within both international and domestic legislative framework, their rights cannot be enforced. According to him notion of human rights is equally applicable in cases of both types of victims and the main reason behind considering only the victims of State crimes entitle for human rights protection is the presumption that State by intruding into the field of fundamental freedoms can violate the individual human rights therefore such victims need some protective machinery whereas in case of victims of non-State crimes, State is there to take care of victims’ interests therefore such victims do not require any machinery for protection of their human rights. Doak argues that victims of non-state crimes should be afforded same sort of protective
measures to ensure protection of their human rights as provided in case of victims of State crimes. Any system that gives subservient status to victims is structurally flawed and such shortcomings should be removed by providing with fairer means of victim justice. This victim justice can be ensured by bringing a radical change in the perception of victim justice and criminal justice system.

3. Douglas E. Beloof, Paul G. Cassell, Steven J. Twist, edited, “Victims in Criminal Procedure”, Carolina Academic Press, Durham, North Carolina, (2010), U.S.A., discusses in depth the federal Crime Victims’ Rights Act in a case study form. Victims’ role in the criminal justice process has been dealt with in this work. With the help of study of cases, Beloof argues that victims are the legitimate stakeholders in the process of criminal justice and their interests are also required to be paid due attention. Victim had a prominent role in the process of criminal justice and they have made significant contributions during the drafting of American Constitution and now the time has come when victim should be given due recognition and their legitimate concerns should be taken into consideration.

4. K. I. Vibhute edited “Criminal Justice - A Human Rights Perspective of the Criminal Justice Process in India”, (2004) Eastern Book Company, Lucknow, consists of 26 essays covering various issues of human rights. This work reflects upon the treatment meted out to an accused, a prisoner and to a victim within the criminal justice system. Various contributors have paid attention towards the human rights issues but covers only limited aspect of victim justice. These works either focusses their attention towards the issue of compensatory justice or towards the issue of access to justice. Contribution made by K.I.Vibhute himself through his work, “Justice to Victims of Crime: Emerging Trends and Legislative Models in India” moves around the concept of compensatory schemes and legislative spirit behind providing with such provisions. Contribution made by N.R.Madhav Menon through his essay “Victim Compensation Law and Criminal Justice System: A Plea for a Victim-Orientation in Criminal Justice” discusses the compensatory aspect favouring victim-orientation in criminal justice system. Contribution made by K.D.Gaur, through his essay “Justice to Victims of Crime: A Human Rights Approach” is also limited with the aspect of evaluation of compensatory schemes. B.V.Trivedi’ essay, “Human Right and Criminal Justice System in India: A Reflection on their Mutual Contextual Nexus” focusses upon the issue of non-registration of cases by the police and resulting violation of human rights.
A significant contribution has been made by Madhav Godbole in his essay, “Criminal Justice System in India- Bane of Human Rights.” This essay emphasizes that protection of human rights of victims of violence also need some attention. Author has suggested for making of registration of crime compulsory, training of functionaries for making them sensitive towards the issues of victims’ human rights and an awareness towards the judicial trend in this field.

5. Shlomo Giora Shoham, Paul Knepper and Martin Kett, edited, “International Handbook of Victimology”, (2010), CRC Press, Taylor and Francis Group, USA,: This substantive guide under its six heads discusses elaborately various issues of victimology including its theoretical and historical frameworks especially how victim perceives justice, victimization patterns with emphasis upon repeat victimization and secondary victimization, various development in the field of victimology, position of victims in European Criminal Justice System, various services being offered to victims in United States as well as restorative justice issues.

6. Tyrone Kirchengast, “Victimology and Victim Rights: International Comparative Perspectives”, Routledge Taylor and Francis Group, London (2017) discusses elaborately victim rights and victim issues in comparative context. This work consists of three parts. First part reflects upon the international norms in the field of victims’ rights. Second part emphasizes upon regional as well as domestic laws and policy recognizing victims’ interests. Third part discusses the issue of law and policy in realization of victims’ rights. This work elaborates how victims’ rights are progressing and being recognized as human rights. It further looks into the area of enforceability of victims’ rights and reflects upon the issue as to how far the other stakeholders within the criminal justice system are willing to accommodate victims’ rights and their concerns.

7. Wing-Cheong Chan edited, “Support for victims of crime in Asia”, Routledge Taylor and Francis Group, New York (2008), is a compilation of Articles that examines the role and rights of victims within different legal systems existing in Asian countries. Various issues such as whether victims’ rights can be accommodated within the present criminal justice systems and whether giving rights to victims will affect adversely to the rights of the offender or to the interests of the State has been discussed in this work. Victim support within 10 Asian jurisdictions have been discussed in detail. For better enforcement of victims’ rights, Wing-Cheong Chan
suggests for making victim informed as to the existence of his rights. according to 
him,
“It is a truism that laws are of no use unless their existence is made known to those 
who need them the most and that those who need them are assisted in taking 
advantage of those laws.”

8. G. S. Bajpai, Witness and the Criminal Justice System: Researching Consequences of 
Being a Witness (Lap Lambert Academic Publishing, 2011) deals with the aspect of 
interactional justice to victims by looking empirically into the problems faced by 
victim-witnesses during their interaction with the agencies of criminal justice system. 
Despite the fact that the criminal justice system for its smooth functioning is heavily 
dependent upon victim-witness in a case, victim faces secondary victimization when 
he comes into contact with the authorities within the system. This empirical study 
highlights the need of various protective measures to be applied to ensure victim-
witness protection.

ARTICLES:

and Review”\(^5\), Brigham Young University Law Review 255, 258 (2005) argues that 
two waves of crime victims’ rights in U.S.A. from statutory rights to State 
Constitutional Rights have resulted into giving victims only illusionary rights instead 
of giving them any real rights. Victims need standing, adequate remedy and a non-
discretionary review mechanism to convert illusionary rights into real rights. Beloof 
asserts that ‘Standing’ is useless until and unless it is supported by a ‘right to remedy’. 
Provision of an adequate remedy is required when a right is denied in trial courts. 
Beloof contends that presence of standing or remedy is not sufficient to make victims’ 
rights real rights instead of illusory rights unless it has further been supported by a 
nondiscretionary ‘review’ mechanism. Due to discretionary review mechanism courts 
do not review violations of victims’ rights too seriously.

G. Cassell, Steven J. Twist, edited, “Victims in Criminal Procedure”, Carolina 

\(^5\) Douglas E. Beloof, The Third Wave Of Crime Victims’ Rights: Standing, Remedy And Review, BRIGHAM 
Academic Press, Durham, North Carolina, (2010), U.S.A proposes a third model of criminal procedure that is the victim participation model. It argues that now there is a need to create a third model of criminal justice in addition to the already existing models of crime control and due process. Already existing models deal with the issues of controlling of crimes and with the limiting of government powers and ensuring due process to the defendant whereas the proposed model takes into consideration of victim justice. Beloof argues that this third model depends upon the consensus in favour of victim justice and now presence of such a consensus can be seen from the enactment of CVRA in U.S.A. that shows that victim justice values are being considered as genuine.

3. Jo-Anne Wemmers “Victims’ rights are human rights: The importance of recognizing victims as persons,” asserts for wider recognition of victims’ concerns. Victims should not be taken as a tool in the hands of criminal justice system but they should be recognised as a person with human rights. Victim justice needs effective recognition as well as effective enforcement of their rights.

4. M.Cherif. Bassiouni “International Recognition of Victims’ Rights”, 6 Hum.Rts.L.Rev.2032006, published by Oxford University Press, favours for strengthening of victims’ rights. Bassiouni asserts that State is under obligation to respect and to ensure respect for international human rights norms and this obligation requires States to take preventive measures to avoid violation of human rights and further requires States to take procedural measures in case there is a violation of human rights. A reference has been made to the cases decided by IACtHR and ECtHR to substantiate the contention that State has procedural obligation to fairly investigate the matter and prosecute the perpetrator of crime.


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There is a need to bring changes in the present criminal justice system taking into consideration the changes taking place in the notion of human rights.

6. John Thibaut and Laurens Walker, *A Theory of Procedure*, 66 Cal. L. Rev. 541, 566 (1978) propose a general theory that can be applied throughout the legal process without making any distinction on the ground of the process being civil, criminal and administrative. Their theory is based upon evidence collected systematically from prior studies. This theory emphasizes that any conflict must be determined with the objective of ascertaining truth whereas the conflict that deals with apportionment of outcomes must be determined with the objective of ascertaining justice. Process control assigned to the disputants with decision control assigned to a third party creates a sense that justice has been done.

7. T. Tyler & E. A. Lind, *A Relational Model Of Authority In Groups*, in 25 Advances In Experimental Social Psychology 115-91 (M. P. Zanna ed., San Diego: Academic Press, 1992), discusses the aspects of legitimate power in which people voluntarily obey the authorities decisions. Group members accept the decisions of any authority if they perceive them as legitimate. This model argues that authorities’ decisions, if perceived by the people as legitimate, brings effectiveness in their implementation. Though there might be other factors that bring compliance for authorities’ decisions such as external threats and rewards but such methods do not yield long term results and fail with the removal of coercive power and reward.

**REPORTS:**

Various reports pertaining to different jurisdictions helped in highlighting the issue in other countries. These reports reflect how victims are getting recognition in the criminal justice process. In Indian context, Malimath Committee Report lays emphasis upon recognition of victim justice needs and corresponding obligation of State to ensure victims’ human rights and role of the agencies of criminal justice system.

**WEBSITES:**

Literature from other jurisdictions could be availed only through online sources. In absence of physical accessibility, online resources provided an important help. Online data
from different web-sites proved helpful in getting access to the valuable literature reflecting the developments in victim-justice arena.

**NEWSPAPERS:**

Newspapers provided an insight into depth of the problems faced by the victims and an unwillingness on part of the functionaries to bring any change in the existing scenario. Times of India played an important role by reporting various instances and reflecting upon victim justice issues and their concerns.

1.3. **STATEMENT OF THE PROBLEM:**

From being in the central stage of the Criminal Justice system in the early times, victim has been relegated to a state where he is now a neglected party. In the name of addressing the victim issues, we have very few provisions in our criminal laws and that too are rarely utilised and resorted to. In the Indian settings, whenever we think of help to the victim within the criminal justice system we only know and talk about compensation aspects. Recently much has been done in the form of implementing Conventions through legislative amendments (Criminal Law Amendment Act, 2013, POCSO Act) but these are limited to special category of victims. Still much has to be done for a general victim of violent crime who has suffered immensely physically, psychology, emotionally and monetarily as a result of crime. Though his right to life guaranteed under Constitution and recognised under various international instruments is violated, Criminal Justice System does not accord him with status of a party in the trial. This is because, there is a tendency to perceive victims’ right to participation to be in conflict with fair trial rights of accused. In the zeal of protecting the rights of accused, victim is even not informed about the status of proceedings, his views are not taken into consideration and he is represented by a person who is there to represent State and acts in the interest of the society.

Within some jurisdictions like India, where fair trial rights are given a narrow construction and that too only in favour of the accused, victim is quite often side-lined, considering integration of victim in the process as a threat to the integrity of the criminal justice system itself. Often it is argued that criminal justice system works in a manner where the interests of the accused needs to be protected against the might of the state and the accused is the most vulnerable person in the adversarial system. But instances are not scanty where courts have identified the lapses on part of investigation and prosecution adversely affecting the interests
of the victim of crime. Observations made by different high courts and by Supreme Court are relevant to be cited here since these reflect upon the issue how victims are denied justice in the total response to crime.

In State of Gujarat v. Kishanbhai and others,\(^8\) Supreme Court observed that an ineffective investigation and prosecution result into failure of justice to the poor victim of the crime. Court expressed its deep concerns over the lacunae in the investigation and prosecution resulting into denial of justice to the victim. Apex court observed as under, “The investigating officials and the prosecutors involved in presenting this case, have miserably failed in discharging their duties. They have been instrumental in denying to serve the cause of justice. The misery of the family of the victim Gomi has remained unredressed.”\(^9\)

In re Mst Rijiya Bibi case\(^10\), where investigation into a murder case was kept pending for 13 years, highlights the insensitive treatment given by the agencies of criminal justice system to the poor victim of the crime. It was observed by Justice Tapabrata Chakraborty of Kolkata High Court that,

“Such dereliction of duty to fairly investigate a crime is a brutal denial of the fundamental right, of access to justice and equality before law, to the family members of the deceased.”\(^11\)

In Gurbax Singh Bains v. State of Punjab,\(^12\) Punjab and Haryana High Court emphasized that fair investigation is the constitutional right of a victim of crime. Any investigation that is tainted, affect the victim justice adversely. According to the observation made by the Court,

The investigation, thus, has to be fair and judicious, which is the minimum requirement of rule of law. This constitutional guarantee is not only available where the tainted investigation is directed against the accused persons having an effect on him. It would equally be for the aggrieved person and a victim to allege that he is not being treated fairly by injudicious investigation to favour the accused persons. Thus, it would violate his constitutional rights.\(^13\)

In Sanjeev Nanda v. The State\(^14\), Delhi High Court recognized that victim justice is denied not only because of the faulty investigation but because of the faulty prosecution in the case where prosecutor to help out the accused in the case, leaves loopholes in the prosecution case,

\(^9\) Id at ¶ 17.
\(^11\) Id.
\(^13\) Id at ¶ 3.
thereby adversely affecting the cause of victim justice. Reflecting upon the issue court highlighted that,

Whenever and wherever, either due to money power or political power, the police or the prosecution bend its knees so as to help out the accused of the crime, the task of the courts becomes onerous to ascertain and unravel the truth. In all such cases, the prosecution creates enough loopholes at the stage of investigation itself, and in most of the cases such investigations are more guided by the defense through their legal experts at the cost of sufferings of the victims of the crime and the societal interest.\textsuperscript{15}(emphasis added)

Sunil Kumar Pal v. Phota Sheikh and Others\textsuperscript{16}, it was found by the apex court that the Session trial was not fair. It was heavily loaded in favour of the accused. The role played by public prosecutor was not consistent with the legal profession ethics. Vitiating the trial, Supreme Court commented that, “It is difficult to understand how consistently with ethics of the legal profession and fair play in the administration of justice, the Public Prosecutor of Nadia could appear on behalf of respondents 1 to 9.”\textsuperscript{17}

Time and again, courts have supported the issue of victim-justice by mentioning specifically that a fair criminal justice system needs to consider triangulation of interest. Not only the accused but all stakeholders in the process of criminal justice should be paid due consideration. It was observed by the Supreme Court in the case of Zahira Habibullah H. Sheikh and Another v. State of Gujarat\textsuperscript{18} that,

It will not be correct to say that it is only the accused who must be fairly dealt with. That would be turning a Nelson’ eye to the needs of the society at large and the victims or their family members and relatives. Each one has an inbuilt right to be dealt with fairly in a criminal trial. Denial of a fair trial is as much injustice to the accused as is to the victim and the society.\textsuperscript{19}(emphasis added)

The objectives of Criminal Justice System are not limited only to detection of crime, to prosecute and to determine the guilt of the accused as per the principles of justice. Its objectives are rather wide to accord just and fair treatment to victim of crime and finally to the society so that law and order and public confidence in criminal justice system is maintained. Even though, courts come forward to interpret various provisions of the criminal procedure laws in the light of international norms, general and perceptual reluctance to this participation by victim on part of the major stakeholders in the justice system, play an

\textsuperscript{15}Id at ¶ 320.
\textsuperscript{17}Id at ¶ 9.
\textsuperscript{19}Id, ¶ 36.
important role in the justice delivery system. This institutional unwillingness has been a major obstacle in the way of full realization of victim-justice. The present study is relevant because of the following factors:

- Even after UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, the rights of the victim of crime has not been given full effect in Indian Criminal Justice System.
- The justice needs pertaining to victims have not been identified and worked upon in India.
- Despite there being few significant judgments given by superior courts reflecting upon misuse of investigative and prosecution powers to the detriment to the victim’s interest, no institutional safeguards within administration of Criminal Justice System have been provided to address victim’s justice needs.

1.4. **OBJECTIVES:**

1.4.1. To identify victims’ justice needs that are required to be satisfied to minimize secondary victimization and to ensure victim justice.

1.4.2. To analytically examine various international and regional human rights instruments to find out how victims’ justice issues have been dealt with under international and regional human rights’ framework.

1.4.3. To examine the manner in which these justice needs have been addressed and actioned within the Criminal Justice Administration of different countries.

1.4.4. To analyse critically the extent to which Indian Criminal Justice System addresses victims’ rights.

1.4.5. To find a working mechanism through which justice needs of victim may be better addressed in the Indian Criminal Justice Settings.

1.5. **RESEARCH QUESTIONS:**

1.5.1. What are victim’s justice needs that results in victim’s satisfaction from Criminal Justice System and thereby minimize secondary victimization?

1.5.2. Whether human right laws in international and regional framework recognize such justice needs as victim’s human rights?
1.5.3. To what extent these victim’s justice needs are integrated into normative structure of other jurisdictions.

1.5.4. How these victim’s rights have been institutionalised and operationalised through offices of normatively positioned stakeholders/ functionaries of justice.

1.5.5. Whether the present normative and institutional measures in Indian criminal justice system provide mechanism to better address victim justice issues?

1.6. RESEARCH METHODOLOGY:

This research is of doctrinal nature. Valuable data has been accessed with the help of information technology where access to direct library sources were not practically feasible. Primary source of this research work includes international and regional human rights instruments such as Charters, Declarations, Conventions, Bill of Rights, Constitutions, legislations, reports and judicial precedents including case laws of human rights monitoring bodies. Secondary source includes text books, journals, academic and juristic writings, official websites, and newspapers etc.

A heuristic approach was adopted to find out victim justice perception on the basis of past research work in the field of victim justice. It helped in formulating various indicators of victim justice that helps in mitigating the secondary victimization.

To find out whether these victim justice issues have been recognized as human rights under the international instruments of human rights, an analysis of international and regional instruments of human rights was undertaken in the light of positive obligation theory. These instruments were studied in the context of judicial reasoning given by Inter-American Court of Human Rights and European Court of Human Rights. This analytical study not only helped in recognition of victim justice issues consisting of various parameters for procedural, interactional and informational justice to victims but helped in identifying the positive obligations of State to ensure these justice parameters for victims of crime.

A comparative study of victim specific initiatives was undertaken to find out how victim has been placed normatively within different countries and what institutional measures have been provided therewith to deal with these victim justice issues.

A critical analysis of Indian Criminal Justice System was done to highlight the deficiencies and lacunae in normative and institutional measures. To critically analyze, the normative measures within Indian Criminal Justice System, constitutional and legislative provisions
were studied by giving emphasis to the wording and objectives of the legislations and to substantiate the contention, judicial reasoning as given in various judgments of prominent High Courts and of Supreme Court was applied. Various judgments of prominent High Courts and of Supreme Court helped in finding out the judicial recognition of victim justice issues and a need for being provided with further measures. Reports of various committees and commissions were studied to find out how victim justice has been treated within Indian Criminal Justice System and what are the unmet justice issues of victims of crime that are required to be dealt with, along with the recommendations made by them. Academic literature was also critically examined to find out how far they have supported victim justice issues. Functional study was adopted to focus not only upon rules but their objects and functional relation with victim justice issues. On the basis of functionally equivalent mechanism as prevalent in other jurisdictions and judicial responses to similar situations, a ‘better-law comparison’ was done and some action oriented suggestions were formulated to better address victim justice issues in Indian Criminal Justice System.

1.7. FOCUS OF THE STUDY:

Procedural justice and not Distributive Justice:
The early studies in the field of victim justice were mainly concerned with the Distributive Justice i.e., on the fairness of outcomes.\(^{20}\) Distributive justice is centered on the fair allocation of resources. A distribution to be considered ‘just’ and as an indicator of ‘Bottom-up Justice’ depends upon Equality, Equity and Need. Prior to 1970s distributive justice was the main research area, consisting of three aspects i.e., retributive punishment, behaviour control and restoration of harm. Sanctioning is required to remove the imbalance of justice caused by the offender and it should be in proportion to the harm caused. To prevent further harm, the theory of deterrence was used. Recent years witnessed the need of responding to victims’ pain and sufferings through compensation and apologies, thus brought forth the restorative justice.\(^{21}\)


Victim’s say in ‘Distributive justice’ has been a continuous subject of criticism since it may give way to personal revenge and may lead backward to that period where personal vengeance decided the outcome of a case. But this is not the case with Procedural Justice that does not seek for victims’ say in outcome justice but concentrates upon the fairness of the process adopted to ensure distributive justice. Outcomes or Distributive Justice does not portray a complete picture of justice. Justice encompasses both Procedural and Distributive Justice. The process of limiting victims with outcomes Justice and excluding them from the procedural justice, adversely affect their justice judgements.

**General victim as against Special category victim:**

Victim of crime has been defined in such a manner by all the International and Domestic instruments that the definition includes all victims regardless of age, sex and other categories when it comes to entitlements to various rights. Considering all types of offences and all types of victims in this research may not be possible within the limitation of time and resources. It is therefore, proposed to concentrate attention only on the victims of violent crimes under the Indian Penal Code since such victim suffers equally as a result of bodily crime. Although many advancements in the area of victim rights grew out of feminist movements across the world advocating for the protective rights for the women victim and child victim. Similar trend can be observed in India also where recently many rights were accorded to the women victim of sexual offences through Criminal Law Amendment Act 2013. Throughout this study the idea of victim justice needs is taken in respect of general victim of violent crimes and is not limited to women and child victim of crime.

**Victims of violent crimes as against victim of abuse of power:**

The focus of the research would be mainly on general victims of crime and shall not include victim of abuse of power by lawful authority since the latter category has got the recourse to Writs and sympathetic attitude of the higher courts and a developed body of Conventions and judicial precedents.

**1.8. SIGNIFICANCE OF THE STUDY:**

1.8.1. The study would contribute by conceptualizing and identifying the victim justice issues.

1.8.2. The study proposes avenues for promoting respect for victims’ human rights as recognized internationally.
1.8.3. Study will help in examining the rationale behind recognizing victims’ right to participation, information and interactional justice by the functionaries of criminal justice system.

1.8.4. The study will propose means whereby the criminal justice administration machinery may better address issues of secondary victimization.

1.8.5. The study will try to offer action oriented suggestions.

1.8.6. The study proposes to bring out ways whereby victim needs and issues could be addressed without disturbing rights of accused recognized under administration of criminal justice.

1.9. CHAPTERISATION:

This research consists of six chapters including this chapter 1 ‘Introduction’ and last chapter ‘Conclusion and Suggestions.’ These chapters discuss varying aspect of victim justice issues.

CHAPTER 1. INTRODUCTION

CHAPTER 2. THEORETICAL FRAMEWORK OF VICTIM JUSTICE

In this chapter researcher tries to look into victims’ understanding of justice issues. Before arguing for victim justice, it is must to know what victim expects from the criminal justice system. To take into consideration various ‘justice’ preferences from victims’ point of view, past research works will be thoroughly studied to reflect upon various justice needs of victims of crime. Various justice models will be analytically studied to formulate victim justice parameters or indicators of victim justice. This study tries to ascertain the determinative parameters of ‘Procedural Justice’, ‘Interactional Justice’ and ‘Informational Justice’. This theoretical and analytical study will help in finding out what is meant by ‘victim justice’? what are the needs and expectations of victims from a system basically designated as ‘criminal justice system’?

CHAPTER 3. INTERNATIONAL RECOGNITION OF VICTIMS’ JUSTICE NEEDS AS VICTIMS’ HUMAN RIGHTS

Researcher will analyse various international and regional human rights instruments and case laws of their monitoring bodies to find out the human rights of victims of crime. An analytical study of international instruments of human rights and case laws of their monitoring bodies will provides an insight into the extent of recognition of victims’ procedural, interactional and
informational justice needs as human rights of victims of crime and will further help reflect upon the positive obligations of State to ensure these parameters of victim justice.

CHAPTER 4. RECOGNITION OF VICTIMS’ JUSTICE NEEDS: VICTIM SPECIFIC INITIATIVES IN OTHER COUNTRIES

A comparative study of victim specific initiatives in different jurisdictions will be undertaken to show that ‘Procedural Justice’, ‘Interactional Justice’ and ‘Informational Justice’ have received International Recognition and various countries have recognized these victim justice needs into their domestic legislations. This study will help in finding out how the theoretical issues of procedural, interactional and informational justice to victims of crime has been addressed practically under the criminal justice systems of other countries.

CHAPTER 5. JUSTICE TO VICTIMS OF VIOLENT CRIMES IN INDIA: NORMATIVE AND INSTITUTIONAL MEASURES

This chapter will critically analyze the Indian Criminal Justice System on the basis of determinative parameters of ‘Procedural, Interactional and Informational Justice’ to find out up to what extent victim justice has become a part of Indian Criminal Justice System. This chapter will make a critical analysis to find out whether Indian Criminal Justice System is lagging far behind the internationally recognized norms? If so, what are the reasons for the same? A critical study of normative and functional measures is necessary to find out whether victims are suffering due to the inadequacy of normative measures or due to the inadequacy of institutional framework.

CHAPTER 6. CONCLUSION AND SUGGESTIONS

This chapter will try to formulate some action oriented measures and incorporating them into the system may make the criminal justice system much more responsive towards victim justice issues.