
EVOLVING DIMENSIONS OF VICTIMS' RIGHTS: A VICTIMOLOGICAL PERSPECTIVE IN INDIA'S CRIMINAL JUSTICE SYSTEM

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ABSTRACT

The Indian Criminal Justice system has historically emphasized the concerns of offenders, often sidelining the perspective of victims. Notably, the term 'victim of a Crime' has no precise definition in Indian statutes or judicial interpretations. Despite this, a generally recognised framework is provided by Articles 1 and 2 of the United Nations General Assembly's Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985).¹ However, in contrast, most legal discussions in India centre on offenders, from arrest to sentencing. This makes it difficult to comprehend the victim's pain and the psychological effects of the court proceedings.

Victimology as a discipline remains underexplored, with justice frequently reduced to compensating, safeguarding, or compounding the victim's property, rather than addressing their holistic rights. Considering their contributions to the advancement of victim-centric reforms, judges and legal institutions are still not given enough credit for their importance. Protecting victims and their participation in the legal system must be improved to ensure a just system. Additionally, with the recent acceptance of victim impact statements, compensation plans, and the right to participate in trials, India's jurisprudence is shifting towards being more victim-oriented.²

Keywords: Criminal Justice, Offenders, Victims, Victimology, Compensation, Human Rights.

¹Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, U.N. Doc. A/RES/40/34, Article 1 & 2.

²Mallikarjun Kodagali (Dead) vs. The State of Karnataka; AIR 2018 SUPREME COURT 5206; 2019 (2) SCC 752.

Introduction

In many Jurisdictions across the world, victims of crime are assured of assistance, protection, and compensation. In the Indian context; however, victims have been systemically disempowered in the criminal justice system, with victims often the second-best option versus the first, leading to an exigent need for Indian Laws to consider a more effective victim-based paradigm that takes into consideration victim rights during investigation, prosecution, and trial, which should also include giving victims a greater right of participation in the trial, and to further provide a way of reparation and compensation, specifically for victims of serious and heinous crimes.

Although the Indian Constitution and the Bharatiya Nagarik Suraksha Sanhita, 2023, as it relates to the Code of Criminal Procedure 1973, provide for victim protections and statutes, they are often routinely ignored by courts of law in practice. The important case, *Radul Sah vs. State of Bihar*,³ highlighted an important principle that the State is liable to provide compensation to victims for violations of their fundamental rights under Article 21 of the Constitution of India, and in this case, wrongful imprisonment, while reiterating to the state that victims should NEVER be overlooked in accessing justice.

The 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power also supports the rights of victims to access justice, compensation, assistance, and restitution. In the Indian scenario, these principles are in agreement with the movement towards the judiciary recognizing that victims are 'stakeholders' in the justice system rather than witnesses.

Recently, a few scholarly works emphasize that meaningful victims' participation not only strengthens restorative justice but also enhances public confidence in the legal system.⁴ Also, the effective victim's compensation schemes act as a deterrent against state negligence and reinforce constitutional morality. Thus, a paradigm shift towards the victim-oriented justice system in India is both a constitutional imperative and a moral necessity.⁵

³Radul Sah vs. State of Bihar & Anr, AIR 1983 SC 1086; 1983 SCR (3) 508.

⁴Banerjee, S. (2025). Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of progress and challenges, GLS Law Journal, 7(1), 39 – 46. <https://doi.org/10.69974/gslawjournal.v7i1.155>.

⁵Singh Gill, J. (2025). Victimology and Restorative Justice in Indian Legal Framework: A Critical Law and Policy Analysis, 8 Int'l J. L. Mgmt. & Hum. 1905.

Research Methodology

This research paper is doctrinal in nature and will be primarily based on scholarly articles, judicial pronouncements, statutory rights, and authoritative commentary. The study will comprehensively analyse landmark case law, legislative developments, and international conventions regarding victims' rights, specifically concerning their interpretation in Indian criminal justice. The study will also focus on contemporary writings, and provide past research evolution of victimology in India.

This method collects theoretical and practical aspects of victims' rights, and provides credibility to its approach on its recognition, implementation, and obstacles. The research will attempt to bring to the fore and illustrate the development and weaknesses of the victim-centred justice system in India.

Concept of Victimology

The term “Victimology” was originally coined in 1947 by French Lawyer Benjamin Mendelsohn, who referred to studying crime from the perspective of victims, encompassing their injuries, needs, and legal status. In India, the concept of victimology is still nascent but essential in transforming the criminal justice system from offender-focused to focused for victim-centric.⁶

Criminology, law, medicine, psychology, psychiatry, social work, politics, education, and public administration are just a few of the fields that have influenced the creation of victimology. The Indian Criminal Justice System frequently treats victims of crime as just witnesses and does not automatically provide them with any specific benefits. Providing compensation to those who have been harmed is therefore essential within the legal system, with the possibility that the accused will be held accountable for fixing and restoring any harm done to the victim of an offence.

Impacts of Victimology on the Criminal Justice System of India

1. Shift of the Indian criminal justice system from offender-centric to Victim-Centric

⁶Banerjee, S. (2025). Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of progress and challenges, GLS Law Journal, 7(1), 39 – 46. <https://doi.org/10.69974/gslawjournal.v7i1.155>.

process

One of the major effects of victimology on India's Criminal Justice System is the recognition of victims as active participants rather than passive Spectators. Traditionally, criminal law in India revolved around the state and the accused, marginalizing the victim's voice. Over the last three decades, Indian Criminal procedure has slowly integrated a victimological lens through expanding standing, voice, protection, and active participation. With the influence of victimological research, legislative reforms, and judicial pronouncements have begun integrating victims into proceedings.

Currently, the court allows victims to file appeals against acquittals under Section 413 of BNSS⁷ (Section 372 of CrPC) and participate in bail hearings and challenge bail orders. In the *Mallikarjun Kodagali case*,⁸ The Supreme Court ruled that victims are entitled to appeal acquittals to address continued marginalization. This ruling is a foundation for restoring the victim's place in justice and rekindling public confidence in the court system, showing that the current criminal justice system considers dignity and rights of both the offender and victim.⁹

Furthermore, the effects of victimology are evident even in recent reforms in Criminal Justice which incorporate restorative and reparative justice as part of the reforms. Amendments of 2008 in CrPC, special laws like POCSO (2012)¹⁰ etc. reflects a paradigm shift towards recognizing the victim's suffering and providing institutional support. These reforms are the result of victimological advocacy for justice and for justice to be included in repair and rehabilitation. So that victimological theory has reversed the Criminal Justice system's prominence from simply punishing an offender to specifically addressing the needs of a victim while also giving justice.¹¹

2. Compensation Mechanisms as State Accountability Tools

Victimology has had a direct influence on the Criminal Justice system by advocating for the

⁷Bharatiya Nagarik Suraksha Sanhita, 2023, § 1.

⁸*Mallikarjun Kodagali (Dead) vs. The State of Karnataka*; AIR 2018 SUPREME COURT 5206; 2019 (2) SCC 752.

⁹Reddi, Justice P.V. (2006). "Role of the Victim in the Criminal Justice System", National Law School of India Review. Vol. 18: Iss. 1, Article 1. <https://repository.nls.ac.in/nlsir/vol18/iss1/1/>.

¹⁰Protection of Children from Sexual Offences Act, 2012.

¹¹Singh Gill, J. (2025). Victimology and Restorative Justice in Indian Legal Framework: A Critical Law and Policy Analysis, 8 Int'l J. L. Mgmt. & Hum. 1905.

inclusion of victim compensation systems in statutory legislation.¹² Section 396 of BNSS (corresponding to 357A CrPC), along with state and central compensation funds, was introduced as a response to victimological critiques, in which punishment of offenders alone is insufficient for justice.¹³

These systems create a duty on the part of the state to repair victims of crime, moving criminal justice away from a retributive model to a restorative framework. This development also discourages state indifference and implicates officials for failing to prevent crime, and promotes constitutional morality by placing a duty as a state factor onto the state's citizens.¹⁴

3. Constitutionalization of Victims' Rights as a Justice Imperative

The Constitutionalization of victims' rights is arguably victimology's most notable contribution to India's criminal justice system. The judiciary has been pressured by victimological studies to incorporate victims' rights within the protections of Article 39A (free legal assistance), Article 21 (right to life and personal liberty), and Article 14 (equality). In the *Radul Sah Case*,¹⁵ The Supreme Court of India ordered compensation for wrongful incarceration, emphasizing the obligation of the state to safeguard victims of its deficiencies.

Similarly, in the *Nilabati Behera Case*,¹⁶ this evidence illustrates the extent to which victimology has impacted the jurisprudential thinking surrounding the recognition rights of victims in constitutional law. As a result, the criminal justice system continues to shift away from an offender-focused model towards a victim/survivor inclusive model, thereby connecting legal remedies with ideas of fairness, dignity, and public morality.¹⁷

Additionally, in the *Delhi Domestic Working Women's Forum Case*,¹⁸ the court ordered the government to create a victim compensation plan, pointing out that rape victims need both

¹²Mahajan, R. (2024). "Victim Compensation Laws in India". <https://www.lexology.com/library/detail.aspx?g=6a02687b-b95a-498f-91ce-a0053747e0c7>.

¹³Tandon, P. (2024). "Victim Rights: Understanding the Provisions for victim Compensation and Support under the Criminal Procedure code, 1973". <https://www.criminallawjournal.org/article/85/4-1-30-396>.

¹⁴Banerjee, S. (2025). Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of progress and challenges, GLS Law Journal, 7(1), 39 – 46. <https://doi.org/10.69974/glslawjournal.v7i1.155>.

¹⁵Radul Sah vs. State of Bihar & Anr, AIR 1983 SC 1086; 1983 SCR (3) 508.

¹⁶Smt. Nilabati Behera Alias Lalit Behera vs. State of Orissa & Ors.; 1993 AIR 1960.

¹⁷Shankar, V. (2023). "Victimology in India: Need for Victim Oriented Laws". Vol. 3 Iss 5; 960-975. <https://www.studocu.com/in/document/karnataka-state-law-university/penology-victimology/victimology-in-india-need-for-victim-oriented-laws/50520908>.

¹⁸Delhi Domestic Working Women's Forum vs. Union of India & Ors.; 1995 SCC (1) 14.

psychological and financial healing. Similarly, in the *Parmanand Katara Case*,¹⁹ the court acknowledged that accident victims have a right under Article 21 to prompt medical attention.

The implications of victimology for the Criminal Justice System in India are transformative and multidimensional. Victimology has defined the Criminal Justice System in India as a victim-inclusive, victim-driven, and victim-focused model and framework with a focus on enhancements to victims' rights, development of rights to participate and appeal against acquittal, introduction of compensation schemes, and the Constitutional safeguards of victims' rights in the Criminal Justice System. Ultimately, victimology has ensured that the Criminal Justice System in India does not merely punish offenders, but restores victims' rights as inextricably aligned to constitutional morality and justice.

Statutory Frameworks for Victims' Rights

Rights of Victims under Bharatiya Nagarik Suraksha Sanhita 2023

In India, the BNSS, 2023 (corresponding to CrPC 1973), serves as the primary law that controls victims' rights. Its traditional focus was on protecting the accused, but several clauses recently directly or indirectly address the concerns of victims. Such as:

Section 395 of BNSS, 2023 (corresponding to **Section 357 of the CrPC, 1973**) empowers the courts to determine that penalties levied upon offenders be utilised to compensate victims for loss or harm. Although its application is restricted to circumstances in which penalties are levied, this is a formal acknowledgement of the restitution principle. The Hon'ble Supreme Court in the Hari Singh case,²⁰ ordered trial courts to liberally exercise power under section 357 to provide tangible relief to victims.

Section 396 of BNSS, 2023 (similar to The CrPC (Amendment) Act, 2008, **section 357A**), obligates state governments to formulate a Victim Compensation Scheme (VCS) in consultation with the centre. The scheme ensures that victims or their dependents will be compensated regardless of whether offenders are traced, acquitted, or unidentified. With regard to acid attack survivors, the Supreme Court in the case of *Laxmi vs. UOI*,²¹ stated a minimum

¹⁹Pt. Parmanand Katara vs. Union of India & Ors.; 1989 AIR 2039.

²⁰Hari Kishan & Anr. Vs. Sukhbir Singh & Ors.; 1988 AIR 2127.

²¹Laxmi vs. Union of India; AIR 2015 SUPREME COURT 3662.

compensation of 3,00,000 (Three Lakh Rupees) should be awarded without delays, underscoring that section's remedial objectives.

Section 399 of BNSS, 2023 (Section 358 of CrPC) provides compensation to any person arrested illegally. This legislation recognises the need for compensation after an injury based on wrongful actions by the government; even with the nominal maximum compensation of Rs. 1,000 (One Thousand Rupees), courts have trebled the remedy by way of Articles 21 and 32 of the Constitution of India.

Section 413 of BNSS, 2023 (equivalent to CrPC (Amendment) Act, 2009, section 372) provides victims with the legal right to appeal against an acquittal, conviction for lower offences, or inadequate compensation. The Supreme Court held in the *Mallikarjun Kodagali case*,²² that the victims are not onlookers; they are participants in the process of trial. So, every victim should have the right to appeal against an acquittal in the court of law.

These provisions signify a slow shift in the CrPC (BNSS, 2023) from protecting the interests of the offender exclusively to balancing the interests of the victim as well.

Rights of Victims under Bharatiya Nyaya Sanhita 2023

The Bharatiya Nyaya Sanhita, 2023 (IPC, 1860), which lists all crimes and their associated punishments, applies to all Indian citizens who commit crimes within India. An act or action that is punished under law is considered an offence under this code. The Criminal Law Amendment Act of 2013 was a noteworthy development in victim protection by including multiple new offences, which are now enacted as specific clauses under BNS, 2023. These types of offences include acid attacks (**Section 124(1) & 124(2) of BNS, 2023**), Sexual harassment (**Section 75 of BNS**), Voyeurism (**Section 77 of BNS**), and Stalking (**Section 78**).

The Justice J. S. Verma Committee report, 2013, has also expanded the definition of Rape in section 375 of IPC to include "different forms of sexual assault", by including non-penile and non-vaginal penetrative acts which are mentioned under section 63 of BNSS, 2023.

In the case of *Parivartan Kendra vs. UOI*,²³ The Hon'ble Court ordered the state government

²²Mallikarjun Kodagali (Dead) vs. The State of Karnataka; AIR 2018 SUPREME COURT 5206; 2019 (2) SCC 752.

²³Parivartan Kendra vs. Union of India; 2016 (3) SCC 571.

to provide rehabilitation, free medical treatment, and compensation of Rs. 3,00,000 to acid attack survivors as paid in *Laxmi vs. UOI* case, reinforcing the remedial dimension of sections 326A & 326B of the IPC.

In the *Nirbhaya Case*,²⁴ The Hon'ble Supreme Court ordered for death penalty for those adults who were found guilty of a vicious gang rape of a 23-year-old girl. Crucially, it mandated appropriate victim compensation mechanisms and emphasised the necessity for legal revisions, which were ultimately reflected in section 376D of IPC (corresponding to section 70[1] of BNS, 2023). Similarly, in the *Chandraprakash Kewal Chand case*,²⁵ to strengthen the victim's credibility under **section 376D** (70[1] of BNS), the court made it clear that a prosecutrix's evidence alone may serve as a foundation for conviction in rape and gang rape cases.

Two essential remedies in the contemporary criminal justice system are restitution and compensation, which have developed into civil remedies. In an effort to strengthen their position and create equality with the accused, this change has led jurists to consider the difficulties that victims experience from a unique angle of the law.

Constitutional Basis of Victims' Rights

The Indian Constitution did not explicitly address the rights of crime victims. Yet, judicial interpretation and legislative evolution have allowed for an extensive and robust basis for victimology. A victim-oriented jurisprudence has developed from the Constitution's framework, including the constitutional shield of fundamental rights under Part III of the Indian Constitution and directive principles of state policy (Part IV) and judicial pronouncements.

i. Right to Life and Personal Liberty Under Article 21 of the Indian Constitution

According to Article 21, no one may be deprived of their life or personal freedom unless a legally mandated process is followed. The Hon'ble Supreme Court has given this clause a broad interpretation, encompassing the rights to obtain justice, security and dignity, which is currently the cornerstone of constitutional victimology.

In the case of *Radul Sah vs. State of Bihar*,²⁶ Radul Sah was unconstitutionally detained for

²⁴Mukesh &Anr. Vs. State NCT of Delhi & Ors.; AIR 2017 SUPREME COURT 2161.

²⁵State of Maharashtra vs. Chandraprakash Kewal Chand Jain; 1990 AIR 658; 1990 SCR (1) 115.

²⁶Radul Sah vs. State of Bihar & Anr, AIR 1983 SC 1086; 1983 SCR (3) 508.

14 years after being acquitted, in violation of Article 21, which SC indicated required the state of Bihar to take action to remedy injustice, and granted Radul Sah a compensation amount of 35,000 Rupees. This was a landmark decision which shifted victims of crime from spectators to constitutional claimants. The decision made clear and unmistakably evident that the courts understood it was necessary to respect the rights of victims and that justice needs to go beyond just punishing the offender.

In the *Nilabati Bahera Case*,²⁷ The next day after the petitioner's son was detained by police, the boy's body was found on the train tracks with multiple injuries. In this custodial death case, the Honourable Supreme Court awarded the claimants Rs 1,50,000, and stated that the award of compensation is a remedy under public law before the courts in terms of Article 32 and 226 of the Indian Constitution. The court stressed the importance of compensating victims of state violence for abuses of their Article 21 right to life. This case dramatically recognized victims rights against state-inflicted harm and further developed the constitutional principle of compensation.

In the case of *Delhi Domestic Working Women's Forum vs. UOI*,²⁸ the court ruled that the state had a constitutional duty under Article 21 to rehabilitate victims of sexual assault and ordered the government to establish compensation plans for rape victims. As a result, proactive victim welfare replaced reactive justice as the dominant paradigm. Relying on this precedent, in the *Bodhisattwa Gautam Case*,²⁹ the court noted that rape is a crime against the victim as well as society and granted temporary compensation of 1000 Rs. Per month to the victim. It broadened the application of Article 21 to cover victims' rights to a prompt remedy and dignity. This was transformative as it recognised the psychological and social dimension of harm suffered by victims.

Due to above mentioned rulings, Article 21 has become the cornerstone of victims' rights, guaranteeing citizens injured by crime of individual or government action not only their freedom but also their right to compensation and rehabilitation.

ii. Equality before Law & Equal Protection of Law under Article 14 of the Indian

²⁷Smt. Nilabati Behera Alias Lalit Behera vs. State of Orissa & Ors.; 1993 AIR 1960.

²⁸Delhi Domestic Working Women's Forum vs. Union of India & Ors.; 1995 SCC (1) 14.

²⁹Shri Bodhisattwa Gautam vs. Miss Subhra Chakraborty; 1996 AIR 922.

Constitution

Article 14 provides that "The State shall not deny to any person equality before the law or the equal protection of the laws,". Equality has been extended to victims, and they should be afforded equal acknowledgment and treatment, as one would expect for the accused.

The ruling of the *Maneka Gandhi Case*,³⁰ directly broadened the definition of "procedure established by law" to be fair, just, and not arbitrary (even if it didn't mention victims specifically); by saying that all criminal proceedings must be fair administrative actions with respect to victims as it relates to the accused, this broadening of the interpretation also indirectly enhanced victims' rights.

After multiple rejections in 2025, the Supreme Court has held that even where the State decides not to proceed, victims of crimes (and their legal heirs) have the right to appeal acquittals. The Court justified the right to appeal based on the equality principle in Article 14, concluding that the inability of victims to appeal while the accused, or the State, can allow a level of disparity that violates equal protection. This decision represents a shift in viewpoint. By improving their procedural position, the Court allowed victims' voices to break through the prosecution's ability to drown them out, and brought victims closer to equality with the accused. The Court may not have created any new law, but it has given occupational life to the Article 14 equal protection guarantee and recognised victims as equal to the parties before the court.³¹

iii. Directive Principles of State Policy

Directives principles of state policy are mentioned in Part IV of the Constitution, which provides important guidance on normative legislative and judicial approaches to victims' rights or participation, even though they are non-justiciable. Courts have often tried to harmonise directive principles and fundamental rights to facilitate the development of rules or jurisprudence for victims.

Article 39A of the Indian Constitution mandates that the State provide the judicial system in a systematic way that advances justice based on equal opportunity, and more particularly, to provide free legal assistance. Multiple Courts have interpreted that this provision affects

³⁰Maneka Gandhi vs. Union of India; 1978 AIR 597; 1978 SCR (2) 621.

³¹<https://timesofindia.indiatimes.com/india/sc-victims-of-crime-their-heirs-can-appeal-if-accused-are-let-off/articleshow/123490266.cms>.

victims directly, particularly when victims are poor and typically do not have delegated authority or funds for pursuing justice.

According to Article 46 of the Indian Constitution, Citizens who are Scheduled Castes and Scheduled Tribes and others from marginalised sections must get special protection. These marginalised groups have an intolerably large number of victims of violence and exploitation in criminal processes.

The State, according to Article 41, has a duty to assist when sickness, disability or unreasonable demand requires it. There is a duty to restore victims of crime to the extent possible, where the impact of the crime means they would have to live with the consequences forever, according to the court interpretation of Article 21 in the context of Acid Attacks in *Laxmi v. Union of India*,³² in which the Court had used Articles 21 and 41 to require the State to grant rehabilitation, treatment, and sustenance to victims of acid attacks and despicable criminal acts that often left the victims destitute and disenfranchised for life. This recognition is an illustration of how DPSPs act as a toolkit to hold states accountable for the well-being of victims.

Through the interpretation of DPSPs to achieve Articles 14 and 21, the courts have transformed aspirational directions into enforceable rights for victims. By influencing legislation on victims' compensation, rehabilitative programs, and victims' legal support systems, they serve as a constitutional bridge.

iv. Harmonisation of the Constitution with International Norms

The application of international principles with constitutional protections also influences victimology in India. Indian courts have consistently interpreted the statutory rights, locally, with reference to international human rights instruments that have only added one more layer of protective measures for victims.

In the landmark judgement in *Vishakha v. State of Rajasthan*,³³ the court analysed the Convention on the elimination of all forms of discrimination against women (CEDAW) to establish norms for preventing sexual harassment in the workplace and to determine when it

³²Laxmi vs. Union of India; AIR 2015 SUPREME COURT 3662.

³³Vishaka & Ors. Vs. State of Rajasthan; AIR 1997 SUPREME COURT 3011.

cases, may discriminate against women stating: The ruling involved harmonising Articles 14, 15, 19(1)(g) and 21 of the Constitution and India's international obligations under CEDAW, which ultimately decided that the guarantee of a woman's dignity as a worker does guarantee her protection dignified protection against harassment in the workplace. Though it was not a species of criminal trial, this case significantly broadened the scope of victim protection in India by incorporating international victimology standards into Indian constitutional law.

In the *Justice K.S. Puttaswamy case*,³⁴ a nine-judge bench of the Supreme Court recognised a right to privacy guaranteed by Article 21. This is particularly important for victims of sexual assaults as it prevents the mentioned publication of the identity of victims, and as a side, prevents the further illegality, states a prohibition on such information usage by newspapers and other reports, etc, above publicising the identity of the victim, which is in real life, is very hard to implement. There is an international standard consistent with the right to privacy of victims, which is the UD Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), which also asserts a right to privacy in relation to victims and a right to be protected from secondary victimisation.

v. Contribution of the United Nations Declaration 1985 in the enforcement of Victims' Rights in India

The United Nations adopted the UN Declaration, also known as the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, on November 29, 1985, during the 96th plenary session of the General Assembly. This was a major global recognition of how crucial it is to include basic norms and standards in both national and international legal frameworks to safeguard the rights of crime victims. According to the United Nations Declaration, victims of crime have four main rights: (i) the right to fair treatment and access to justice; (ii) compensation; (iii) restitution; and (iv) rehabilitation.³⁵

Access to Fair treatment and Justice: Victims must be treated with dignity and should receive timely remedies and justice by legislation, as prescribed in domestic or international policy. It is also important that the victims are given accurate information about their role, the scope and extent of the role, and the state of proceedings concerning their case, and most importantly,

³⁴Justice K.S. Puttaswamy (Retd) & Anr. Vs. Union Of India; AIR 2017 SUPREME COURT 4161.

³⁵Bhattacharya, P. Victimology – A Separate Field? Ipleaders, (Feb 12, 2024, 7:00 PM) <https://blog.ipleaders.in/victimology-separate-field/>.

their fears and concerns must be respected, and not prejudice the accused. The victim shall have reasonable access to legal assistance throughout the proceedings. Further, care is taken to ensure that the victim's privacy is protected and that the victim is protected in relation to physical safety.

Restitution- The term "restitution" refers to the act of compensating for the injury the defendant caused, usually through the payment of damages. It may also involve returning or restoring property that was stolen or damaged as a result of the crime. Once sentencing is handed down, convicted criminals may have an obligation to pay restitution. It is additionally relevant in the context of a tribunal that restitution does not normally cover emotional suffering or pain and suffering; it could be future losses that are legitimate losses, like future medical or counselling costs.³⁶ The court should examine the actual losses suffered by the victim to assess the appropriate amount of compensation owed to the victim.

Compensation- In situations where the criminal who has harmed the victim cannot fully compensate them for losses, the government should try to provide a monetary compensation amount for the victim and their family members who may be involved and impacted by the crime; the goal of providing this assistance is to enable the victim to recover without undue burdens. To achieve this, the state should set aside a specific fund for the victim to provide them with funds to facilitate a new beginning.

The evolution of victimology in India can be seen in its constitutionally aligned guarantee of requirements. Courts have uplifted victim protections, moving from entitlements to rights guarantees by declaring victims' rights in domestic constitutional law and international legal norms.

Compensation for Victims under Special Legislation

The Probation of Offenders Act, 1968

Section 5(1) of the Probation of Offenders Act, 1958 states that claims for compensation for crime victims are permissible. In this case, the court may direct the accused to pay compensation to the victim as soon as it releases the offender under clause 3 or section 4 of the

³⁶Streicker, S. Restitution Law for Victims of Crime, Nolo, (Feb 12, 2024, 3, 05 PM). <https://www.nolo.com/legal-encyclopedia/restitution-law-victims-crime.html>.

Act, and the court will also determine a fair amount of compensation and compensation for the costs of the legal process.

Compensation of Victim Under the Motor Vehicle Act, 1988

The Motor Vehicle Act of 1988, section 5, allows for victims of vascular accidents, and their legal representatives, to claim compensation from the offender if the victim dies. As compensation under this section can only be determined by the court, this case cannot be decided by any other body.

The Protection of Women from Domestic Violence Act, 2005

After 16 years of arduous work, the Protection of Women from Domestic Violence Act of 2005 marked a significant advancement for women's rights and began to address the predicament of victims of domestic abuse. Physical, sexual, verbal, and emotional abuse are all included in the Act's definition of domestic violence. Even in the lack of medical records, the issue of trauma from physical violence was recognised and taken into account in a recent case, *Smt. Haimanti Mal v. The State of West Bengal (2019)*.³⁷ The Calcutta High Court awarded Rs. 1,000,000 for emotional distress and mental agony by resorting to Section 22 of the Protection of Women from Domestic Violence Act, 2005.

The Act is remarkable in that it allows a victim to continue to use or enjoy resources or facilities she is entitled to as a result of an ongoing domestic relationship, which can include a shared dwelling. Once a complaint is received, the police officer or magistrate must inform the victim of her right to request a protection order, a monetary relief order, a custody order, a residence order, a compensation order, or a variety of these orders. The legislation's primary aim is the protection of women's constitutionally protected rights.³⁸

Conclusion

Victimology in India is a story of developments and missed opportunities. Legislative reforms, judicial decisions, and constitutional realization of victims' rights have positively progressed, but access to justice remains incomplete, and the pathways for victims' access are fragmented.

³⁷Smt. Haimanti Mal v. The State of West Bengal; July 9, 2019.

³⁸Bose, A. The Protection of Women from Domestic Violence Act, 2005, Ipleaders, (Feb 13, 2024, 9:00 PM) <https://blog.ipleaders.in/the-protection-of-women-from-domesticviolence-act-2005/>.

India has also not fully embraced the restorative models of victim-offender mediation and psychological support for recovery, so victims' dignity is often, at best, reduced to monetary compensation. Closing existing gaps through national victim support systems, restorative justice practices, and improved accountability frameworks will be vital. Following this, India might establish a truly victim-centered legal system that respects Articles 14 and 21 and restores public confidence in the legal system.