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# PROTECTION OF VICTIMS' RIGHTS IN THE INDIAN CRIMINAL JUSTICE SYSTEM: A SPECIAL REFERENCE TO WEST BENGAL

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Pampa Karar, Research Scholar, School of Law & Jurisprudence, Shri Venkateshwara  
University, Gajraula, Amroha, Uttar Pradesh

Dr. Shyamlal, Associate Professor, School of Law & Jurisprudence, Shri Venkateshwara  
University, Gajraula, Amroha, Uttar Pradesh

## ABSTRACT

For decades, the Indian Criminal Justice System was criticized for its “perpetrator-centric” approach, wherein the legal framework focused heavily on the constitutional rights of the accused while relegating the victim to the periphery as a mere witness for the prosecution. This research paper explores the fundamental paradigm shift toward Victimology in the Indian legal landscape, specifically analyzing the transition from the Code of Criminal Procedure (CrPC), 1973, to the recently implemented Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023. Using West Bengal as a primary case study, the article evaluates the efficacy of regional legal mechanisms designed to protect those harmed by crime. It provides a detailed socio-legal critique of the West Bengal Victim Compensation Scheme, examining its accessibility and implementation in a state that faces unique challenges, including high rates of human trafficking and crimes against women. The study further assesses the role of the State Legal Services Authority (SLSA) and the District Legal Services Authorities (DLSA) in facilitating restorative justice. By analyzing judicial precedents from the Calcutta High Court and the Supreme Court of India, the paper highlights the evolution from a “compensatory” model to a “rights-based” model for victims. The findings suggest that while the BNSS introduces progressive provisions—such as the mandatory right to information and the “Zero FIR”—systemic barriers in West Bengal, including procedural delays and low legal literacy, continue to hinder the actualization of these rights. The paper concludes with policy recommendations aimed at bridging the gap between legislative intent and grassroots reality to ensure that the “forgotten man” of the criminal justice system is finally heard and protected.

**Keywords:** Victimology, BNSS 2023, West Bengal Victim Compensation Scheme, Restorative Justice, Indian Criminal Justice System, Legal Aid, Crimes against Women.

## 1. Introduction

The Indian criminal justice system has historically operated on the foundational premise that crimes constitute offences against the State, rather than against the individual victim. This doctrinal orientation, a legacy inherited from colonial jurisprudence and the adversarial framework of the common law, positions the State as the *parens patriae*—the sole guardian of societal interests and the exclusive arbiter of punishment (Baxi, 2012). Within this paradigm, encapsulated in the maxim *Rex v. Accused*, the victim is relegated to the periphery of the justice delivery process. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), much like its predecessor, the Code of Criminal Procedure, 1973 (CrPC), reinforces this structural hierarchy by designating the State as the *de jure* complainant in every criminal proceeding (Bharatiya Nagarik Suraksha Sanhita, 2023, s. 2(1)(d)). Consequently, victims have traditionally been confined to the instrumental role of witnesses “a forgotten man in the criminal justice system”—devoid of substantive participatory rights, effective remedies, or a voice in the outcome of a process that profoundly impacts their lives (Law Commission of India, 1996, 154<sup>th</sup> Report).

This systemic marginalization presents a fundamental contradiction within the ethos of a constitutional democracy that guarantees equal access to justice under Article 39A and the inviolable right to a fair trial and dignified life under Article 21 of the Constitution of India (Constitution of India, 1950). While the accused enjoys an elaborate and constitutionally entrenched array of safeguards—including the presumption of innocence, the right to legal counsel, protection against self-incrimination, and the safeguard against double jeopardy—the victim remains largely unrepresented, unheard, and uncompensated for the trauma and loss suffered. The asymmetry is stark: the State prosecutes the offender on behalf of the collective, yet the immediate bearer of the criminal harm—the victim—is often excluded from the very dialogue of justice (Krishnan, 2014). This chasm between constitutional promise and procedural reality has prompted a gradual but significant evolution in victim-centric jurisprudence. This evolution is the product of three converging forces: incremental legislative amendments, proactive judicial activism by the Supreme Court and High Courts, and the growing academic and social recognition of victimology as a distinct and vital discipline within criminal law (Fattah, 2000).

The turning point in this trajectory was the Criminal Law (Amendment) Act, 2008, which came

into effect on December 31, 2009. This watershed legislation, influenced significantly by the recommendations of the Malimath Committee on Reforms of the Criminal Justice System and the 154th Report of the Law Commission, formally introduced the concept of “victim compensation” independent of conviction through the insertion of Section 357A in the CrPC (Criminal Law (Amendment) Act, 2008). It also granted victims a statutory right to appeal against acquittal or inadequate compensation under the proviso to Section 372. The Supreme Court of India, in a series of landmark judgments, has expansively interpreted these provisions to bridge the justice gap. In *Mallikarjun Kodagali v. State of Karnataka* (2019) 2 SCC 752, the Court held that victims have an “unbridled right” to appeal an order of acquittal, placing them on an equal footing with the State. Similarly, in *Nipun Saxena v. Union of India* (2019) 2 SCC 703, the Court directed the uniform implementation of compensation schemes and the protection of victim identity, underscoring the State’s affirmative obligation toward victim rehabilitation. The recent enactment of the BNSS, 2023, consolidates these developments by retaining and refining victim-centric provisions in Section 396, mandating time-bound disbursement of compensation and ensuring the right to information regarding investigation progress.

However, the realization of these rights is not uniform across India’s federal landscape. The implementation of victim-centric legislation remains contingent upon the administrative will, resource allocation, and institutional efficacy of individual state governments. This research paper undertakes a comprehensive examination of the protection of victims’ rights within the Indian criminal justice system, with a special geographical and institutional focus on the state of West Bengal. West Bengal presents a compelling case study characterized by a distinct duality: it has enacted progressive, state-specific legislative instruments such as the Aparajita Woman and Child (West Bengal Criminal Laws and Amendment) Bill, 2024, and launched dedicated support mechanisms like the Bhorsa initiative; yet, it simultaneously grapples with significant implementation deficits, as evidenced by alarming delays in compensation disbursement—exemplified by the case of acid attack survivor *Ruptaj Yeasmin*—and a high incidence of crime against women and children.

## **2. The Legal Framework for Victim Rights in India: Constitutional and Statutory Framework**

The Constitution of India does not explicitly enumerate victims’ rights as a distinct category

of fundamental rights. However, the Supreme Court has consistently interpreted the expansive scope of Article 21—the right to life and personal liberty—as encompassing the right of victims to fair treatment, dignity, compensation, and meaningful access to justice, with Article 39A providing additional grounding for victim-centric reforms (Law Commission of India, 1996). Article 21’s transformative interpretation in *Maneka Gandhi v. Union of India* [(1978) 1 SCC 248] established that the “procedure established by law” must be “right and just and fair.” This foundation has supported a robust jurisprudence, including the recognition in *Bodhisattwa Gautam v. Subhra Chakraborty* [(1996) 1 SCC 490] that the right to life includes the right to live with dignity and to be compensated for violations. The Court has awarded compensation for State wrongs in public law (*Rudal Shah v. State of Bihar* [(1983) 4 SCC 141]; *Nilabati Behera v. State of Orissa* [(1993) 2 SCC 746]) and affirmed the right of victims to dignified treatment at police stations (*Pavul Yesu Dhasan v. Registrar, State Human Rights Commission of Tamil Nadu* [SLP(C) No. 20028/2022]) and to be heard at critical stages like bail (*Jagjeet Singh v. Ashish Mishra* [Criminal Appeal No. 632 of 2022]). Article 39A’s mandate for equal justice and free legal aid forms the constitutional basis for victims’ right to engage counsel, while Article 14’s guarantee of equal protection underpins non-arbitrary treatment. The constitutional framework is further reinforced by India’s ratification of the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which has served as an interpretive guide for expanding rights (*Vishaka v. State of Rajasthan* [(1997) 6 SCC 241]).

The statutory framework for victims’ rights was historically limited under the Code of Criminal Procedure, 1973, with Section 357 providing for compensation only from the fine imposed on a convicted offender. A watershed moment came with the Criminal Law (Amendment) Act, 2008, which introduced Section 357A mandating State-funded victim compensation schemes independent of conviction, based on the recommendations of the Malimath Committee and the 154th Law Commission Report. The amendment also granted victims a statutory right to appeal against acquittals, convictions for lesser offences, or inadequate compensation under a proviso to Section 372, and the right to engage counsel of one’s choice to assist the prosecution under Section 24(8). The 2008 Act also inserted a definition of “victim” in Section 2(wa) to include guardians and legal heirs. Subsequent amendments, particularly in 2013, added provisions for free medical treatment for victims of acid attacks and sexual offences under Section 357C. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), has largely retained and consolidated this framework. Section 396 BNSS governs victim compensation schemes, mandating time-bound

disbursement within sixty days and providing for interim relief, while Section 395 empowers courts to recommend compensation even in cases of acquittal or discharge. The BNSS has also enhanced information and participatory rights, including the right to be informed of investigation progress and to be heard at the framing of charges.

The Supreme Court has expansively interpreted these statutory provisions. It has held that victims have an “unbridled right” to appeal an acquittal independent of the State (*Mallikarjun Kodagali v. State of Karnataka* [(2019) 2 SCC 752]) and that the definition of “victim” extends to corporate complainants and complainants in cheque dishonour cases (*Asian Paints Limited v. Ram Babu & Another* [2025 INSC 828]; *M/s Celestium Financial v. A. Gnanasekaran* [Criminal Appeal No. 342 of 2023]). Critically, the Court has clarified that victim compensation is supplementary to punishment and cannot serve as a substitute for a custodial sentence, condemning the practice of reducing sentences while enhancing compensation as akin to “blood money” (*Parameshwari v. State of Tamil Nadu* [2026 INSC 162]). It has also directed that trial courts must pass specific orders regarding compensation to avoid forcing victims to navigate the system alone and mandated judicial training on the subject (*Jyoti Praveen Khandpasole v. Union of India & Others* [Writ Petition (Civil) No. 652 of 2022]). While the Court has expanded participatory rights, it has maintained a cautious boundary, holding that a victim’s counsel may assist the prosecution but cannot lead it or independently cross-examine witnesses (*Rekha Murarka v. State of West Bengal* [(2020) 2 SCC 474]).

### 3. Victim Compensation Schemes

#### 3.1 From Section 357 CrPC to Section 396 BNSS: A Paradigm Shift

The evolution of victim compensation in India marks a significant shift from a retributive model to one embracing restorative principles. For decades, the sole statutory provision was Section 357 of the Code of Criminal Procedure, 1973 (CrPC), which empowered courts to award compensation from fines imposed on convicted offenders. This framework suffered from critical limitations: it was contingent upon conviction, dependent on the accused’s capacity to pay, and offered no remedy when offenders remained untraced or unidentified (Law Commission of India, 1996). The insertion of Section 357A through the Criminal Law (Amendment) Act, 2008, marked a watershed moment by decoupling compensation from conviction and establishing a State-funded mechanism. This provision mandated State

Governments to prepare schemes for victim compensation and empowered District or State Legal Services Authorities to award compensation even in cases of acquittal, discharge, or where the offender was untraced. It also provided for time-bound inquiry and interim relief. This reform was substantially influenced by the recommendations of the Malimath Committee (2003) and the 154th Law Commission Report, both of which emphasized the need to transform victims from passive spectators into active participants in the justice process.

The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), which replaced the CrPC effective July 1, 2024, consolidates and refines this framework under Section 396. The BNSS retains the core elements of State-funded compensation independent of conviction while introducing progressive enhancements. Section 396(3) explicitly empowers trial courts to recommend compensation even upon acquittal or discharge, recognizing that rehabilitation needs are independent of trial outcomes. The provision mandates that Legal Services Authorities complete inquiries and award compensation within sixty days (Section 396(5)) and facilitates immediate interim relief, including free medical treatment (Section 396(6)). Furthermore, Section 396(7) clarifies that State compensation is in addition to any fine paid by the offender under the Bharatiya Nyaya Sanhita, 2023. The BNSS also bolsters victim participation through rights to receive FIR copies, be informed of investigation progress, and file complaints electronically, thereby reducing access barriers for marginalized communities.

### **3.2 The Central Victim Compensation Fund and NALSA Schemes**

To address disparities in compensation amounts across states and ensure adequate funding, the Central Government established the Central Victim Compensation Fund (CVCF). This fund operates as a supplementary mechanism to state-level schemes, aiming to standardize compensation for victims of rape, acid attacks, and human trafficking irrespective of a particular state's financial capacity. In parallel, the National Legal Services Authority (NALSA) plays a pivotal role through its Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, 2018. Developed pursuant to the Supreme Court's direction in *Nipun Saxena v. Union of India* [(2019) 2 SCC 703], this scheme sets minimum compensation benchmarks nationwide. For instance, victims of gang rape are entitled to a minimum of ₹5 lakhs, victims of rape to a minimum of ₹4 lakhs, and victims of acid attacks resulting in facial disfigurement to a minimum of ₹7 lakhs. The Supreme Court has consistently directed the uniform implementation of these schemes, holding that the State is under a

constitutional obligation to provide adequate compensation to victims of sexual offences in a time-bound manner.

### 3.3 Compensation for Wrongful Incarceration and Emerging Dimensions

Recent judicial developments signal an expansion of the compensatory justice paradigm to include victims of systemic failures within the criminal justice system itself. In a significant development, the Supreme Court has issued notice in *Jawaharlal Sharma v. Union of India and Ors.* [WP (C) No. 1147 of 2025], a Public Interest Litigation seeking a comprehensive national framework for compensating and rehabilitating individuals who suffer unjust or arbitrary imprisonment and are later discharged or acquitted. The petition argues that wrongful or excessive pre-trial detention constitutes a grave violation of fundamental rights and that mere acquittal does not undo the harm suffered. The proposed framework includes the creation of a dedicated national fund to provide financial compensation, psychological counselling, and livelihood support for reintegration into society. This development underscores a growing recognition of the State's responsibility to compensate for deprivation of liberty caused by systemic failures, extending the concept of victimhood beyond traditional crime categories.

### 3.4 Persistent Challenges and Judicial Oversight

Despite the progressive legislative architecture, the implementation of victim compensation schemes remains plagued by systemic challenges. The Supreme Court has taken cognizance of these failures in cases such as *Jyoti Praveen Khandpasole v. Union of India & Others*, which highlighted the tragic consequences of administrative apathy where an intellectually-disabled rape survivor died awaiting compensation. The Court identified the absence of specific directions from trial courts as a significant bottleneck, observing that “many trial judges simply forget to pass the order” regarding compensation, forcing victims to navigate the system independently. Consequently, the Court has issued mandatory directives requiring all Special and Sessions Courts to pass specific orders on victim compensation and mandated the inclusion of victim compensation modules in judicial training curricula. Furthermore, the Supreme Court has drawn a bright line regarding the relationship between compensation and punishment. In *Parameshwari v. State of Tamil Nadu* [2026 INSC 162], the Court strongly condemned the practice of reducing custodial sentences in exchange for enhanced compensation, terming it “blood money,” and reiterated that victim compensation is strictly supplementary to punishment and cannot serve as a substitute for the deterrent function of a custodial sentence.

#### 4. Victims' Rights in West Bengal: A Case Study

West Bengal offers a compelling case study of the implementation of victims' rights within India's federal structure, characterized by a distinctive institutional architecture, specific legislative measures, and persistent implementation challenges that reflect the broader national gap between normative commitment and ground-level reality. The state was among the first to notify a victim compensation scheme under Section 357A of the CrPC in September 2012, which prescribed relatively modest amounts—₹30,000 for minor rape victims and ₹2 lakh for loss of life—and was administered by the State Legal Services Authority (SLSA). This scheme was revised in 2017 to introduce a dedicated Victim Compensation Fund with a mandated separate annual budget, and to refine eligibility criteria and procedural mechanisms. However, the Calcutta High Court has repeatedly found that the state government failed to align its compensation framework with the enhanced standards of the NALSA Compensation Scheme, 2018, which mandates a minimum of ₹7 lakh for acid attack victims and ₹4-5 lakh for rape survivors. In *Paramita Bera v. Union of India*, the High Court criticized the government's "forgetfulness of its progressive feminist roots" and invoked Gopal Krishna Gokhale's famous adage to order compliance with the NALSA standards, observing that the state had "forgotten its feminist roots" by maintaining outdated compensation amounts.

The rape and murder of a trainee doctor at Kolkata's RG Kar Medical College and Hospital in August 2024 galvanized the state assembly to unanimously pass the Aparajita Woman and Child (West Bengal Criminal Laws and Amendment) Bill, 2024, one of the most stringent state-level legislative responses to sexual violence in recent Indian history. The Bill proposes mandatory death penalty for rape resulting in the victim's death or vegetative state, life imprisonment without parole for perpetrators, a reduced 21-day investigation timeline, and the establishment of district-level Aparajita Task Forces headed by women officers. Despite this legislative momentum, the Bill faces significant constitutional hurdles under Article 254(2) concerning the state's competence to amend central criminal laws. It was returned by the Governor in July 2025 for reconsideration after the Ministry of Home Affairs raised concerns that the mandatory death penalty provision removed judicial discretion and violated sentencing proportionality, leaving its enactment uncertain much like the Shakti Bill in Maharashtra.

In parallel, the SLSA launched the 'Bhorsa' initiative in February 2023 to provide integrated support to survivors of acid attacks, domestic violence, and human trafficking from its premises

at the City Civil Court in Kolkata. Bhorsa offers psychological counselling, legal assistance, and compensation facilitation in a confidential setting, reflecting a holistic approach to victim rehabilitation. However, its impact is constrained by limited resources and the absence of a statewide network, with plans for district-level expansion still in development. The ground-level reality starkly contrasts with these institutional innovations, as evidenced by the case of Ruptaj Yeasmin, a 23-year-old acid attack survivor. Despite the Criminal Injuries Compensation Board recommending enhanced compensation of ₹15 lakh in December 2019, the SLSA remained “idle and inert for five long years,” failing to communicate or disburse the amount until compelled by a writ petition, prompting the authority to acknowledge its “abject lethargy” and direct immediate payment. This case epitomizes the administrative apathy and systemic delays that plague victim compensation mechanisms.

Beyond individual cases, broader systemic challenges are evident. Data reveals that between April 2016 and March 2022, the SLSA awarded compensation to only 587 victims of sexual assault and acid attacks—a fraction of the actual incidence—highlighting severe awareness and accessibility deficits. The Calcutta High Court has repeatedly intervened, most notably in *Maleka Khatun v. State of West Bengal*, where it discovered the SLSA’s account held a mere ₹5,000, rendering it unable to meet its statutory obligations. The Court condemned this as a “sorry state of affairs,” emphasizing that the State cannot evade its mandatory duty to fund victim compensation. Furthermore, victims in West Bengal continue to face a participatory deficit, with their counsel limited to an “assisting” role under the precedent set by *Rekha Murarka v. State of West Bengal*, a constraint not addressed by the Aparajita Bill’s focus on punitive measures and expedited investigation.

## 5. Systemic Challenges and Implementation Gaps

The experience of West Bengal is emblematic of broader national challenges that impede the effective realization of victims’ rights across India, despite progressive legislative amendments and judicial pronouncements. The Supreme Court has itself acknowledged the “grave Constitutional and systemic failure” characterizing the implementation of victim-centric provisions, particularly in the realm of compensation (*Jyoti Praveen Khandpasole v. Union of India & Others*). A fundamental structural barrier is the pervasive lack of awareness among judicial officers. The Supreme Court’s stark observation that “many trial judges simply forget to pass the order” regarding victim compensation underscores a critical deficiency in judicial

training and awareness, which forces victims to navigate the system independently and seek redress through other legal avenues (*Jyoti Praveen Khandpasole*). This judicial oversight is compounded by severe administrative apathy, as exemplified by the Ruptaj Yeasmin case where the State Legal Services Authority remained “idle and inert” for five years, and by acute resource constraints, with the Calcutta High Court noting that the SLSA had a mere ₹5,000 in its account at one point, rendering it unable to meet statutory obligations (*Maleka Khatun v. State of West Bengal*). The entire compensation framework is further crippled by inadequate coordination between trial courts, legal services authorities, and the police, leading to procedural bottlenecks where the failure of courts to issue timely directions prevents authorities from processing claims efficiently.

The Indian criminal justice system continues to suffer from a profound participatory deficit, rooted in the colonial paradigm that defines crimes as offences against the State and relegates the victim to the status of a mere witness. The BNSS has failed to fundamentally alter this structural orientation; Section 18(8) largely restates the timid language of the CrPC, perpetuating the message that the State’s trust in its public prosecutor outweighs its trust in the victim’s pain. The Supreme Court’s restrictive interpretation in *Rekha Murarka v. State of West Bengal* [(2020) 2 SCC 474] confines the victim’s counsel to a mere “assisting” role, precluding independent cross-examination or oral arguments, which has been criticized for creating a “spectator with a gown” rather than a true participant in the justice process. This deficit is particularly acute in cases involving state actors as accused persons—such as custodial torture or encounter killings—where the prosecution is effectively “State vs. State,” creating an inherent conflict of interest that underscores the urgent need for independent victim representation. Furthermore, the BNSS has created a “normative vacuum” by failing to incorporate Victim Impact Statements (VIS), a standard mechanism in other jurisdictions that would allow courts to fully grasp the consequences of the crime and provide victims with a structured opportunity for acknowledgment.

A significant justice gap persists in cases of gender-based violence, as documented by a 2025 study from the Centre for Public Policy Research (CPPR). The study reveals a stark disparity between case registration and judicial outcomes, noting that while Telangana reports an 87.6 per cent charge-sheeting rate, its conviction rate languishes at just 12 per cent, reflecting systemic bottlenecks such as trial delays, evidentiary challenges, and hostile witnesses. Survivors frequently encounter secondary victimisation when navigating institutional systems,

exacerbated by patriarchal attitudes and insufficient gender-sensitive training among police, healthcare, and judicial personnel. This institutional apathy is compounded by gross resource inefficiency, highlighted by the underutilisation of the Nirbhaya Fund, where only 33 per cent of sanctioned funds across 35 major projects have been spent, weakening the very infrastructure of victim support services like One Stop Centres.

The Supreme Court has provided crucial doctrinal clarity on the relationship between compensatory and punitive justice, unequivocally holding that victim compensation is supplementary to punishment and cannot serve as a substitute for custodial sentencing. In *Parameshwari v. State of Tamil Nadu* [2026 INSC 162], the Court condemned the “dangerous trend” of reducing sentences while enhancing compensation as tantamount to “blood money,” emphasizing that punishment’s deterrent function cannot be “purchased by money.” The Court laid down guiding principles for sentencing, including proportionality and an assessment of societal impact, to prevent mechanical or capricious reductions in punishment. However, the practical implementation of this principle remains fraught with challenges, particularly in cases of acquittal or where offenders are untraced, leaving State-funded compensation as the sole remedy—a mechanism that is itself undermined by the very judicial and administrative failures it is meant to address.

In synthesis, these challenges are not isolated but form an interlocking web of dysfunction. Judicial unawareness and the failure to issue compensation orders trigger cascading administrative delays, which are then amplified by resource scarcity and poor coordination. The persistent participatory deficit limits the victim’s ability to influence proceedings or hold the system accountable, while the justice gap in gender-based violence starkly illustrates the human cost of inadequate investigation and prosecution. Bridging this multifaceted gap requires a concerted, multi-pronged strategy encompassing enhanced judicial training, robust accountability, adequate resources, and legislative reform to expand participatory rights, ensuring that the normative promise of victims’ rights translates into tangible justice.

## 6. Conclusion

The protection of victims’ rights in India has undergone a remarkable normative transformation over the past three decades, evolving from a framework that treated victims as “the forgotten man in the criminal justice system” (Law Commission of India, 154th Report, 1996) to one that increasingly embraces victim-centric principles. This shift has been driven by legislative

milestones such as the Criminal Law (Amendment) Act, 2008, which introduced statutory rights to compensation (Section 357A CrPC), appeal (proviso to Section 372), and legal representation (Section 24(8)), and has been consolidated in the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), particularly through Section 396's provisions for time-bound compensation and interim relief. Concurrently, the constitutional foundations of victims' rights have been robustly developed by the Supreme Court through an expansive interpretation of Article 21, read with Articles 14 and 39A, recognizing the rights to dignity, fair treatment, compensation, and meaningful participation in cases such as *Rudal Shah v. State of Bihar* [(1983) 4 SCC 141], *Nilabati Behera v. State of Orissa* [(1993) 2 SCC 746], and *Nipun Saxena v. Union of India* [(2019) 2 SCC 703].

The state of West Bengal serves as a compelling microcosm of both the potential and the persistent limitations of victim-centric reforms within India's federal framework. The state's early adoption of a victim compensation scheme in 2012, the launch of the integrated Bhorsha support initiative, and the passage of the stringent Aparajita Woman and Child Bill, 2024, reflect a strong political will to address violence against women. However, the ground reality reveals a stark implementation chasm, epitomized by the case of acid attack survivor Ruptaj Yeasmin, who endured a five-year wait for duly recommended compensation while the State Legal Services Authority remained "idle and inert." This is compounded by the Calcutta High Court's repeated rebukes over acute resource scarcity, noting the SLSA's account balance had fallen to a mere ₹5,000, and its observation in *Paramita Bera v. Union of India* that the state has "forgotten its feminist roots." The Aparajita Bill itself remains mired in constitutional hurdles, awaiting Presidential assent amid central government concerns over the proportionality of its mandatory death penalty provisions.

These challenges are not unique to West Bengal but mirror a nationwide implementation crisis. The Supreme Court, in *Jyoti Praveen Khandpasole v. Union of India & Others*, highlighted systemic judicial unawareness, observing that "many trial judges simply forget to pass the order" for compensation, while the Kerala High Court noted over 1,424 pending applications involving nearly ₹47 crores. A profound participatory deficit persists, rooted in an adversarial system that limits the victim's counsel to a mere "assisting" role under Section 18(8) BNSS, a restriction criticized for creating a "spectator with a gown" and leaving a "normative vacuum" due to the absence of Victim Impact Statements. Furthermore, a significant justice gap in gender-based violence is documented by studies like the CPPR 2025 report, which found that

despite an 87.6% charge-sheeting rate in Telangana, the conviction rate languishes at just 12%, a problem exacerbated by secondary victimisation, institutional apathy, and the gross underutilisation of the Nirbhaya Fund.

The Supreme Court has provided essential doctrinal clarity, holding in *Parameshwari v. State of Tamil Nadu* [2026 INSC 162] that victim compensation is strictly supplementary to punishment and cannot serve as a substitute for a custodial sentence, condemning the practice of reducing sentences for enhanced compensation as “blood money.” The Court has also progressively expanded participatory rights, affirming the victim’s right to be heard in bail matters and prioritizing victim safety as paramount. In conclusion, while the normative architecture of victims’ rights has been substantially strengthened, the edifice of implementation remains fundamentally weak due to institutional inertia, resource inadequacy, and a persistent structural bias. Bridging this gap demands more than further legislative amendments; it requires a sustained, multi-dimensional commitment to institutional reform, capacity building, and a fundamental reorientation of the justice system toward a truly victim-centric paradigm.

## 7. Recommendations

To bridge the persistent gap between normative promise and tangible justice, a multi-pronged strategy of institutional reform is essential, beginning with the strengthening of accountability and coordination mechanisms. In compliance with the Supreme Court’s directive in *Jyoti Praveen Khandpasole*, all High Courts should mandate that trial courts include a specific, standardized section on victim compensation in every relevant judgment, thereby eliminating the current bottleneck where judges “simply forget” to pass such orders. Each State Legal Services Authority must establish a dedicated Victim Compensation Monitoring Cell to track all recommendations, process applications within the statutory 60-day period under Section 396(5) BNSS, and maintain a publicly accessible database, with quarterly reports submitted to the High Court. Furthermore, district-level coordination committees comprising the judiciary, police, prosecution, and health departments are necessary to streamline victim support services, and the Comptroller and Auditor General should conduct periodic performance audits of compensation schemes to ensure executive and judicial oversight.

Addressing the critical deficits in awareness and accessibility is paramount to ensuring that statutory rights translate into real-world benefits for victims. State Legal Services Authorities

must launch sustained, multi-media awareness campaigns in regional languages to inform victims of their rights to compensation, free medical treatment, legal representation, and appeal. In parallel, decentralised support centres, modelled on West Bengal's Bhorsa initiative or Telangana's Bharosa Centres, should be established in every district to offer integrated legal, psychological, and medical assistance under one roof. These physical centres should be complemented by fully operational, technology-enabled online portals that allow victims to track case status, file compensation applications, and access legal aid remotely, thereby reducing barriers for those in rural and marginalized communities.

The persistent participatory deficit within the criminal justice system requires urgent legislative and procedural reform to transform victims from passive spectators into active stakeholders. Section 18(8) of the BNSS should be amended to explicitly grant a victim's counsel the right to examine and cross-examine witnesses and make oral submissions, moving beyond the restrictive "assist only" interpretation affirmed in *Rekha Murarka v. State of West Bengal*. The BNSS must also be amended to introduce Victim Impact Statements (VIS), allowing courts to formally consider the full physical, psychological, and financial consequences of a crime during sentencing, thereby addressing a critical "normative vacuum." Moreover, in cases involving state actors as accused persons, courts should mandatorily appoint an independent counsel for the victim to mitigate the inherent conflict of interest in "State vs. State" prosecutions, and the victim's right to be heard in bail proceedings should be codified as an express statutory right.

Sustained resource augmentation and improved inter-agency coordination are the bedrock upon which all other victim-centric reforms depend. State governments must provide adequate, ring-fenced annual budget allocations for Victim Compensation Funds, heeding the Calcutta High Court's stern observation that the State cannot claim it lacks funds to meet its statutory obligations. The Central Victim Compensation Fund should be expanded to standardize compensation across states, and the gross underutilisation of the Nirbhaya Fund must be urgently addressed through high-level monitoring to expedite projects like One Stop Centres and forensic facilities. Simultaneously, dedicated victim support units within police stations and courts, staffed by trained paralegals and social workers, along with state-level Standard Operating Procedures for inter-agency referral and coordination, are essential to reduce procedural delays and provide seamless support from the moment a crime is reported.

Finally, long-term systemic change requires a dual focus on capacity building and the elevation of victims' rights within the constitutional framework. In strict compliance with the Supreme Court's directive, all State Judicial Academies must implement mandatory, comprehensive training modules on victims' rights jurisprudence, with biennial refresher courses to ensure that judicial officers are fully aware of their obligations. This must be complemented by mandatory gender-sensitisation and trauma-informed training for all stakeholders—police, prosecutors, medical professionals, and judges—to combat the secondary victimisation documented by the CPPR (2025) study. As a foundational measure, serious consideration should be given to a constitutional amendment that explicitly enumerates victims' rights, or, pending that, the adoption of a statutory Victims' Rights Charter that codifies their rights at every stage of the justice process, thereby aligning India's framework with international standards such as the 1985 UN Declaration.

In conclusion, the journey toward a truly victim-centric criminal justice system demands more than normative evolution; it requires a fundamental reorientation of institutional culture and a sustained, multi-stakeholder commitment to implementation. The experience of West Bengal—with its progressive legislative intent exemplified by the Aparajita Bill, undermined by administrative apathy and resource scarcity—serves as a stark reminder that laws alone are insufficient. Bridging the justice gap necessitates robust accountability, adequate resources, expanded participatory rights, and comprehensive training. Only through such a concerted and sustained effort can the promise of justice be transformed from legislative text into a lived reality, ensuring that victims are no longer the “forgotten man” but are recognized as central stakeholders whose dignity and rights are paramount to the administration of justice.

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