VICTIM-CENTRED JUSTICE OR STATE MONOPOLY? REASSESSING THE BHOPAL GAS LEAK DISASTER (PROCESSING OF CLAIMS) ACT, 1985

Shradha Tomar, LLM Scholar, NLIU, Bhopal

Dhruv Garg, LLM Scholar, NLIU, Bhopal

ABSTRACT

The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985, was enacted as an extraordinary legislative response to an unprecedented industrial catastrophe. By vesting the Union Government with the exclusive authority to represent all victims, the Act sought to consolidate claims and expedite compensation. Yet, this centralization effectively displaced survivors from the very process intended to redress their suffering, eroding their agency and curtailing participatory justice. While legal scholars have frequently interrogated the adequacy of the quantum of compensation and the controversial settlement with Union Carbide, far less attention has been devoted to the dimensions of procedural justice, victim autonomy, and institutional accountability.

This paper re-examines the Act through the normative lens of victim-centred justice and the jurisprudence of access to justice in mass torts. It contends that the State's monopolization of victim representation entrenches a paternalistic model of industrial disaster governance, raising profound questions about legitimacy, fairness, and trust in legal institutions. In situating Bhopal within a comparative framework, the paper analyses international compensation mechanisms, including the United States' September 11th Victim Compensation Fund, the Rana Plaza Arrangement in Bangladesh, and the European Union's Environmental Liability Directive. These models illuminate alternative paradigms in which victims retain participatory rights and procedural safeguards, even within complex and large-scale claims processes.

By juxtaposing India's state-centric approach with these international experiences, the paper demonstrates the urgent need to reconfigure disaster law frameworks to embed procedural fairness, victim agency, and participatory justice. In doing so, it not only contributes to Indian constitutional and tort jurisprudence but also advances the global discourse on corporate accountability, environmental justice, and transnational governance of industrial disasters.

Keywords: Bhopal Gas Tragedy; Processing of Claims Act 1985; Victim Agency; Procedural Justice; Mass Tort Governance; Industrial Disaster Law; Comparative Compensation Models.

Introduction

The Bhopal Gas Tragedy, which unfolded on the night of 2–3 December 1984, remains one of the gravest industrial disasters in history. The catastrophic leak of methyl isocyanate (MIC) from the Union Carbide India Limited (UCIL) plant in Bhopal, Madhya Pradesh, resulted in the instantaneous death of thousands and inflicted enduring physical, psychological, and ecological harm upon generations to come[1]. The tragedy revealed not only the perils of unregulated industrialization but also the fragility of India's institutional architecture for ensuring environmental and industrial accountability.

In the immediate aftermath, the Government of India enacted the *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985* (hereinafter "the Act"), conferring upon itself the exclusive right of representation on behalf of all victims in judicial and quasi-judicial proceedings against the Union Carbide Corporation (UCC)[2]. This legislative measure was defended as a necessary step to prevent exploitation of victims by private attorneys and to ensure an efficient and equitable distribution of compensation. However, in centralizing control with the executive, the Act effectively displaced victims from the legal process, transforming them from autonomous rights-bearers into passive subjects of bureaucratic benevolence. The invocation of the parens-patriae doctrine, intended to protect vulnerable populations, ironically entrenched a paternalistic model of justice that compromised both procedural fairness and victim agency[3].

The settlement approved by the Supreme Court of India in *Union of India v Union Carbide Corporation (1989)*, whereby a sum of US $470 million was accepted as full and final compensation, became emblematic of this paternalistic approach[4]. The decision, widely critiqued for its opacity, lack of participatory consultation, and disregard for the victims' continuing suffering, marked a turning point in Indian tort jurisprudence. Subsequent proceedings, including *Charan Lal Sahu v Union of India (1990)*, reaffirmed the constitutional

---

[1] Indian Council of Medical Research, *Health Effects of the Toxic Gas Leak from Union Carbide Methyl Isocyanate Plant in Bhopal: Pathology and Toxicology* (ICMR 2010) 1–3.
[2] *Bhopal Gas Leak Disaster (Processing of Claims) Act 1985*, No 21 of 1985, s 3.
[3] Upendra Baxi, *Inconvenient Forum and Convenient Catastrophe: The Bhopal Case* (1986) 6 *Yearbook of International Environmental Law* 245.
[4] *Union of India v Union Carbide Corporation* (1989) 2 SCC 540.

validity of the Act and the government's role as the sole representative of victims, thereby institutionalizing a state-monopoly framework for industrial disaster redressal[5].

The central research problem addressed in this paper concerns the extent to which the *Processing of Claims Act, 1985*, by vesting exclusive representative authority in the State, undermined the principles of victim-centred justice and procedural equity, and whether this structure contributed to the continuing marginalization of survivors within India's legal justice system. Although the legal scholarship surrounding the tragedy has extensively examined issues of compensation adequacy and corporate liability, there remains a significant lacuna in analysing how the Act's design itself shaped victims' experiences of justice, participation, and institutional trust.

This paper therefore, seeks to reframe the discourse surrounding Bhopal, from one focused merely on the quantitative sufficiency of compensation to one grounded in the qualitative experience of justice. Drawing from Upendra Baxi's seminal critique of Bhopal as a "convenient catastrophe,"[6] this research interrogates the paradox of protective legislation that simultaneously disempowers its intended beneficiaries. Through a comparative analysis of international frameworks, including the September 11 Victim Compensation Fund (United States), the Rana Plaza Arrangement (Bangladesh), and the European Union's Environmental Liability Directive, the study examines how alternative legal frameworks integrate participatory rights and procedural transparency within compensation regimes.

The Bhopal disaster stands not only as a failure of industrial safety and regulatory vigilance but also as a glaring blot against the legal framework as existing in India. The *Processing of Claims Act, 1985*, conceived as a humanitarian measure, inadvertently entrenched a bureaucratic monopoly over justice. This research contends that genuine justice for victims of industrial disasters cannot be confined to monetary settlements alone and must encompass the restoration of agency, dignity, and participatory rights as integral to legal redress. In reassessing the Act through the lens of victim-centred jurisprudence, this study aims to contribute to the evolving discourse on state accountability, procedural fairness, and restorative justice in mass disaster governance.

---

[5] *Charan Lal Sahu v Union of India* (1990) 1 SCC 613.

[6] Upendra Baxi, *Mass Torts, Multinational Enterprise Liability and Private International Law: The Bhopal Case* (1986) 5 *Company and Securities Law Journal* 228.

The Legal Framework of the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985

The *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985* (hereinafter *Processing of Claims Act* or *the Act*) was enacted in the immediate aftermath of the Bhopal Gas Tragedy as an extraordinary legislative measure to address an extraordinary human and legal crisis[7]. The Statement of Objects and Reasons emphasized the need to ensure "speedy, equitable and effective" adjudication of claims arising out of the disaster, and to prevent "misuse or exploitation" of victims by private intermediaries, particularly foreign lawyers[8].

The Act's preamble reveals the State's self-conception as the guardian and protector of victims, invoking the doctrine of *parens patriae* to justify its interventionist role[9]. In its moral narrative, the State positioned itself not merely as a litigant but as the representative of the collective conscience of the affected populace. However, this paternalistic approach, though arguably well-intentioned, was premised on a monopoly of representation, effectively denying victims their procedural autonomy. As Upendra Baxi observed, the legislation exemplified the State's tendency to "administer justice to, rather than with, its citizens."[10]

The legislative intent, therefore, was twofold: first, to consolidate and control all litigation relating to the disaster under a single legal authority (the Union Government); and second, to establish a streamlined, bureaucratically managed process for claims registration and processing. While the first objective aimed at coherence and efficiency, the second inadvertently replaced judicial adjudication with administrative discretion, shifting the focus from justice to expediency.[11]

Section 3(1) of the Act conferred upon the Central Government the exclusive right to represent and act on behalf of all claimants, effectively extinguishing victims' independent legal capacity to avail remedies[12]. This concentration of power was justified under the rhetoric of protection, while in practice, it transformed victims into dependents of the State's discretion. The Act authorized the Government to initiate, defend, or settle any claim arising out of the gas leak,

---

[7] B Bowonder, 'The Bhopal Accident' (1987) 32(2) *Technological Forecasting and Social Change* 169.

[8] Statement of Objects and Reasons, *Bhopal Gas Leak Disaster (Processing of Claims) Bill, 1985* (Bill No 21 of 1985).

[9] Usha Ramanathan, 'The Bhopal Gas Disaster: Twenty Years On' (2004) *Seminar* 545.

[10] Upendra Baxi, *Inconvenient Forum and Convenient Catastrophe: The Bhopal Case* (1986) 6 *Yearbook of International Environmental Law* 245.

[11] Marc Galanter, 'The Transnational Traffic in Legal Remedies: Learning from Disaster' in Sheila Jasanoff (ed), *Learning from Disaster: Risk Management After Bhopal* (University of Pennsylvania Press 1994) 133.

[12] *Bhopal Gas Leak Disaster (Processing of Claims) Act 1985*, s 3(1).

both domestically and internationally[13].

Furthermore, Section 9 empowered the Government to frame a "Scheme" for registration and processing of claims, which materialized as the *Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme, 1985*.[14] The Scheme established the office of the Welfare Commissioner, vested with quasi-judicial powers to adjudicate individual claims.[15] This framework was conceived as an alternative to the adversarial litigation model, but in doing so, it substituted judicial oversight with bureaucratic control.

Critically, the Act provided no mechanism for victim participation or consultation in the settlement process, nor any safeguard against potential conflicts of interest particularly given the Government's dual position as both litigant and shareholder in Union Carbide India Limited (UCIL).[16] The absence of procedural checks rendered the representation not merely centralized but also exclusive and unilateral, raising serious concerns under Articles 14 and 21 of the Constitution regarding equality, fairness, and due process.[17]

The constitutional validity of the Act was challenged before the Supreme Court in *Charan Lal Sahu v Union of India*, where petitioners contended that vesting exclusive representative authority in the Union Government violated Articles 14, 19, and 21 of the Constitution.[18] They argued that the Government, being a potential joint tortfeasor due to its regulatory lapses and 22% equity in UCIL, could not act as a neutral representative.[19] Moreover, by excluding victims from participation in the settlement process, the Act was alleged to contravene the principles of natural justice, particularly *audi alteram partem*.[20]

The Supreme Court, however, upheld the Act's constitutionality, reasoning that it was enacted under the doctrine of parens patriae, which allows the State to act as guardian of its citizens in exceptional circumstances.[21] The Court viewed the legislation as a legitimate response to a national emergency demanding centralized action. Yet, while upholding the Act, the judgment simultaneously exposed a dire paradox — in attempting to protect the victims, the law deprived

[13] ibid s 4.
[14] ibid s 9.
[15] *Bhopal Gas Leak Disaster (Registration and Processing of Claims) Scheme 1985*, cl 4.
[16] *Charan Lal Sahu v Union of India* (1990) 1 SCC 613 [para 27].
[17] Constitution of India 1950, arts 14, 21, 32.
[18] *Charan Lal Sahu v Union of India* (1990) 1 SCC 613.
[19] ibid [para 35].
[20] ibid [para 48].
[21] ibid [para 54].

them of their agency and autonomy.

Justice Ranganath Misra, writing for the majority, emphasized that "the welfare of the victims is the paramount consideration"[22] but the Court failed to delineate procedural safeguards that would ensure that this "welfare" would be determined in consultation with the victims themselves. The judgment thus reflected a formalistic acceptance of paternalism, validating state monopoly without sufficiently interrogating its long-term implications for participatory justice.

Subsequent judicial developments, including the 1989 settlement and later curative petitions, reveal the enduring consequences of this decision— the finality of settlement overshadowed the fairness of process, and procedural justice became collateral to administrative efficiency.[23]

The implementation of the *Processing of Claims Act* and the 1985 Scheme was characterized by bureaucratic opacity, procedural delays, and inequitable outcomes. The office of the Welfare Commissioner, envisioned as a quasi-judicial body to ensure fair compensation, became an instrument of administrative rigidity. Studies have documented pervasive errors in the identification and categorization of victims, delays in disbursal, and a lack of transparency in record-keeping[24].

Shruti Rajagopalan has aptly described this as the "paternalistic takeover of justice," wherein the inquisitorial bureaucracy supplanted the adversarial legal process, thereby eliminating the discovery mechanisms essential to truth-finding and accountability.[25] The system produced what economists term Type I and Type II errors—compensating fraudulent claims while denying legitimate ones—reflecting the structural inefficiencies of state-controlled adjudication.[26]

Moreover, the Act's failure to establish robust appellate or oversight mechanisms further insulated administrative decisions from judicial review, exacerbating the victims' sense of alienation. As a result, the promise of "speedy and equitable" compensation remained largely

[22] ibid [para 75].
[23] *Union of India v Union Carbide Corporation* (1989) 2 SCC 540; *Union Carbide Corporation v Union of India* (2023) SCC OnLine SC 161.
[24] Radhika Ramaseshan, 'Callousness Abounding' (2009) 20 *Economic and Political Weekly* 55.
[25] Shruti Rajagopalan, 'Bhopal Gas Tragedy: Paternalism and Filicide' (2014) 5(1) *Journal of Indian Law and Society* 202.
[26] ibid 210–211.

illusory, and procedural fairness was sacrificed at the altar of bureaucratic expedience.

In constitutional terms, the administrative apparatus under the Act exemplified executive overreach into the domain of judicial adjudication, blurring the separation of powers and diminishing access to justice under Article 32.[27]

Procedural Justice and Victim Agency - Theoretical and Jurisprudential Framework

The *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985,* raises fundamental questions about the relationship between state authority and victim autonomy. While intended to ensure equitable compensation, its centralized design effectively marginalized victims, reducing them to passive recipients of state-administered relief. To assess this framework, it is essential to examine the normative underpinnings of victim-centred justice and procedural fairness within constitutional and jurisprudential thought.

Victim-centred justice emphasizes dignity, participation, and empowerment over mere compensation.[28] True justice lies not only in outcomes but in fair and inclusive procedures.[29] By excluding victims from representation, the Act conflicted with the procedural guarantees implicit in Articles 14 and 21 of the *Constitution of India*.[30] Drawing on John Rawls' idea of fairness as the "first virtue of social institutions"[31] and Amartya Sen's capability approach[32], justice requires both equitable outcomes and the freedom to participate in achieving them. Restorative jurisprudence reinforces this by viewing law as a means of healing collective harm through dialogue and participation rather than bureaucratic paternalism.[33] Constitutionally, participatory rights are embedded in the principles of equality and due process.[34] Indian jurisprudence—from *Maneka Gandhi* to *M.C. Mehta*—recognizes fairness and access to justice as integral to the right to life.[35] International instruments such as the ICCPR and UN Basic Principles on the Right to Remedy (2005) further affirm victims' rights to participation and consultation.[36] Against these standards, the Bhopal framework appears welfare-oriented but

[27] Constitution of India 1950, arts 32, 50.
[28] J Murphy and A Pemberton, 'The Moral Foundations of Victim-Centred Justice' (2017) 37 *Oxford Journal of Legal Studies* 98.
[29] Tom R Tyler, *Why People Obey the Law* (Princeton University Press 2006).
[30] Constitution of India 1950, arts 14, 21.
[31] John Rawls, *A Theory of Justice* (Harvard University Press 1971).
[32] Amartya Sen, *The Idea of Justice* (Penguin 2009).
[33] Howard Zehr, *The Little Book of Restorative Justice* (Good Books 2002).
[34] Constitution of India 1950, arts 14, 21, 32.
[35] *Maneka Gandhi v Union of India* (1978) 1 SCC 248; *M.C. Mehta v Union of India* (1987) 1 SCC 395.
[36] International Covenant on Civil and Political Rights 1966, art 2(3); United Nations, *Basic Principles and*

procedurally exclusionary.

The State justified its monopoly through the doctrine of parens patriae, claiming to act as guardian of the victims.[37] However, this doctrine, when unrestrained, risks devolving into paternalism, where representation substitutes for participation. As Upendra Baxi observed, the Bhopal model exemplified "justice administered to, rather than with, citizens."[38] Comparative experience—from the *Rana Plaza Arrangement (Bangladesh)* to the *9/11 Victim Compensation Fund (US)*—shows that centralization and participation can coexist when supported by transparency and consultative design.[39]

Ultimately, a victim-centred legal framework must balance state facilitation with individual agency. The Bhopal experience demonstrates that procedural fairness, participatory representation, and restorative engagement are not ancillary ideals—they are the very conditions of justice in mass disaster redressal.

Bhopal and the Experience of State Monopoly

The Bhopal Gas Leak of December 1984 was not only a humanitarian catastrophe but also a defining moment for India's legal system in addressing mass industrial disasters. Over 3,000 people died instantly, and more than half a million were injured, yet the legal and administrative responses reflected a deep tension between state paternalism and victims' autonomy. In the aftermath, the Government of India enacted the *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985*, granting itself exclusive authority to represent all victims in legal proceedings against Union Carbide Corporation (UCC).[40] The statute, grounded ostensibly in efficiency and equality, effectively eliminated the victims' capacity to pursue claims independently, consolidating state monopoly over civil redress.

Litigation initially unfolded across jurisdictions. Several lawsuits were filed in U.S. courts against UCC seeking damages exceeding US$3 billion, but were dismissed on *forum non conveniens* grounds, directing claimants to Indian courts[41]. The government then invoked its

Guidelines on the Right to a Remedy and Reparation (2005).
[37] *Charan Lal Sahu v Union of India* (1990) 1 SCC 613 [para 50].
[38] Upendra Baxi, *Inconvenient Forum and Convenient Catastrophe: The Bhopal Case* (1986) 6 *Yearbook of International Environmental Law* 245.
[39] International Labour Organization, *The Rana Plaza Arrangement: Compensation for Victims of the Rana Plaza Collapse* (ILO 2015); Kenneth R Feinberg, *What Is Life Worth?* (PublicAffairs 2005).
[40] *Bhopal Gas Leak Disaster (Processing of Claims) Act 1985*, No. 21 of 1985
[41] *In re Union Carbide Corp. Gas Plant Disaster at Bhopal* 634 F Supp 842 (SDNY 1986).

parens patriae power to centralize representation under the 1985 Act. This move, while administratively rationalized as necessary to avoid multiplicity of claims, stripped victims of procedural voice and legal agency. Section 3(1) of the Act conferred upon the Union Government "the exclusive right to represent all persons entitled to claim relief," extinguishing private standing. The consolidation culminated in 1989 when the Supreme Court of India, in *Union Carbide Corporation v Union of India*, approved a settlement of US$470 million as full and final compensation.[42] Although the Court justified the compromise as pragmatic and equitable, it simultaneously terminated ongoing criminal proceedings against company officials, a decision widely condemned as a moral and constitutional failure.[43]

The judiciary's reasoning reflected an enduring deference to executive authority. The Court's endorsement of the government's monopoly was framed as compatible with Article 21's protection of life, privileging expediency over participatory justice.[44] The later review petitions in 1991 reinstated criminal proceedings but upheld the monetary settlement, confirming the structural imbalance between state control and victim representation. The government's approach was justified as protective, yet it transformed victims from rights-bearing citizens into administrative dependents. The doctrine of *parens patriae*, instead of empowering victims, became a mechanism of substitution that silenced the collective voice.

Civil society organizations challenged this framework by mobilizing protests, legal interventions, and international advocacy. Groups such as the Bhopal Gas Peedit Mahila Udyog Sangathan and the Bhopal Group for Information and Action resisted the state's monopoly, arguing that justice required participation, not delegation.[45] However, their exclusion from formal decision-making reinforced perceptions of opacity and distrust. The resulting compensation process—administered through district tribunals—was plagued by procedural delays, arbitrary classifications, and inadequate medical verification systems.[46] Many survivors struggled for decades to establish eligibility for relief, while average compensations remained paltry. The administrative machinery, conceived to ensure uniformity, instead generated bureaucratic fragmentation and alienation.

This centralization also had broader legitimacy implications. As theories of procedural justice

---

[42] *Union Carbide Corporation v Union of India* [1989] AIR 674 (SC).
[43] ibid [15].
[44] *Union Carbide Corporation v Union of India (Review)* [1991] 4 SCC 584.
[45] Bridget Hanna, *After Bhopal: Environmentalism and the Politics of Disaster* (Cambridge UP 2020).
[46] Upendra Baxi and Amita Dhanda, 'Vicarious Liability and State Monopoly in Bhopal' (1989) 31(4) *JILI* 513.

indicate, fairness in process enhances trust in authority more than the substantive outcome alone[47]. In Bhopal, the denial of participation and transparency eroded that trust. Comparatively, international models such as the U.S. *Agent Orange* settlement and European environmental liability frameworks under the Aarhus Convention incorporated participatory oversight, judicial review, and independent trusteeship—features absent in the Bhopal regime.[48] The Indian model thus institutionalized a statist form of disaster justice, where the efficiency of the state supplanted the rights of victims.

Even decades later, the consequences of this structural exclusion persist. Environmental contamination of the Bhopal site remains unresolved, groundwater is still toxic, and intergenerational health effects continue to surface.[49] Official rehabilitation programs have been marred by underutilized funds and administrative inertia.[14] Survivor testimonies describe not only physical suffering but also a sense of betrayal by institutions that promised justice.[15] The Bhopal experience reveals how the state's monopoly, though justified as compassionate governance, translated into procedural disenfranchisement and enduring mistrust.

In reassessing the Bhopal model, it becomes evident that the 1985 Act exemplified a legal architecture of control rather than collaboration. While the state's intervention may have been necessary to prevent legal chaos, it should have been accompanied by participatory safeguards—consultation with victims' groups, independent claims monitoring, and judicially supervised settlements. A victim-centred model of justice must ensure not only compensation but also recognition, dignity, and participation in decision-making. The Bhopal experience underscores that efficiency cannot substitute for justice; administrative convenience cannot replace procedural fairness. Future disaster liability regimes must thus move beyond the paternalistic template of Bhopal towards frameworks that respect both state responsibility and victims' agency.

Comparative Models of Victim Participation in Mass Torts

The pursuit of justice in mass torts often lies in balancing two competing imperatives — the need for procedural efficiency and the demand for participatory justice. The experience of Bhopal revealed how state monopolization, even when intended to ensure order and equity, can

---

[47] Tom R Tyler, *Why People Obey the Law* (Princeton UP 1990).
[48] *In re Agent Orange Product Liability Litigation* 597 F Supp 740 (EDNY 1984); Aarhus Convention (1998).
[49] Greenpeace, *Toxic Legacy: 20 Years After Bhopal* (2004).

marginalize victims and weaken legitimacy. To understand viable alternatives, it is essential to examine comparative frameworks that have attempted to integrate victim participation within large-scale compensation schemes. The experiences of the United States, Bangladesh, and the European Union reveal distinct approaches to structuring mass compensation — from administrative models of centralized management to hybrid systems involving multi-stakeholder participation.

The United States' September 11th Victim Compensation Fund (VCF) offers a unique administrative response to a mass disaster that prioritized both speed and fairness within a transparent framework.[50] Established under the *Air Transportation Safety and System Stabilization Act, 2001*, the VCF provided an alternative to litigation for victims of the 9/11 terrorist attacks. The Fund's design emphasized individualized engagement — claimants could present personal narratives and evidence before a Special Master, Kenneth Feinberg, who exercised discretion to balance economic loss with non-economic suffering.[51] The process was voluntary, transparent, and guided by published regulations that allowed for appeals and consultation.[52] More than 97 per cent of eligible families opted into the scheme, reflecting trust in its procedural integrity.[53] While critics argued that the Fund's methodology implicitly valued lives through differential income, its administrative openness, accessibility, and non-adversarial character marked a significant advancement over state-dominated or purely judicial models.[54] The VCF thus illustrates an administrative justice model where participation, empathy, and efficiency coexisted within a state-facilitated but victim-oriented process.

By contrast, Bangladesh's Rana Plaza Arrangement, created after the 2013 garment factory collapse that killed over 1,100 workers, demonstrates a multi-stakeholder model of compensation driven by international accountability and collective governance.[55] The Arrangement was not a statutory mechanism but a negotiated framework involving the Government of Bangladesh, the International Labour Organization (ILO), global brands, trade unions, and survivor representatives.[56] The resulting Rana Plaza Donors Trust Fund embodied

[50] *Air Transportation Safety and System Stabilization Act 2001* (US Public Law 107–42).
[51] Kenneth R Feinberg, *What Is Life Worth? The Unprecedented Effort to Compensate the Victims of 9/11* (PublicAffairs 2005).
[52] US Department of Justice, *Final Report of the September 11th Victim Compensation Fund of 2001* (2004).
[53] Richard A Nagareda, 'Autonomy, Peace, and Put Options in the 9/11 Victim Compensation Fund' (2003) 53 *DePaul L Rev* 361.
[54] Samuel Issacharoff and John Fabian Witt, 'The Inevitability of Aggregate Settlement: An Institutional Account of the 9/11 Fund' (2004) 57 *Stan L Rev* 157.
[55] ILO, *Rana Plaza Arrangement and Donors Trust Fund* (2015).
[56] Mark Anner, 'Corporate Social Responsibility and the Rana Plaza Disaster' (2017) 52(2) *British Journal of Industrial Relations* 601.

principles of transparency and inclusivity: victims and their families were consulted through worker associations, while independent experts assessed injury categorization and compensation levels under ILO supervision. This hybrid model avoided the paternalism of state monopoly by embedding decision-making within a network of stakeholders sharing both financial and moral responsibility. The process achieved full disbursement of US$30 million in compensation within two years, establishing an innovative precedent for global supply chain accountability. While the framework was voluntary and dependent on international pressure, it demonstrated how participatory governance could restore legitimacy and trust in contexts marked by weak state enforcement.

In the European Union, participatory victim engagement is embedded within the legal architecture of environmental liability. The *Environmental Liability Directive 2004/35/EC* (ELD) establishes that environmental harm triggers not only state intervention but also public participation rights for affected communities.[57] The Directive operationalizes the "polluter pays" principle alongside procedural guarantees derived from the *Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998)*.[58] Under this framework, individuals and non-governmental organizations (NGOs) have a right to request preventive or remedial action from competent authorities, and to seek judicial review if authorities fail to act.[59] The ELD's emphasis on transparency, disclosure of environmental information, and access to justice reflects a shift from administrative paternalism to participatory environmental governance. Importantly, the Directive recognizes that effective redress depends on the ability of victims to contribute to the framing of remedies — a departure from models where the state speaks *for* victims rather than *with* them.

A comparative evaluation of these models reveals divergent conceptions of justice. The U.S. approach prioritizes administrative efficiency under state supervision but tempers it with individualized participation and discretionary equity. The Bangladesh model externalizes accountability by integrating non-state actors, international institutions, and survivor groups into a collective decision-making process. The European framework institutionalizes participation as a procedural right, embedding it within the very definition of environmental

57 *Environmental Liability Directive 2004/35/EC* (EU).
58 *Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (1998).
59 Ludwig Krämer, *EU Environmental Law* (8th edn, Sweet & Maxwell 2022).

justice. Each model seeks equilibrium between order and inclusion, yet each carries inherent trade-offs: administrative schemes risk uniformity over nuance; participatory frameworks risk procedural complexity and delay. The challenge is to design mechanisms that preserve both legitimacy and efficiency without reducing victims to passive beneficiaries.

When these models are juxtaposed with India's Bhopal experience, their normative significance becomes clearer. The *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985* created an exclusive state monopoly justified by welfare paternalism, but devoid of participatory safeguards. The 9/11 VCF, in contrast, placed human experience at the core of its compensation process, recognizing the cathartic and legitimizing value of personal voice. Rana Plaza's collective arrangement demonstrated how inclusive governance could transcend jurisdictional limitations and mobilize transnational solidarity. The European model, finally, reflects a mature rights-based understanding of participation as an element of environmental democracy. Together, they offer alternative paradigms of disaster justice that reconceptualize victims not merely as recipients of aid but as co-authors of their redress.

Procedural efficiency and participatory justice need not be mutually exclusive. The comparative evidence suggests that hybrid models — combining administrative coordination with structured victim engagement — achieve greater legitimacy and compliance. Transparent communication, independent oversight, and participatory consultation enhance trust without significantly undermining efficiency. The moral lesson across jurisdictions is that justice in mass torts derives not only from compensation but from the recognition of agency, dignity, and procedural inclusion.

In conclusion, cross-jurisdictional analysis reveals that while no single model offers a complete solution, participatory frameworks generate deeper legitimacy and long-term reconciliation. The 9/11 VCF exemplifies empathetic administrative justice; Rana Plaza illustrates collaborative accountability; and the EU's ELD institutionalizes participation as a procedural right. Collectively, they underscore that the future of mass tort governance lies in participatory constitutionalism — where the state acts as facilitator rather than monopolist, and victims remain central to both process and outcome.

Towards a Victim-Centred Legal Framework for Industrial Disasters in India

The Bhopal experience revealed the structural imbalance between administrative expediency and participatory justice in India's disaster compensation architecture. Contemporary statutory regimes such as the *Public Liability Insurance Act, 1991,* and the *National Green Tribunal Act, 2010,* represent incremental progress but remain administratively centered, rather than victim-centred. The *Public Liability Insurance Act* introduced the principle of "no-fault liability," ensuring immediate relief without the burden of proving negligence. Yet, its scope is limited to hazardous substances notified under the Environment (Protection) Act, 1986, and its compensation ceilings remain inadequate. The *National Green Tribunal (NGT) Act, 2010,* further institutionalized environmental adjudication but primarily focuses on restoration of the environment rather than direct victim redress, and its access mechanisms often remain inaccessible to disaster-affected communities lacking legal aid and representation.

A victim-centred legal framework must therefore move beyond reactive compensation to proactive empowerment. First, independent claims tribunals should replace or supplement government-controlled compensation boards. Such tribunals, modeled on administrative justice principles, must ensure independence from both state and corporate influence, with judicial oversight to maintain procedural fairness. Second, participatory oversight mechanisms should be institutionalized—through advisory councils comprising survivors' representatives, local NGOs, and legal experts—to monitor claim processing, rehabilitation projects, and environmental remediation. These bodies could act as transparency anchors, balancing technocratic efficiency with democratic legitimacy.

Third, comprehensive legal aid structures are essential to bridge asymmetries of knowledge and power. The Legal Services Authorities Act, 1987, though operational in principle, has rarely been invoked in industrial disaster contexts. Integrating legal aid into the disaster response protocol—through mandatory representation cells and community paralegals—would ensure that victims have both a voice and agency in legal proceedings. Moreover, the law must embed restorative and procedural justice principles, shifting from one-time compensation to long-term social healing. Restorative frameworks emphasize acknowledgment of harm, corporate accountability, and state responsibility, transforming compensation from a transactional remedy into a relational process of justice.

Finally, institutional reforms must include statutory recognition of survivors' participation rights, akin to the *Aarhus Convention* in the European Union, thereby granting communities locus standi and consultation rights in post-disaster rehabilitation and environmental management. Legislative and administrative coordination between the Ministry of Environment, the NGT, and State Disaster Management Authorities could create an integrated justice architecture where efficiency and empathy coexist. A restructured participatory model, grounded in constitutional principles of equality, dignity, and access to justice, would not only rectify the deficiencies of the Bhopal model but also future-proof India's industrial disaster governance.

Conclusion

The study's findings reaffirm the central hypothesis: the *Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985*, while conceived as an instrument of administrative efficiency, entrenched a state monopoly over victims' representation and diluted participatory justice. The Act's paternalistic framework sidelined survivors' voices, compromised autonomy, and undermined trust in state institutions. Through comparative examination of alternative models—the U.S. 9/11 Victim Compensation Fund, the Bangladesh Rana Plaza Arrangement, and the EU's Environmental Liability Directive—it becomes evident that procedural efficiency need not preclude participation; rather, legitimacy derives from inclusivity and transparency.

Reassessing India's disaster law framework through the lens of victim-centred justice underscores the need to balance administrative rationality with human dignity. The proposed reforms—independent tribunals, participatory oversight, and integrated legal aid—illustrate that justice in mass torts is not merely a question of compensation, but of democratic accountability. Theoretically, the research contributes to the discourse on state paternalism and procedural justice within constitutional and administrative law; practically, it offers a roadmap for reforming India's environmental liability and disaster compensation regimes.

In conclusion, the evolution from state monopoly to participatory justice is not only a legal imperative but a moral one. The Bhopal legacy must thus serve as a transformative reference point—guiding India toward a disaster governance framework where victims are not passive beneficiaries of state benevolence, but active participants in their own pursuit of justice.