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## Victim compensation laws: A comprehension of various Indian statutes and comparative analysis among jurisdictions in India, the UK, and the US

**Monika Madaan and Arryan Mohanty**

### Abstract

The progression of victim compensation laws represents a crucial transformation in legal frameworks from a retributive approach that concentrates solely on punishing offenders to a more equitable and restorative method that prioritises the rights and rehabilitation of victims. This paper investigates the legislative and judicial structures surrounding victim compensation in India, mainly under the Bhartiya Nagarik Suraksha Sanhita 2023, the Protection of Children from Sexual Offences (POCSO) Act, and other relevant laws. It thoroughly evaluates the functions of state and central victim compensation schemes, the effectiveness of their implementation, and the difficulties arising from inconsistencies among jurisdictions and delays in payments. To provide a comprehensive perspective, the study conducts a comparative analysis with selected international jurisdictions such as the United Kingdom and the United States, assessing how these systems organise compensation schemes, establish eligibility, and guarantee swift assistance to victims. The paper highlights exemplary practices in the UK and the US & evaluates their relevance to the Indian context. By contrasting these different models, the research pinpoints areas that require reform and advocates for a legal framework in India that is more focused on the needs of victims, emphasising the necessity for uniformity, prompt aid, and organisational accountability. The study concludes with recommendations to improve victim compensation mechanisms through legal reforms, increased public awareness, and international policy learning, ultimately seeking to create a more inclusive and reparative justice system for crime victims.

**Keywords:** Victim compensation, restorative justice, Bhartiya Nagarik Suraksha Sanhita 2023, POCSO Act, India, United Kingdom, United States, comparative analysis, victim rights, legal reform, compensation schemes, restorative justice system

### Introduction

*“The law should not remain inactive while offenders evade punishment and those in pursuit of justice feel discouraged.”*

Justice is frequently misinterpreted as concluding with a court's verdict, yet its genuine realisation lies in meeting the victim's needs. Although the judiciary plays a vital role in upholding legal standards, the State's responsibility is to maintain the broader framework of justice by providing essential support to victims. Researchers and legal experts have long discussed the degree of the State's accountability in the realm of victimology. Is the State's duty met merely by initiating a case, investigating, starting prosecution, and achieving a conviction? Or does justice require the State to take additional steps by recognising its obligation to assist and compensate the victim, irrespective of the trial's outcome? Another area of debate pertains to the courts: are they required to grant compensation even when the accused is acquitted? Despite such ambiguities, it is broadly accepted that victims and their families have a rightful expectation that the State will not only seek to punish the offender but also provide restitution for the damage endured. Even if the justice system cannot identify the perpetrator or gather sufficient evidence for a conviction, the State's duty to compensate the victim remains intact. The dedication to justice must incorporate both punitive and restorative elements to uphold public confidence and ensure that victims are not overlooked in the legal process<sup>[1]</sup>.

Criminal law, designed to mirror the values and expectations of society, primarily emphasises punishing and rehabilitating offenders, often neglecting the effects on victims. Although society demonstrates significant concern for crime victims highlighted by the media's focus on their suffering and emotional distress the formal justice system often overlooks their quest for redress. While media coverage may spotlight the victim's anguish, sometimes even

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sensationalising it, this rarely leads to substantial support through legal avenues. Consequently, victims often leave the criminal justice process without significant relief or compensation. The basis for victim rehabilitation and compensation is twofold: first, the offender should be held accountable to compensate the victim for the damage inflicted, and second, the State has a responsibility to assist victims, particularly when it fails to protect them from harm in the first place<sup>[2]</sup>. For an extended period, individuals affected by crime have primarily been neglected within the criminal justice system. Historically, criminal acts have been perceived as wrongs against society, resulting in processes mainly involving the government and the defendant, effectively pushing the victim to the sidelines. The central emphasis of criminal law has been on punishing the perpetrator, with minimal focus on the victim's pain or requirements. Gradually, India has started to recognise victims' rights, primarily through judicial intervention. Nonetheless, compared to countries like the United Kingdom, the United States, and Canada, India still falls short in creating comprehensive and consistent legal protections for victims. There is a lack of defined statutory provisions and standardised measures concerning victim rights<sup>[3]</sup>.

In the initial phases of criminology, scholars primarily concentrated on punishment and the offender's role within the justice system. However, perspectives began to change when it became apparent that victims frequently gain little to no advantage from the criminal justice process, apart from the symbolic relief that comes from the offender facing punishment. This recognition prompted legal scholars, prosecutors, and policymakers across different jurisdictions to emphasise the rights and needs of victims, igniting discussions about how compensation should be structured, who should be responsible for providing it, and what its extent should be. In India, the acknowledgement of victims' rights has evolved over recent decades, especially following the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. This international initiative raised awareness that victims are integral to criminal justice, resulting in heightened efforts to enhance their situations. The judiciary has played a vital role in defining victim compensation to ensure justice. This developing notion of justice aspires to penalise wrongdoers and offer assistance and financial reparations to those affected by crime, illustrating a more empathetic and restorative approach. Since the drafting of the Indian Constitution, there have been initiatives aimed at creating systems and laws that safeguard victims. Provisions under Articles 14<sup>[4]</sup> and 21<sup>[5]</sup> guarantee the right to equality, life, and personal liberty, establishing a constitutional basis for victim compensation. Progress was further propelled by the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which underscored the necessity for victim-centred justice. Since then, there has been a growing recognition of the victim's pivotal position within the justice system and a unified effort to enhance their rights and support mechanisms. Among the various forms of assistance available to victims, compensation for the suffering endured is particularly significant. It not only provides financial relief but also acknowledges the dignity of the victim. In India, this principle has been seen as inherent to the 'Right to Life' under Article 21, making victim compensation a fundamental aspect of achieving justice and equity in the criminal justice process<sup>[6]</sup>. Responding to the need for a more organised legal

structure, Section 357A<sup>[7]</sup> was introduced to the Code of Criminal Procedure, 1973 (later replaced by Bharatiya Nagarik Suraksha Sanhita 2023)<sup>[8]</sup>, requiring the State to compensate victims or their dependents who have experienced loss or injury due to criminal actions and need assistance for rehabilitation. Considering this legislative progress, most Indian states have established Victim Compensation Schemes to ensure that impacted individuals receive adequate and appropriate financial support for their recovery and reintegration<sup>[9]</sup>.

When it comes to protecting the rights of victims, the legal system in India provides safeguards through both the Constitution of India and significant laws such as the Bharatiya Sakshya Adhiniyam 2023 and the Bharatiya Nagarik Suraksha Sanhita 2023. The Constitution guarantees fundamental rights to life and personal liberty, allowing individuals to live with dignity and freedom. These rights form the essential framework for victim protection within the justice system. The Bharatiya Sakshya Adhiniyam 2023 empowers victims by allowing them to share their accounts and actively engage in legal proceedings against the accused. Likewise, the BNSS 2023 includes provisions for keeping victims informed about the trial's progress, attending court sessions, and being present to deliver judgments and sentences by the court. Various expert organisations and commissions have significantly contributed to advancing victim rights in India. For example, the Malimath Committee proposed multiple victim-focused reforms, including establishing a Victims Compensation Fund, a Victim Support Service, and free legal aid for crime victims. Furthermore, the Law Commission of India has suggested creating a dedicated department for victim rights within the Ministry of Home Affairs and developing a standardised national compensation scheme and legal assistance structures for victims nationwide. Despite these encouraging advancements, many challenges remain. Victims frequently encounter obstacles to accessing justice, exacerbated by issues such as a lack of awareness, fear of retaliation, inadequate legal support, and limited resources. These barriers are especially pronounced in less-publicized or smaller cases. To address these issues, it is essential for those working within the criminal justice system including police officers, prosecutors, and judges to receive specialised training regarding victim rights. Such educational efforts would ensure that victims are treated fairly and receive the necessary support during legal proceedings. The overarching goal of acknowledging and upholding victim rights is to guarantee dignified, equitable, and respectful treatment during the judicial process. By meaningfully involving victims, protecting their interests, and educating them about their rights, the criminal justice system can evolve into a more just, inclusive, and compassionate entity<sup>[10]</sup>.

Worldwide, criminal justice systems increasingly recognise the necessity of shifting from exclusive punitive measures to more inclusive, victim-centred approaches. In India, a nation with a large and diverse population, this significant change is crucial as Victim Compensation and Restorative Justice become integral components of its legal framework. This ongoing transformation illustrates a commitment to providing justice for victims and a deeper comprehension of the complex interplay between crime, society, and individuals. This thorough analysis examines India's advancements and hurdles in implementing victim compensation and restorative justice initiatives, highlighting the route towards a more empathetic and responsive legal system. The effectiveness

and efficiency of India's criminal justice system will improve when the legal framework fully acknowledges victims' rights and suitably addresses their compensation needs. Significant discussions within legal circles focused on victimology have revolved around the scope of the State's obligations. This debate raises the question of whether the State's responsibilities cease after the registration of a case, the investigation, the prosecution, and the sentencing of the accused or if the State has further duties towards the victim beyond these procedural steps. Improving victim-oriented laws should go beyond mere legal stipulations to provide flexible tools that accommodate the diverse needs of victims. The aim of implementing compensation should be to aid the victim's recovery. Therefore, an all-encompassing Victim Compensation Scheme should encompass support through legal proceedings, emotional counselling, and rehabilitative services designed to reintegrate victims into society. Victim compensation schemes have emerged as a core element of India's efforts to support crime victims. Typically managed at the state level, these programs seek to alleviate the financial strain on victims and their families by offering crucial medical expenses, lost wages, and rehabilitation assistance. Over time, India has made significant strides in broadening the scope and reach of these compensation initiatives, acknowledging the varied needs of victims from different socio-economic backgrounds. By providing financial support, the Indian legal system aims to restore dignity and safety to those impacted by crime, fostering a more inclusive and compassionate community. At the same time, restorative justice practices have gained traction, focusing on dialogue, reconciliation, and community participation. This approach acknowledges that crime adversely affects individuals and disrupts the social fabric. Through restorative justice initiatives, victims, offenders, and communities are encouraged to engage in open discussions, promoting understanding, empathy, and healing. India's embrace of restorative justice marks a significant transition from punitive measures to cooperative problem-solving, fostering accountability and societal reintegration. This methodology not only holds offenders accountable for their actions but also provides them with opportunities for redemption, thus disrupting the cycle of violence and crime<sup>[11]</sup>.

The idea of victimisation encompasses more than just examining criminal conduct it also involves the essential need to secure restitution for victims as a key element of justice. Those who have experienced harm and their families hold the right to pursue compensation for their losses. Throughout history, particularly in medieval times, it was common for offenders or their kin to provide financial reparation for certain crimes. The state would be responsible for offering restitution if the offender could not compensate. The legal principle "*Ubi jus ibi remedium*," which translates to "*where there is a right, there is a remedy*," encapsulates the fundamental tenet of tort law. It asserts that the justice system must deliver relief to individuals who have been harmed or injured due to the unlawful acts of others. Within this framework, compensation functions as a vital legal mechanism, especially in tort law, which is concerned with addressing and remedying civil wrongs. The term "compensation" denotes reimbursing a person for the losses or damages they have incurred. It can be defined as any reparation intended to offset the harm suffered, whether through financial remuneration or other forms of support. Although 'compensation' and 'damages' are frequently used

interchangeably, they carry different meanings. Damages primarily refer to civil liability in tort claims, whereas compensation more broadly refers to the concept of restitution for injury or suffering, often extending beyond mere material loss. The main goal of compensation is to restore the victim's situation to the extent possible before the harm occurred. This involves assisting those who have faced physical, psychological, or emotional distress. Compensation is rehabilitative, aiding victims in their recovery, rebuilding efforts, and reintegration into society. The core aspect of a compensation system lies in recognising the pain experienced by the victim and ensuring they receive adequate support not just as a legal duty but as a representation of society's dedication to justice and human dignity<sup>[12]</sup>.

### Definition of a 'Victim'

A victim is defined as any person or group that has experienced harm whether it be physical, psychological, emotional, financial, or a serious breach of their fundamental rights because of actions or neglect that violate criminal laws in force within the member states' jurisdiction. This definition also includes victims of criminal abuse of authority. In cases where a victim has passed away or is incapacitated, specific individuals are allowed to assert the victim's rights on their behalf. These individuals include:

- The spouse of the victim,
- A common-law partner who lived with the victim for no less than a year before their death,
- A relative or dependent of the victim, and
- An individual who had legal custody of the victim or their dependents.

According to Indian law, the BNSS defines the term 'victim.' As per Section 2(y), a victim is described as someone who has suffered harm or loss due to the actions or negligence of an accused person; this definition also includes the victim's legal heirs or guardians<sup>[13]</sup>. While the new Code offers an official definition, it does not cover all aspects. The conventional understanding of a victim is someone harmed by the wrongful acts of another; however, in practice, this concept can encompass a broader range of circumstances<sup>[14]</sup>. In contemporary legal frameworks, the notion of a victim can be divided into various categories:

#### a) Victims of Criminal Offences

This is the most widely recognised category, including individuals who have experienced harm directly due to a criminal act. For any offence, there must be a perpetrator and a person who suffers due to that wrongdoing the latter is the typical victim recognised under the law.

#### b) Victims of False Allegations and Wrongful Trials

Another significant category involves those falsely accused, put on trial, or even imprisoned despite their innocence. India has seen numerous instances where innocent individuals have spent years incarcerated, only to be acquitted later. These individuals, who have suffered due to the system's failings, also warrant acknowledgement and compensation as victims of injustice.

#### c) Significance of Victim Compensation

The topic of victim compensation has become increasingly important in recent years. In the landmark case of *Maru Ram v. Union of India*, the Hon'ble Supreme Court of India underscored that victims should not be overlooked in the quest for justice. The Court



stated that victims are the primary sufferers, often facing emotional trauma, physical injuries, and social disgrace. While no financial compensation can genuinely replace a lost life or dignity, monetary support can offer some measure of comfort and assistance to help victims restore their lives<sup>[15]</sup>.

The link between crime and the victim is fundamental, and any thorough understanding of crime should encompass the victim's experience and role. Although victims are a crucial component of both the criminal incident and the justice system, they have been historically marginalised, often encountering obstacles when reporting crimes or engaging in legal processes effectively. It is widely accepted that victims are often the most overlooked individuals in criminal justice activities. In some instances, the Indian higher judiciary has utilised its constitutional authority to grant compensation to victims when appropriate. Regrettably, even though established rights and protections for the accused such as the right to a fair trial, access to legal aid, and the opportunity for bail are well defined, victims receive limited support, particularly regarding their socio-economic recovery. There have been instances where courts have instructed state authorities to safeguard the human rights of inmates and guarantee suitable living conditions. However, the actual victims of crimes are frequently ignored amidst misplaced compassion for offenders. While the state invests resources for the care and welfare of prisoners providing them with housing, food, and clothing the victims often go without significant support. In the case of *Rattan Singh v. State of Punjab*<sup>[16]</sup>, Justice Krishna Iyer pointed out this systemic disregard, noting that the anguish and suffering experienced by victims and their families are overlooked mainly within the current legal structure. The existing criminal justice paradigm lacks adequate mechanisms for victim restitution an insufficiency that demands legislative reform. Compensation for victims has only recently become a focal point within criminal law. Historically, studies in criminology and sociology have often neglected victims, perceiving them as passive onlookers or mere sources of data rather than essential participants in the justice process. However, in ancient and pre-modern societies, victims were pivotal in determining outcomes such as compensation or penalties. As modern legal systems developed, the offender came to hold greater significance, and public prosecution supplanted private vengeance, thereby relegating the victim to the sidelines. Contemporary criminologists, psychologists, sociologists, and legal scholars frequently focus on analysing criminal behaviour, often overlooking the necessities of those affected by it. Despite entering the criminal justice system, victims often endure persistent delays, financial loss, emotional pain, and indignity resulting not only from the crime itself but also from the system that is supposed to deliver justice. For numerous individuals, particularly women, the quest for justice is degrading, draining, and ultimately unrewarding. The assumption that punishing an offender equals justice for the victim is increasingly under scrutiny especially given low conviction rates and protracted, inefficient trials. In some cases, victims are fortunate to retrieve stolen property without enduring additional trauma during the investigation or trial. The inefficiency, corruption, and procedural intricacies often deter victims from seeking legal remedies, sometimes driving them toward private retribution. This inability to provide timely, effective justice undermines public trust in the legal

system and erodes human rights and governmental accountability. Ideally, the criminal justice system should shield society and individuals from criminal behaviour, ensuring that justice accounts for the rights of both the accused and the harmed. Despite multiple initiatives aimed at safeguarding the rights of offenders, substantial compensation for victims has yet to catch up. Nonetheless, victim compensation intersects with the legal framework in two significant respects: influencing the victim's relationship with the offender and shaping their interactions with the institutions responsible for delivering justice. The Supreme Court of India has highlighted the significance of integrating victim viewpoints into the justice framework. In the case of *Rattiram & Ors. v. State of Madhya Pradesh*<sup>[17]</sup>, the Court emphasised the increasing relevance of victimology calling for a more equitable perspective in criminal trials that addresses the experiences of both the victim and the offender. In advanced legal systems, the feelings and requirements of victims are acknowledged and treated with the respect they are entitled to. Courts have a crucial responsibility to guarantee that victims are heard, valued, and supported throughout the judicial process<sup>[18]</sup>.

#### History and Evolution of Victim Compensation Laws

Historically, restitution has functioned as a form of punishment, although its purpose has evolved. There was a slight separation between civil and criminal law in ancient societies. Offenders were usually obligated to compensate victims or their families for the damage caused, primarily to avert retaliation from the wronged individuals or the larger community rather than to aid the victim<sup>[19]</sup>. Essentially, it enabled the offender to restore communal peace by 'purchasing' it. As time progressed, legal systems began to differentiate between civil offences and criminal activities, integrating compensation as a solution within civil law instead of the criminal justice framework. Criminal law focuses on punishing or rehabilitating offenders, with minimal attention paid to victim recovery. However, this longstanding approach has changed, as there is now a growing global focus on the needs and rights of crime victims. Relying exclusively on restitution from the offender presents difficulties: it requires that the perpetrator be apprehended and found guilty and that the victim can navigate the legal process effectively. Additionally, if the offender cannot afford to pay particularly in cases of incarceration the victim may ultimately receive nothing. Many experts and jurisdictions support creating a state-funded compensation system to mitigate these concerns. This provides victims prompt assistance regardless of trial results or the offender's financial situation. Once the offender is convicted, they may be liable to repay the State. Such systems aim to protect victims from the adverse effects of procedural delays, acquittals due to lack of evidence, or the inability of offenders to compensate. Numerous countries, including Canada, Australia, the UK, New Zealand, Northern Ireland, and the United States, have implemented legal structures that enable courts to facilitate restitution within criminal justice processes.

Historical records from ancient India indicate that mechanisms for compensating crime victims for their injuries were clearly defined. In his book 'General Principle of Hindu Jurisprudence,' Dr. Priyanath Sen pointed out that the responsibility of the king to safeguard his subjects' property included ensuring restitution. If stolen items could not be recovered or their worth retrieved from the thief, the king must compensate the victim using royal resources. He could

then seek reimbursement from negligent village officials who failed to prevent the thief's evasion. Therefore, the principle of reparation or compensation as a punitive measure has deep historical roots in India. In early Hindu law, especially during the Sutra period, granting compensation was viewed as a privilege of the monarchy. The Laws of Manu mandated that an offender must give compensation and cover medical expenses for inflicted injuries while also satisfying the property owner for any damages caused. In instances of limb amputation, wounding, or bloodshed, the aggressor was required to cover the full medical expenses; failing to do so meant incurring both full damages and a penalty. This illustrates that compensating victims was not alien to the country's legal frameworks. The principles underpinning contemporary victim compensation laws derive from the provisions of the repealed Criminal Procedure Code of 1973 and various decisions made by the Supreme Court of India. Nevertheless, an important question emerges: despite these legal structures, are they being effectively enforced by those tasked with their execution and ensuring that the benefits reach the rightful recipients? The response is frequently negative. Many factors contribute to this inadequate utilisation. A primary reason is the historical separation in 12th-century English law between civil and criminal wrongs, which has fostered the misconception that compensation is solely civil. Other, less apparent reasons include a lack of awareness among those who could facilitate these benefits. The dominant criminal justice system often functions under the belief that a perpetrator's conviction sufficiently addresses the victim's claims. In the existing adversarial legal structure, which primarily pits the state against the accused, the victim is frequently overlooked, and their voice is marginalised. The victim's role is mainly restricted to reporting the crime and serving as a witness in court on behalf of the prosecution, representing the state. The Malimath Committee commented on this situation, observing that the current criminal justice framework not only largely overlooks the victim's right to compensation, aside from minimal provisions in the Criminal Procedure Code, but also excludes them from participating as a significant stakeholder in criminal proceedings. Typically, victims do not have the right to present evidence, cross-examine evidence, or make arguments that could influence the outcome of the process<sup>[20]</sup>.

The 154th Report of the Law Commission of India highlighted the increasing importance of victimology within the criminal justice system. The report offered a detailed examination of the historical development of victimology and advocated for incorporating its principles into Indian criminal law. It emphasised that victim compensation is a legal requirement and a state's moral responsibility. Such compensation expresses compassion and reflects the state's obligation to maintain law, order, and social cohesion. When the state fails to prevent crime or ensure the public's safety, it must be responsible for providing social justice to victims, primarily through compensation. The concept of compensating victims of crime can be traced back to ancient societies. One of the earliest mentions can be found in the Babylonian Code of Hammurabi, which dates to around 1775 BCE and mandated that local governors compensate robbery victims when the perpetrator could not be identified. In homicide cases, specific sums of silver were to be given to the heirs of the deceased. In modern history, a British magistrate, Margery Fry, significantly contributed to the push for state compensation for victims. Her advocacy led to the creation of

the United Kingdom's state-funded victim compensation scheme in 1964, which functioned under the royal prerogative and provided payments on an ex-gratia basis<sup>[21]</sup>.

According to the Malimath Committee Report, victims have two main categories of rights. The first category includes the right to engage in criminal proceedings, which encompasses the right to be included in the case, the right to receive updates about the proceedings, the right to present their views, and the right to aid the court in discovering the truth. The second category pertains to the right to obtain compensation directly from the criminal court for the damages endured and other temporary reliefs throughout the trial process. The fundamental aim of the criminal justice system is to protect individuals from harm to themselves or their property. When a government establishes the rule of law and prohibits personal vengeance, it safeguards its citizens. If the government fails to prevent crime, it signifies a failure in its institutional duty, for which it should be held liable. The committee highlighted that every crime illustrates a deficiency in the state's execution of this obligation and that it cannot shirk its responsibilities. Moreover, the committee assessed the application of Section 395 of the BNSS 2023<sup>[22]</sup>. It noted that compensation under this section can only be granted after the accused has been convicted. Specifically, under Section 395(1)(c)<sup>[23]</sup>, Compensation is restricted to what can be extracted from any fines the court imposes. However, under Section 395(3)<sup>[24]</sup>, The court can instruct the accused to pay compensation even if it is not included in the sentence. A notable limitation is that such compensation cannot be awarded if the accused is acquitted, remains unidentified, or has not been caught.

### International Perspective on Victim Compensation

At the global stage, the essence of rulings in human rights complaint processes frequently revolves around the issue of whether a State has violated the rights of individuals or victims. This assessment is crucial for suggesting corrective measures that the State should implement. Different United Nations entities and regional human rights commissions produce such findings to direct suitable remedies. Compensation, in these instances, typically falls into three categories: nominal, financial, and moral damages. These may encompass reparations for both past and future physical and psychological distress, medical expenses, loss of income and earning potential, incidental costs such as travel and caregiving, property damage, permanent disabilities, and disfigurements.

For instance, in the case of Berry<sup>[25]</sup>, When dealing with wrongful death, the court examined various forms of compensation: medical and funeral expenses, pain and suffering endured before death, anticipated earnings over the victim's lifetime had the injury not occurred, and additional common law tort damages like loss of companionship. Assessing such damages is intricate, particularly in cases involving lifelong impairments resulting from state-sponsored torture. Courts need to consider current costs like medical care and lost earnings and project future losses, including lower quality of life, loss of opportunities, and even reduced life expectancy despite varying standards among national laws on the latter. Numerous countries have established specific legislation to offer compensation to victims of crimes, including Germany<sup>[26]</sup>, France<sup>[27]</sup>, Italy<sup>[28]</sup>, the UK<sup>[29]</sup>, the USA<sup>[30]</sup>, Australia<sup>[31]</sup>, and New Zealand<sup>[32]</sup>. These laws guarantee that victims are compensated even when

perpetrators are unidentified, unconvinced, or unable to pay. International declarations have played a role in clarifying the extent of victims' rights. The United Nations has developed frameworks that acknowledge victims while highlighting the need for reparations, legal reform, and the fortification of judicial systems. Notably, the 1992 Declaration on the Protection from Enforced Disappearance and the International Convention for the Protection of All Persons from Enforced Disappearance emphasise safeguards for individuals wrongfully detained or harmed by state agents, such as police personnel. These agreements advocate for victim's rights to justice, access to investigative information, and suitable compensation, including restitution, rehabilitation, acknowledgement, and respect for their dignity. Recently, the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law have emerged as a crucial reference for global victim protection. Furthermore, compensation is addressed in agreements like the UN Convention Against Transnational Organized Crime (Articles 14 and 25) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Article 6[6]), emphasising the commitment to supporting victims worldwide.

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power by the United Nations General Assembly represented a crucial global acknowledgement of the necessity to create norms and minimum standards within international law to protect the rights of victims of crime. This declaration delineated four primary aspects of victims' rights: access to justice and fair treatment, restitution, compensation, and assistance. Widely recognised as a foundational document for victims' rights globally, the declaration provided several recommendations to address the challenges victims face, including those affected by abuses of power. Key recommendations include:

- a) Ensuring that victims are treated with dignity and compassion, providing them access to justice mechanisms, and promoting avenues for redress according to national laws for the harm they have suffered.
- b) Creating and strengthening judicial and administrative systems that allow victims to seek redress through formal or informal processes that are prompt, fair, affordable, and accessible. Victims should be aware of their rights to pursue remedies through these systems.
- c) Keeping victims updated about their role, the range, schedule, and progression of legal proceedings, as well as the resolution of their cases, particularly in serious crime situations and when such information has been requested.
- d) It allows victims to express their views and concerns at relevant stages of legal proceedings that affect their interests while ensuring fairness towards the accused and compliance with the applicable national criminal justice framework.
- e) Offering appropriate support to victims throughout the legal proceedings.
- f) Implement strategies to reduce inconvenience for victims, safeguard their privacy when necessary, and guarantee their safety, including their families and any witnesses acting on their behalf from threats and retaliation. It is also essential to prevent unnecessary delays in resolving cases and in executing orders or decrees that provide awards to victims.

The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT), which took effect on June 26, 1987, explicitly recognises the right to health care for survivors of torture. The CAT calls for states to ensure "means for as full rehabilitation as possible," alongside other forms of redress, as an "enforceable right." The treatment and rights of torture victims are further addressed in various international legal frameworks. Torture survivors generally do best in environments that guarantee a universal right to health care, especially where specialised rehabilitation facilities complement established high healthcare standards<sup>[33]</sup>.

### **Victims' Compensation under the Laws of the US**

In the United States, there has historically been a significant disparity between the rights afforded to individuals accused of crimes and those available to their victims. Even though the criminal justice system depends on the involvement of victims, the American legal system has typically favoured the interests of offenders. As a result, victims' priorities have often been overlooked in favour of the accused. However, the sharp rise in crime rates during the 1960s and 1970s led to the emergence of a victims' rights movement. This movement consisted of various organisations advocating for fairer treatment of victims within the criminal justice framework. In the early 1980s, President Ronald Reagan formed a Task Force to investigate crime patterns and evaluate the role of victims in criminal cases. The Task Force's findings supported victim assistance. They recommended a Constitutional Amendment to acknowledge victims' rights to participate and be heard at all critical phases of criminal proceedings, in addition to receiving restitution for financial damages<sup>[34]</sup>.

Before this Task Force Report was released, the Victim Witness Protection Act of 1982 marked an essential legislative advancement for victims. This Act pre-emptively addressed many of the Task Force's suggestions by including essential provisions related to victims' rights, such as ensuring restitution from offenders and allowing the submission of victim impact statements during sentencing. It also required the Attorney General to create policies to safeguard victims and witnesses<sup>[35]</sup>. Overall, the Act sought to provide victims with fairer treatment in the Federal Criminal Justice System by assuring their involvement and protection from further harm and prioritised restitution.

Following this, the Victims of Crimes Act of 1984 (VOCA) was passed, which involved Congress providing funding for victim assistance, compensation, training, and technical support for state-level victim service providers. This legislation redirected funds collected from federal offenders through fines, penalties, and bond forfeitures to support local and state victim programs. In response, states began enacting corresponding updates to their regulations. The Victims' Rights and Restitution Act of 1990 further broadened crime victims' rights at the federal level. These rights encompassed the entitlement to be informed about court proceedings and to attend them, the right to be notified of any changes in an offender's detention status, the right to consult with prosecutors, and the right to protection against offender aggression. Under President Bill Clinton, the Violent Crime Control Act and the Law Enforcement Act granted federal victims the opportunity to speak during sentencing hearings, mandated restitution in cases of sexual harassment, and increased funding for local victim support programs<sup>[36]</sup>.

The Mandatory Restitution Act of 1996 constituted another



key piece of legislation, giving federal judges the authority to impose full restitution on offenders in certain situations, such as fraud, property crimes, tampering with consumer products, and drug-related offences. By 1998, influenced by the recommendations of the Reagan Task Force, 29 states had revised their Constitutions to bestow additional rights upon victims, which included the right to a swift trial and participation in parole hearings<sup>[37]</sup>.

The Crime Victims' Rights Act (CVRA) of 2004 is a critical legislative milestone that significantly enhances victims' rights. This Act strengthened existing federal laws regarding crime victims' rights, with its most crucial advancement being creating a mechanism for judicial enforcement. This mechanism allows crime victims to have the legal ability to turn rights that were previously often theoretical into real and enforceable ones<sup>[38]</sup>. The CVRA sets itself apart from prior legislation and most state constitutions and statutes in three main ways:

1. It expanded the range of rights and remedies to include victims of all types of offences and violent crimes.
2. It granted a substantial right for victims to participate in every essential stage of criminal proceedings.
3. It established a judicial enforcement structure, allowing victims to appeal any violations of their rights directly to federal appellate courts immediately following the violation, requiring these appeals to be addressed within seventy-two hours.

The Act grants explicitly victims the following rights

- The right to appropriate protection from the accused.
- The right to timely, accurate, and reasonable notification of any public court hearings, parole proceedings related to the crime, or any release or escape of the accused.
- The right to not be excluded from any such public court hearings unless the court, upon reviewing clear and convincing evidence, determines that the victim's testimony would be significantly altered if the victim hears other testimony at that hearing.
- The right to present their views at any public proceedings in the district court concerning release, plea, sentencing, or parole proceedings.
- The reasonable right to consult with the attorney representing the Government in the case.
- The right to complete and prompt restitution as mandated by law.
- The right to proceedings without unreasonable delays.
- The right to fair treatment with respect for the victim's dignity and privacy<sup>[39]</sup>.

The Crime Victims' Rights Act (CVRA) of 2004 significantly enhances crime victims' rights by creating this innovative judicial enforcement framework. In addition to providing numerous rights related to participation in trial proceedings, the Act ensures that victims are treated fairly and with respect for their dignity and privacy. This has encouraged greater cooperation from victims with law enforcement, prosecutors, and judges. Moreover, the introduction of this new judicial enforcement framework has resulted in the emergence of a new set of case law. In understanding and applying victims' rights, this body of law establishes standards to guide the actions of trial judges, prosecutors, defence attorneys, and other officials within the criminal justice system<sup>[40]</sup>.

## Victims Compensation under the Laws of the United Kingdom

In England and Wales, the rights granted to victims mainly focus on the availability of services<sup>[41]</sup>. The Code of Practice for Victims of Crime has played a crucial role in setting a baseline standard of service that victims can expect from eleven essential criminal justice agencies, providing a comprehensive and detailed list of their informational rights. Additionally, the Code distinctly specifies the service obligations among these various agencies to ensure effective execution and avert any confusion. For instance, the Code (along with prosecutorial pledges and the Code for Crown Prosecutors) highlights the prosecutor's vital role in keeping victims informed about decisions, engaging victims, and explaining specific prosecutorial choices in severe criminal cases<sup>[42]</sup>. The Code also mandates improved services for vulnerable and intimidated victims through Witness Care Units. These units have a defined responsibility to update victims on the status of their cases and to identify victims and witnesses with needs that require additional services as stated in the Code.

The Victim Personal Statement (VPS) scheme was initiated in 2001. This scheme allowed victims the right to provide a victim personal statement (VPS) to the police, designed to be included in the victim's record to inform criminal justice agencies of the victim's specific service needs.

Before this legislation, English law primarily concentrated on compensating crime victims. A notable legislation in England that reflected an interest in crime victims was the Criminal Justice Act of 1972. This Act established that compensating the victim was the most appropriate response following an offender's conviction. Later, this Act was replaced by the Criminal Courts Act of 1973. Under Section 35(1), this Act granted the courts the authority to issue a compensation order "*by or before which a person is convicted of an offence.*" Also, it permitted courts to make any other order they considered suitable. This order did not require an application from the victim. It could be granted for any personal injury, loss, or damage resulting from that offence or any other offence the court considers when determining sentences<sup>[43]</sup>. It is essential to recognise that this provision applies not only to personal injury, loss, or damage suffered by the direct victim of the offence but also to individuals indirectly affected, provided a clear and causal connection can be established<sup>[44]</sup>. The Criminal Courts Act of 1973 underwent several revisions before being ultimately supplanted by the Criminal Justice Act 1988.

Under the 1973 Act, the power to issue a compensation order rested entirely with the court's discretion. However, the Criminal Justice Act of 1988 eliminated this discretion, making it necessary for courts to consider awarding compensation to victims. Moreover, the Act required that courts document reasons for withholding compensation, even when they could do so but opted against it<sup>[45]</sup>. The court's authority to order compensation was considered a valuable tool in sentencing. By directing the convicted person to compensate the victim for the injury caused by their criminal actions, the court sought to relieve the victim from pursuing a separate civil suit for the same damages. In the case of *R v. Inwood*<sup>[46]</sup>, Lord Justice Scarman noted that compensation orders were established in law as a practical and rapid means of avoiding the costs associated with civil litigation when a criminal had the financial ability to pay compensation.

The court had the power to grant compensation for personal

injuries, losses, or damages suffered. However, it was necessary to establish a direct causal connection between the committed offence and the victim's harm. In ordering compensation, the court was not strictly constrained by the comprehensive causation principles of civil law; it was enough that the loss or damage could "fairly be said to have resulted" from the offence<sup>[47]</sup>. To show its commitment to victims, the court established a simplified process for compensation, primarily managed by law magistrates. The compensation order was viewed as solely compensatory rather than punitive. In the case of *R v. Maynord*, it was highlighted that compensation should reflect the loss incurred. According to Section 35(4) of the 1973 Act, the courts were required to consider the offender's ability to pay when determining compensation.

In addition to compensation from offenders to victims, a distinct program in England and Wales provides state-funded compensation for crime victims. The Criminal Injuries Compensation Scheme was first launched in 1964 as a non-statutory trial to offer ex-gratia payments to victims of violent crimes and to those harmed while trying to apprehend criminals or prevent crimes. This scheme was revised in 1979, which included notable modifications to improve its effectiveness and widen its coverage to victims of domestic abuse. The UK government enacted a revised Criminal Injury Compensation Scheme in 1979 on a non-statutory basis to give ex-gratia compensation to crime victims. The Criminal Justice Act of 1988 replaced this earlier scheme with a statutory framework, providing eligible applicants with a legal entitlement to compensation. The new scheme closely resembled its predecessor, albeit with some adjustments.

The original scheme merely stated that victims of violent offences, such as arson and poisoning, qualified for compensation, but the absence of a clear definition resulted in interpretational challenges. Therefore, Section 109 of the Criminal Justice Act of 1988 offered a new, more explicit definition of eligibility to cover a similarly broad range of victims. Under the current and past schemes, individuals injured while engaging in law enforcement activities are eligible for compensation. The Act contains provisions for victim compensation across various offences, including rape, corporate crimes, traffic infractions, and reckless driving.

Concern for victims persisted with introducing new initiatives like 'Victim Support' and emphasising victim welfare. These programs provided victims with various rights, such as the right to be heard, the right to essential information to safeguard their interests, the right to protection from enforcement agencies, the right to receive compensation and restitution, and the right to access support and assistance. The Victim's Charter of 1990 and the Victim's Charter of 1996, published by the Home Office, outlined service standards for victims and their families. These standards included the right to be treated with dignity and respect, the right to support and protection, and the right to compensation and reparation.

The compensation provided through the State Funded Criminal Injuries Schemes, initiated in 1964, was revised in 1969, 1979, and 1990. Ultimately, the Criminal Injury Compensation Act of 1995 established a new tariff-based system that prioritised categories of injuries over individualised harm assessments. The Act set fixed payment amounts ranging from £1,000 to £250,000, based on the severity of injuries, which were classified into twenty-five bands.

Afterwards, legislation in the UK increasingly acknowledged

reparation as an additional way to achieve justice for crime victims. The Crime and Disorder Act of 1998, the Youth Justice and Criminal Evidence Act of 1999, and the Powers of Criminal Courts Act of 2000 incorporated provisions relating to victim reparation. The reparation framework is implemented at three stages within the criminal justice process: before prosecution, between conviction and sentencing, and as part of the punitive measures to ensure the offender is held personally responsible for their actions. The rising importance placed on crime victims in recent times aligns with a change in their perception. In the past, the relationship between victims and criminal justice professionals was primarily shaped by the needs of law enforcement. The primary focus was on victims reporting offences, identifying perpetrators, and providing testimony. However, the focus has gradually transitioned from merely addressing the police's requirements for victims to a broader acknowledgement that victims not only have their own needs but also have inherent rights. Observers have indicated that for the first time, victims and witnesses are genuinely considered central to discussions about criminal justice, no longer seen just as sources of evidence.

In summary, England and Wales have made significant strides in restoring balance in justice without needing a task force, official declarations, or framework decisions. By the time the Magna Carta for crime victims was passed in 1985, the government had already established a network of agencies to assist victims (termed "victim support schemes") and comprehensive criminal injury programs. The National Association of Victim Support Schemes (NAVSS) was founded by the British government in 1979 to set standards for victim services across England and Wales. Additionally, the British government revised restitution laws to prioritise restitution payments above fines.

The charter was further revised in 1996 and 2004. The British government continued to advance its initiatives by implementing the Code of Practice for Victims of Crime in 2006, which outlines the services available to victims. This code specifies which categories of crime victims qualify for particular services and identifies the service providers involved.

The Minister of Justice for England and Wales designated a victim champion to advocate for victim issues and counsel senior government officials regarding victim-related matters. In 2008, Sara Payne was appointed to this position, championing the need for greater integration between victims and the criminal justice system. In 2010, two new initiatives were introduced to enhance support for crime victims: the creation of a National Victim Service to build on the existing network of victim assistance agencies and court-based services and the replacement of the temporary victim champion with a permanent Victim Commissioner tasked with overseeing the National Victim Service.

### **Victim Compensation under the Laws of India Under the Indian Constitution**

India's Constitution serves as the highest legal authority in the country, providing the fundamental basis for all laws. It ensures that everyone receives equal protection under the law and prohibits the government from infringing on a person's life<sup>[48]</sup> or liberty without following due legal process. The social justice principles central to the Indian Constitution also extend to its criminal justice system. The Supreme Court has recognised the 'Rule of Law' as a fundamental principle of



the Constitution, which is also reflected in the workings of the criminal justice system. Various clauses within the Indian Constitution focus on protecting victims and their rights and offering them compensation. The fundamental rights outlined in Articles 14 and 21 must be interpreted alongside the guiding principles of state policy specified in Articles 39A<sup>[49]</sup>, 41<sup>[50]</sup>, 46<sup>[51]</sup>, and 51C<sup>[52]</sup>. The first part of Article 14 has a prohibitive function, barring the state from denying any individual equality under the law. In contrast, the latter segment of this article imposes a positive responsibility on the government to guarantee equal legal protection for all citizens.

The Supreme Court of India has established the principle of compensating victims of crime, arguing that a welfare state has to protect its citizens' fundamental rights not only from its institutions but also due to humanitarian reasons, obligations of social welfare, the responsibility to ensure the safety of its people, and the principles of fair justice. Significantly, the Court has advanced the idea of state accountability for the conduct of its officials, moving away from the English legal concept that 'the King can do no wrong.' In the case of *Nilabati Behera v. State of Orissa*<sup>[53]</sup>, It was articulated that the doctrine of sovereign immunity applies only to tortious acts carried out by government agents and does not extend to cases where fundamental rights are violated. Thus, this doctrine is generally inapplicable in criminal cases involving the breach of fundamental rights. A key instance is *Rudal Sah v. State of Bihar*<sup>[54]</sup>, Where the Supreme Court ordered the state to pay Rs 35,000 in compensation to Rudal Sah, who was wrongfully imprisoned for 14 years after being acquitted on the grounds of insanity. The Court determined that the State of Bihar had contravened Article 21 of the Constitution. Another significant case is *Bhim Singh v. State of J&K*. When an MLA named Bhim Singh was unlawfully arrested by the police, which prevented him from attending the Legislative Assembly, the Court considered his wife's writ petition. It awarded Rs 50,000 as compensation from the state. In *Meja Singh v. SHO Police Station Zira*<sup>[55]</sup>, The High Court of Punjab and Haryana acted on behalf of a victim, granting Rs 25,000 in compensation for the wrongful imprisonment of the petitioner's son.

Likewise, the Bombay High Court addressed a victim's situation in *Ravikant Patil v. DG Police, State of Maharashtra*<sup>[56]</sup>, where the petitioner was brought to court in handcuffs, clearly violating the Supreme Court's ruling in *Prem Shanker Shukla v. Delhi Administration*<sup>[57]</sup>. A particularly significant case in this realm is *Mrs Cardino v. Union of India*<sup>[58]</sup>, where an individual arrested for allegedly misappropriating plastic ware and hospital utensils worth Rs 1500 endured extreme mistreatment as if they were a hardened criminal, ultimately resulting in their death. After petitioning the Bombay High Court, the state was ordered to pay Rs 2,00,000 in compensation. The landmark case of *SAHELI v. Commissioner of Police*<sup>[59]</sup> Involved in the death of Kamlesh Kumari's son due to the improper actions of a Delhi Police Sub-Inspector. The Supreme Court mandated the Delhi Administration to pay Rs 75,000 in compensation. In *Gudalure Cherian v. Union of India*<sup>[60]</sup>, the Supreme Court took an innovative approach requiring a CBI reinvestigation. After the investigation, the state of Uttar Pradesh was instructed to suspend the police and medical officers who sought to shield the accused and to pay Rs 2,50,000 in compensation to the rape victim and Rs 1,00,000 to the victim of other crimes. In the matter concerning Bodhi Satta Gautam,

the judiciary, after deliberating on the grave accusations about matrimony, conception, and the ensuing terminations of pregnancy, mandated that Bodhisattva Gautam remit to Subhra Chakraborty an amount of Rs 1,000 monthly as provisional reparation throughout the criminal proceedings, in addition to any arrears accrued since the initiation of the case. As a result, the esteemed judiciary has exhibited a comparatively more permissive attitude (about financial compensations) when adjudicating claims under the Criminal Procedure Code, as opposed to when operating within the framework of the Constitution.

The case of *Bodhi Satta Gautam v. Subhra Chakraborty*<sup>[61]</sup> Introduced the notion of interim compensation. The Supreme Court recognised the victim's entitlement to compensation, asserting that the court should grant it following the offender's conviction until the Central Government completes a compensation scheme. The Court reasoned that if a court adjudicating a rape case can award compensation at the trial's conclusion, there is no rationale for denying the court the ability to grant interim compensation, which should be included in the scheme. The power to grant interim compensation should be recognised as part of the overall jurisdiction of courts hearing rape cases, which are violations of fundamental human rights, including the right to personal liberty and life, as previously established in the *Delhi Domestic Working Women's Forum case*<sup>[62]</sup>.

### Under the BNSS 2023

The scope of Section 395 includes any compensation directive issued by a Trial Court, a Court of Session, or any appellate or High Court exercising its revisionary powers. This provision also allows the Supreme Court to require compensation. Nevertheless, the application of this Section is restricted to four circumstances. First, the complainant may seek compensation to reimburse expenses incurred during the legal proceedings. Second, individuals who have experienced harm or injury directly from the crime may pursue relief in these specified Courts. Third, in cases where there are convictions for causing death or for abetting such acts, these Courts can grant compensation to those eligible to claim damages under the Fatal Accidents Act. Finally, Section 395 is relevant when there has been property damage. In these situations, courts have the authority to award compensation to the rightful purchaser of property that was subject to theft, criminal breach of trust, deception, misappropriation, or the receiving, holding, or disposal of stolen goods and which has been ordered to be returned to its legitimate owner. It is important to note that even if the sentence specified in Section 395 does not include a financial penalty, the court still has the authority to mandate compensation payments.

The primary goal of the criminal justice system goes beyond simply convicting criminals; it also includes addressing the significant harm experienced by victims due to the offender's behaviour and aiding in the victim's healing process. The concepts of restitution, rehabilitation, and restoration (referred to as the "Three Rs") are essential elements of a fair justice system, striving to reinstate the victim to the condition they would have been in had their rights not been infringed upon—a principle known as status quo ante. Section 396 requires each state government to create a compensation program in partnership with the central government to tackle the damage or suffering crime victims face. When a court advocates for compensation, the appropriate authority, either the District Legal Services Authority or the State Legal Services

Authority, will ascertain the compensation amount to be awarded according to the program <sup>[63]</sup>. Moreover, Section 396(3) indicates if the trial court concludes that the compensation provided under Section 395 is inadequate for proper rehabilitation or if the accused is acquitted or released <sup>[64]</sup>. The trial court can suggest compensation to the District or State Legal Services Authority if the victim needs support. In situations where the perpetrator is not found or identified, preventing a trial, the victim or their dependents may directly approach the State or District Legal Services Authority for compensation. Upon receiving such a request, the relevant authority must conduct a detailed investigation within two months and then grant compensation. Furthermore, upon receiving a request from the Station House Officer or the local magistrate, the District or State Legal Services Authority can offer immediate first aid or medical assistance at no cost. A comparative study of Section 357 of the Code of Criminal Procedure, 1973, and Section 396 of the Bharatiya Nagarik Suraksha Sanhita, 2023, highlights a significant difference: under the former law, the trial court had the power to grant compensation on its own, irrespective of whether an application was submitted, in criminal cases governed by Section 357 of the Code of Criminal Procedure, 1973.

Section 397 of the BNSS 2023 <sup>[65]</sup> introduces an essential provision regarding the care of victims in medical facilities. This section mandates that all government and private hospitals provide free medical treatment to individuals who have experienced offences under specific sections (65 <sup>[66]</sup>, 66 <sup>[67]</sup>, and 67 <sup>[68]</sup>) of the Bharatiya Nyaya Sanhita, 2023, and child victims under the POCSO Act, 2012. Additionally, these hospitals must promptly inform the police about such occurrences. It has been observed that many hospitals, both government and private, have previously refused to offer medical assistance until medico-legal processes were completed. In this regard, the Supreme Court in *Parmanand Katara v. Union of India* upheld that medical aid is a fundamental right and a critical component of Article 21 of the Constitution <sup>[69]</sup>. The Court further highlighted that in a welfare state, the government has a responsibility to safeguard and protect the lives of its citizens, and no one should be permitted to perish due to the failure to complete medico-legal requirements. This judicial ruling is the foundational reasoning behind this provision in the new law <sup>[70]</sup>.

Section 399 addresses situations where a person has been arrested without clear justification. For this provision to apply, there must be a direct and immediate link between the complainant and the arrest that took place. Specifically, the arrest should have been made based on specific information later found to lack a reasonable or acceptable basis. In such instances, it is stated that a Magistrate can award compensation to the individual who suffered the unjust arrest, with the maximum compensation being limited to one thousand rupees <sup>[70]</sup>.

Section 400 relates to cases where a court receives a formal complaint concerning a non-cognizable offence, and the accused is ultimately found guilty. This provision indicates that while exercising revision powers, a Court of Session, an Appellate Court, or a High Court can issue an order to pay costs. In addition to any penalties that may be imposed, the court has the authority to order the convicted party to reimburse the complainant, whether in whole or partially, for the costs incurred during the prosecution process. If the accused does not comply with the payment order, the court is legally permitted to impose a prison sentence, which shall not

exceed thirty days. An earlier case from 1952 highlighted the relationship between a general sentencing principle—the necessity for the court to consider the proportionality between the offence and the punishment when determining a sentence and the awarding of compensation. The Court noted that when a fine is imposed, it is crucial to consider both the offence's severity and the offender's financial situation <sup>[72]</sup>.

### **Under the POSCO Act 2012**

Enacted in 2012, the Protection of Children from Sexual Offences Act is a comprehensive law aimed at protecting minors from sexual abuse, harassment, and the production and distribution of child pornography. The legislation also focuses on ensuring the child's welfare during legal processes by implementing child-friendly procedures for reporting incidents, gathering evidence, conducting inquiries, and facilitating expedited trials through specially designated courts, as required by Section 28 <sup>[73]</sup>. In addition, the Act permits the provision of compensation to child victims, assisting them in their recovery and offering relief. Such compensation can be granted at the end of the trial, during the trial itself, or even temporarily. Although this Act provides essential advantages in achieving justice for victims of child sexual abuse, its successful execution relies on the collaborative efforts of all parties involved in the justice system. Stopping child sexual abuse, safeguarding victims, delivering justice, and enabling rehabilitation are interrelated objectives. To reach these goals, a cooperative approach among all critical stakeholders is essential, including law enforcement, prosecutors, the judiciary, medical institutions, psychologists and counsellors, and organisations that provide social support to minors <sup>[74]</sup>.

### **Under the Motor Vehicles Act 1988**

Considering the rising incidents of road accidents caused by reckless and careless driving, specific measures have been introduced within the Act to compensate those affected. Sections 140 to 142 <sup>[75]</sup> Chapter X provides a system for compensating victims, even when it is difficult to determine liability, to ease the burden on their dependents. This compensation covers fatalities or permanent injuries sustained by the victim. Notably, the Act establishes fixed compensation amounts to ensure consistency across different cases, representing a significant advancement.

### **Under the Probation of Offenders Act 1958**

The Probation of Offenders Act 1958 seeks to allow for the release of convicted individuals on probation. Sections 3 <sup>[76]</sup> and 4 <sup>[77]</sup> This legislation empowers the trial court to release an offender with a warning or under probationary supervision if they demonstrate good conduct. Furthermore, Section 5 authorises the trial court to mandate the payment of compensation. A direct reading of this section indicates that this authority rests solely with the trial court <sup>[78]</sup>. As per this provision, a court can require an offender to pay compensation for any loss or damage caused by their actions or omissions, irrespective of whether the court releases them with a reprimand or on probation for good behaviour. Determining the appropriate compensation amount is left to the court's judgment. The court also has the power to issue orders covering the costs of legal proceedings. However, Indian courts do not consistently give adequate attention to this provision. While the Act grants the court discretionary power to order compensation in cases where an offender is to

be released on probation, it simultaneously protects the rights of victims by providing for compensation. Additionally, the Act considers specific categories of offenders, such as first-time offenders, those under 21, and women of all ages. Consequently, the Act aims to achieve an equilibrium between the interests of both victims and offenders.

Under the Protection of Women from Domestic Violence Act 2005

The Protection of Women from Domestic Violence Act 2005 (PWDVA) sets forth a legal framework aimed at enhancing the safeguarding of women's constitutional rights, especially in cases of abuse occurring within the family context. The title of the Act itself signifies its extensive reach, addressing not just violence inflicted by a husband or his relatives. It protects all women who are engaged in a domestic relationship with a person displaying violent behaviour. The purpose of this legislation is to protect women from mistreatment that takes place within the private realm of family or domestic relationships. This Act was designed to grant specific civil rights, which include declaratory rights like the right to be protected from domestic violence and substantive rights encompassing maintenance, compensation, and the right to occupy a shared household. The PWDVA mandates appointing protection officers in every state district to support female victims during the legal process. These officers are responsible for submitting domestic incident reports to the magistrates, overseeing their cases, helping in the preparation of complaints, and providing victims with information and assistance in accessing their rights to free legal and medical aid, counselling services, and the possibility of finding safe shelter. In addition, they ensure that orders issued in favour of victims are enforced, along with the relief granted. If the respondent breaches a protection order, it is considered a criminal act and can result in imprisonment for a maximum of one year, a fine of up to Rs. 20,000, or both. Likewise, a protection officer who fails to perform their duties may face a possible prison sentence of one year, a fine of 20,000 rupees, or both. This legislation serves as a vital mechanism for protecting those who have suffered from domestic violence, which impacts individuals of all ethnic backgrounds and age groups.

#### **Under the Maintenance and Welfare of Parents and Senior Citizens Act 2007**

Before 2007, there was no specific law in India that catered to the needs of senior citizens. However, the government introduced the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, a dedicated statute to tackle essential issues affecting this group. The title of the Act makes it clear that adult children are obligated to support their parents and elderly family members. This legislation applies to all citizens of India, regardless of their religion, and also includes Indian citizens over the age of 60 living abroad. Importantly, there is no age restriction for parents to qualify for maintenance under this law. With only 32 sections, the Act affirms the right of parents and elderly individuals to receive support from their children, creating a familial duty. The Act aims to ensure the maintenance and welfare of parents and senior citizens under the rights acknowledged and protected by the Indian Constitution. It also extends maintenance provisions to childless senior citizens, adoptive parents (including stepparents), and grandparents not previously included under social security provisions. The Act brings advanced social security measures that are more

effective, adequate, appropriate, swift, and economical. State Governments must set up Tribunals with exclusive authority to handle maintenance cases. Officials lead these tribunals with a rank no lower than that of a sub-divisional officer of the state. The Tribunal's extensive powers enable it to act independently or upon receiving an application from a senior citizen. Applications may be submitted by the senior citizens or parents themselves, through an authorised representative, or via a registered voluntary organisation under the Societies Registration Act.

#### **Conclusion**

The current methods for obtaining compensation through various schemes are complex and inflexible, which calls for simplification. Requirements such as medical documentation can cause delays in disbursing funds that victims desperately need. Therefore, it is essential to establish and integrate clear guidelines for interim compensation. Additionally, most existing schemes focus mainly on providing financial compensation, neglecting the vital need for rehabilitation support and the emotional trauma faced by victims. There should be a stronger focus on delivering psychological care and rehabilitation services to aid victims in their reintegration into society. To achieve this, there needs to be better coordination among different components of the justice system, including courts, police, District Legal Services Authorities, and State Legal Services Authorities. Each entity should provide information and assistance to victims for quicker access to compensation. Moreover, courts should be encouraged to recommend compensation when they find it necessary. As the idea of victim compensation continues to develop in India, a more proactive and compassionate approach from the courts is crucial. Granting compensation should be seen as equally important as convicting and sentencing the offender. Courts should serve as advocates for the vulnerable, offering meaningful support to victims from diverse backgrounds, particularly in terms of rehabilitation and reintegration. The conventional method of restricting victim support to monetary penalties imposed only on the convicted party should be reconsidered. It is essential to take a comprehensive approach to compensating victims, prioritizing their social rehabilitation and reintegration into the community<sup>[79]</sup>.

Improving victim compensation in India requires a thorough approach to enhance accessibility, scope, and efficiency. First, efforts should focus on increasing public knowledge about existing compensation programs and streamlining application processes to make them more user-friendly. Additionally, expanding the list of eligible expenses to include mental health care, rehabilitation services, and income loss would better address the diverse needs of victims. To ensure fair access, it is crucial to focus on vulnerable and marginalised groups such as women, children, and individuals with disabilities. Implementing strategies to speed up compensation distribution and providing comprehensive training for staff handling victim cases would reduce bureaucratic obstacles and guarantee timely assistance. Moreover, ensuring adequate financial resources and regularly reviewing and adjusting compensation amounts to keep pace with inflation and changing societal requirements are essential. Working in partnership with non-governmental organisations and leveraging technology for outreach and application processes can significantly enhance the effectiveness of victim compensation programs across India<sup>[80]</sup>.



## Reference

1. Mohan V. Revisiting Victim Compensation in India. *Manupatra*. 2023 Sep 23 [cited 2025 Oct 17]. [https://docs.manupatra.in/newsline/articles/Upload/6F5E12E5-2A56-49A9-BF1B-CBE1DF4F8726-2-F\\_criminal.pdf](https://docs.manupatra.in/newsline/articles/Upload/6F5E12E5-2A56-49A9-BF1B-CBE1DF4F8726-2-F_criminal.pdf)
2. Ravi Kumar KV, Ratnakar KV. Compensation to Victims in Criminal Justice System in India: A Critical Appraisal. *Int J Law Manag Humanit (IJLMH)*. 2023;6(2):504-515. <https://www.ijlmh.com/wp-content/uploads/Compensation-to-Victims-in-Criminal-Justice-System-in-India.pdf>
3. Singh S. Comparative Analysis of Rights of Victim in the Criminal Proceedings in India: Need for improving Victim Justice. *Law Rev Anal (LRA)*. 2023;1(2):37-39. [https://www.researchgate.net/publication/384220209\\_Comparative\\_Analysis\\_of\\_Rights\\_of\\_Victim\\_in\\_The\\_Criminal\\_Proceedings\\_in\\_India\\_Need\\_for\\_improving\\_Victim\\_Justice](https://www.researchgate.net/publication/384220209_Comparative_Analysis_of_Rights_of_Victim_in_The_Criminal_Proceedings_in_India_Need_for_improving_Victim_Justice)
4. The Constitution of India, 1949, Art. 14.
5. The Constitution of India, 1949, Art. 21.
6. Mohanty A. Detailed Analysis of Victim Compensation in India. *Law Insider India*. 2024 Jan 19 [cited 2025 Oct 17]. [https://lawinsider.in/columns/detailed-analysis-of-victim-compensation-in-india#google\\_vignette](https://lawinsider.in/columns/detailed-analysis-of-victim-compensation-in-india#google_vignette)
7. The Code of Criminal Procedure, 1973, § 357, No.2, Acts of Parliament, 1973 (India) (Repealed).
8. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 395, No.46, Acts of Parliament, 2023 (India).
9. Datta S, Bishnoi P. Victim Compensation Scheme Across Cultures: A Socio-Legal Transitory Dichotomy. *Int J Innov Res Law (IJIRL)*. 2022;2(5):1-10. Available from: <https://ijirl.com/wp-content/uploads/2022/10/VICTIM-COMPENSATION-SCHEME-ACROSS-CULTURES-A-SOCIO-LEGAL-TRANSITORY-DICHOTOMY.pdf>
10. Tandon P. Victim Rights: Understanding the provisions for Victim Compensation & Support under the Criminal Procedure Code, 1973. *Int J Crim Crimnl Stud Law (IJCCSL)*. 2024;4(2):1-5. <https://www.criminallawjournal.org/article/85/4-1-30-396.pdf>
11. Banerjee S. Victim Compensation and Restorative Justice in India: A Comprehensive Analysis of Progress and Challenges. *Gujarat Law Soc Law J (GLSLJ)*. 2024;1(1):39-46. <https://glslawjournal.in/index.php/glslawjournal/article/view/155/131>
12. Vijay PS. Constitution of India & Compensation to Victim of Crime under Victim Rights. *Int J Res Publ Rev (IJRPR)*. 2024;5(4):6056-6063. <https://ijrpr.com/uploads/V5ISSUE4/IJRPR25489.pdf>
13. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 2(y), No.46, Acts of Parliament, 2023 (India).
14. Mahantesh GS, Mamatha R. Victim Compensation in India—Recent Analysis. *ResearchGate*. 2024 Feb 10 [cited 2025 Oct 17]. [https://www.researchgate.net/publication/379340288\\_VICTIM\\_COMPENSATION\\_IN\\_INDIA\\_RECENT\\_ANALYSIS](https://www.researchgate.net/publication/379340288_VICTIM_COMPENSATION_IN_INDIA_RECENT_ANALYSIS)
15. (1981) 1 SCC 107.
16. (1980) 1 SCC 330.
17. (2013) 12 SCC 316.
18. Jain IB, Gupta S, Rajpal M, Sharma M, Gosain T, *et al*. Victim Compensation and Criminal Jurisdiction. *East Asian Trans Perspect (EATP)*. 2024;30(4):9014-9020. <https://kuey.net/index.php/kuey/article/view/2993/1903>
19. Dilip S. Dahanukar v Kotak Mahindra Co. Ltd. and Anr. (2007) 6 SCC 528.
20. Victim Restitution in Criminal Law Process: A Procedural Analysis. (1984) 97 *Harvard Law Review*. p. 931-946.
21. Sharma A. A Critical Study on Victim Compensation under Various Laws of India. *Legal Service India*. 2024 Apr 20 [cited 2025 Oct 17]. <https://www.legalserviceindia.com/legal/article-6103-a-critical-study-on-victim-compensation-under-various-laws-of-india.html>
22. Kumar G. Victimology: Victim Compensation Scheme as Restorative Justice. *Int J Law Manag Humanit (IJLMH)*. 2023;6(2):1220-1232. <https://ijlmh.com/paper/victimology-victim-compensation-scheme-as-restorative-justice/>
23. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 395, No. 46, Acts of Parliament, 2023 (India).
24. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 395(1)(c), No. 46, Acts of Parliament, 2023 (India).
25. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 395(3), No. 46, Acts of Parliament, 2023 (India).
26. *Berry v City of Muskogee*, 900 F 2d (1989).
27. According to the German Code of Criminal Procedure, 1877, the victim has a legal right to claim damages from the accused against a criminal act done by him.
28. Victims' claims for restitution may be entertained simultaneously with criminal proceedings. A Board was constituted within the jurisdiction of the Court of Appeal for dispensing the compensation.
29. The victim may claim compensation either in a civil court or in a criminal court against the accused for both physical and mental agony, including moral injuries. A Fund was established in the Ministry of Justice to help and assist crime victims.
30. Compensation to crime victims may be paid by the accused or the State. He may also get compensation in case of personal injuries by the Criminal Injuries Compensation Board, irrespective of the court's decision against the accused. *Compensation and Restitution to Victims Act, 1970*.
31. Compensation is dealt with separately by the Federal and State Governments since they have their own criminal legislation. A critical feature of the State laws is that apart from the victim, even police officers are entitled to compensation.
32. *Criminal Justice Act, 1988*.
33. *Compensation of Persons Injured by Certain Criminal Acts and Dependents of Persons Killed by Such Acts Act, 1963*.
34. Panda B. Victim's Right to Rehabilitation: India, the UK, and the US Experience. *Manupatra*. 2024 Dec 5 [cited 2025 Oct 17]. <https://www.manupatra.com/roundup/348/articles/article%20victim.pdf>
35. President Task Force on Victims of Crime. *Final Report*. Washington DC: Govt. Printing Office; 1982.
36. Smith BE. Constitutionalising Victims' Rights. In: Davis RC, Lurigio AJ, Skogan WG, editors. *Victims of Crime*. 2nd ed. Thousand Oaks (CA): Sage Publications; 1999. p. 247-249.
37. Kilpatrick DG, Beatry D, Howley SS. *The Rights of*

- Crime Victims: Does the Legal Protection Make a Difference? Washington DC: US Department of Justice, National Institute of Justice; 1998.
38. A Victims Rights and Services: A Modern Saga. In: Davis RC, Lurigio AJ, *et al.*, editors. Victims of Crime. 1997. p. 194-210.
  39. Aaronson DE. New Rights and Remedies: The Federal Crime Victims' Rights Act of 2004. Saint Vincent Crim Justice Stud (SVCJS). 2008;28(2):623-681. Available from: <https://core.ac.uk/reader/46713160>
  40. Manikis M. A Comparative Overview of Victims' Rights, Enforcement Mechanisms, and Redress in England and Wales and the American Federal Jurisdiction. Victims of Crime Research Digest. 2025 Jan 2 [cited 2025 Oct 17]. <https://www.justice.gc.ca/eng/rp-pr/cj-jp/victim/rd6-rr6/p6.html>
  41. Jayasimha B. A Comparative Analysis of Victims' Rights in USA, UK and India. Glob J Res Anal (GJRA). 2015;4(12):3-5. [https://www.worldwidejournals.com/global-journal-for-research-analysis-GJRA/recent\\_issues\\_pdf/2015/December/December\\_2015\\_1449635740\\_\\_02.pdf](https://www.worldwidejournals.com/global-journal-for-research-analysis-GJRA/recent_issues_pdf/2015/December/December_2015_1449635740__02.pdf)
  42. Section 7.4 of the Code of Practice for Victims of Crime: "If, after an offender has been charged and following case review, the CPS takes a decision to alter or drop any charge substantially, the CPS must notify the victim within one working day for vulnerable or intimidated victims and within five working days for all other victims. In all other circumstances, the police will be responsible for notifying victims of decisions in cases."
  43. Lambert JL. Compensation Orders - A Review of the Appellate Case - 1. New Law Journal. 1976.
  44. Lawton LJ. Explained in R v Thomson (1974) QB 592, 599 (CA).
  45. Compensation for Victims of a Crime of Violence. London: Her Majesty's Stationery Office; Command No. 2323.
  46. Samuels A. Compensation for Criminal Injuries in Britain. Univ Toronto Law J. 1967;17:20-50.
  47. Sections 108-117 and Schedules 6 and 7 to the Act set out the scheme. It is interesting to note that if the Board refuses to pass the order of compensation to the eligible applicant, he could enforce the payment through judicial review of the Board's decision.
  48. Zender L. Victims. In: Maguire M, Morgan R, Reiner R, editors. The Oxford Handbook of Criminology. 3rd ed. Oxford: Oxford University Press; p. 441.
  49. Crawford A, Gooding B, editors. Integrating a Victim's Perspective Within Criminal Justice. Ashgate; 2000. Chapter 6: Reeves A, Mulley J. New Status of Victims in the UK: Opportunities and Threats.
  50. Jain MP. Administrative Discretion and Fundamental Rights in India. J Indian Law Inst (JILI). 1959;1(2):223-250. <https://www.jstor.org/stable/pdf/43949633.pdf>
  51. The Constitution of India, 1949, Art. 39A.
  52. The Constitution of India, 1949, Art. 41.
  53. The Constitution of India, 1949, Art. 46.
  54. The Constitution of India, 1949, Art. 51C.
  55. 1993 AIR 1960.
  56. (1983) 4 SCC 141.
  57. 1991 ACJ 439.
  58. 1990 ACJ 1060.
  59. 1980 AIR 1535.
  60. 1990 ACJ 804.
  61. 1990 AIR 513.
  62. 1992 (1) Crimes 2 SC.
  63. 1996 AIR 922.
  64. Delhi Domestic Working Womens' Forum v. Union of India and Others. 1995 SCC (1) 14.
  65. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 396, No.46, Acts of Parliament, 2023 (India).
  66. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 396(3), No.46, Acts of Parliament, 2023 (India).
  67. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 397, No.46, Acts of Parliament, 2023 (India).
  68. The Bharatiya Nyaya Sanhita, 2023, § 65, No.45, Acts of Parliament, 2023 (India).
  69. The Bharatiya Nyaya Sanhita, 2023, § 66, No.45, Acts of Parliament, 2023 (India).
  70. The Bharatiya Nyaya Sanhita, 2023, § 67, No.45, Acts of Parliament, 2023 (India).
  71. AIR 1989 SC 2039.
  72. Singh AK, Kashyap VK. Protection to Victims of Crime and Witnesses in New Criminal Laws: A Comparative Study. Dehradun Law Rev (DLR). 2024;16(1):19-28. <https://www.dehradunlawreview.com/wp-content/uploads/2025/03/2.pdf>
  73. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 399, No.46, Acts of Parliament, 2023 (India).
  74. The Bharatiya Nagarik Suraksha Sanhita, 2023, § 400, No.46, Acts of Parliament, 2023 (India).
  75. The Protection of Children from Sexual Offences Act, 2012, § 28, No.32, Acts of Parliament, 2012 (India).
  76. Srivastava A, Sawant N, Dhumal R. Protecting the Vulnerable: A Study of Victim Rights and Compensation in the Indian Criminal Justice System. Front Health Inform. 2024;13(3):8031-8041. <https://healthinformaticsjournal.com/index.php/IJMI/article/view/750/723>
  77. The Motor Vehicles Act, 1988, § 140, 141 & 142, No.59, Acts of Parliament, 1988 (India).
  78. The Probation of Offenders Act, 1958, § 3, No.20, Acts of Parliament, 1958 (India).
  79. The Probation of Offenders Act, 1958, § 4, No.20, Acts of Parliament, 1958 (India).
  80. The Probation of Offenders Act, 1958, § 5, No.20, Acts of Parliament, 1958 (India).
  81. Mahajan R. Victim Compensation Laws in India. Lexology. 2025 Feb 15 [cited 2025 Oct 17]. <https://www.lexology.com/library/detail.aspx?g=6a02687b-b95a-498f-91ce-a0053747e0c7>
  82. Pushppasri SK. An Empirical Study on Victim Compensation under the Criminal Justice System. Int J Law Manag Humanit (IJLMH). 2024;7(2):2391-2409. <https://ijlmh.com/wp-content/uploads/An-Empirical-Study-on-Victim-Compensation-under-Criminal-Justice-System.pdf>