

# **ANALYZING RIGHTS OF VICTIMS AN INTERNATIONAL PERSPECTIVE**

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## **ABSTRACT**

*Criminal judicial systems do not grant any rights to the accused or the victim of crime. In all crimes, the accused and his rehabilitation have been given the most attention, but the status of crime victims has been completely overlooked. Justice for offenders is a primary goal of criminal justice, as does ensure that citizens are protected from abuse. The most essential function of the court is to punish the guilty in line with the law in order to achieve this goal. While convicting the accused, the system has a responsibility to ensure that the accused's rights are not violated. Following an arrest and conviction, the Criminal Judicial system is no longer necessary. When a crime is committed, the victim is viewed as the perpetrator's accuser and as proof. In the eyes of modern victimologists, the notion that victims receive justice simply because the accused has been found guilty is absurd. It's what they believe, and it's a governmental duty to safeguard everyone's life and property from the perpetrators, and the victims are hurting because of that, they say. As a result of the State's inability to protect crime victims, it owes them an obligation to provide them with restitution.*

**KEYWORDS:** *Crime Victim, Rights, Indian Constitution, Statutory Provisions, Administrative Schemes, and India.*

## **INTRODUCTION**

It was the adoption of the "U. N." Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power by the United Nations General Assembly at its 96th plenary session on November 29, 1985, that marked an important acknowledgment of the necessity to set norms and minimum standards in international law for the protection of victims of crime. Restitution,<sup>3</sup> compensation,<sup>4</sup> and assistance for victims were included in the U.N. Declaration on the Rights of Victims of Crime.<sup>2 5. 6</sup> Consequently, the criminal justice system around the world is designed with the State at the helm. When it comes to this practise, India's criminal justice system has nothing to hide. The State's principal responsibility is to maintain law and order. In a welfare state, all citizens are expected to have access to their fundamental human rights. It's possible that human rights

breaches can trigger a breakdown in law and order in society. When a person is injured or murdered as a result of criminal activity, the term "victim" is frequently used to describe the individual who has suffered harm. This culprit can be brought to justice through the legal system by either filing a complaint or telling the police about the incident, even if there is a built-in method to do so. Before we begin our investigation into the rights of crime victims, we must familiarise ourselves with a few technical phrases.

## **LITREATURE REVIEW**

**Aymen Najm Abed, L. Jayasree (2020)** In 1985, the General Assembly of the United Nations adopted resolutions outlining the rights of crime victims. Every country in the globe should abide by the 2006 Basic Principles and Guidelines and the Basic Principles and Guidelines for Victims of Crime and Abuse of Power. For victims of gross violations of international human rights law and serious violations of international humanitarian law, these statements have been issued. For victims of crime, the United Kingdom dome has refined its principles to the best of its ability in 2019. As established by the United Nations of America, the more equitable standards regarding the rights of crime victims. To better protect victims of crime, the Indian government has created a criminal justice system based on four primary constitutional documents, including all of the United Nations General Assembly's resolutions and the British criminal justice system. There is an emphasis on the rights of domestic crime victims, while there is a greater focus on international crimes, particularly those that violate international human rights law and international humanitarian law. Using an international perspective, this paper explains the rights of crime victims in India by describing the international law of justice and countries like the Indias and Great Britain. This paper has emphasised the importance of implementing the Indian Criminal Justice system's most important rights in a way that is fair to the victims of crime.

**Christine Evans (2014)** Christine Evans outlines State responsibility and examines the jurisprudence of the International Court of Justice, the Articles on State Responsibility of the International Law Commission, and the convergence of norms in different branches of international law, including human rights law, humanitarian law, and international criminal law. Analyzing case studies of countries where the United Nations has had a significant role in peace negotiations and post-conflict processes, she can examine the extent to which transitional justice measures have promoted state responsibility for reparations, interacted with human rights mechanisms, and prompted the subsequent development of domestic legislation and reparations policies. A new customary right of individuals to compensation for grave human rights violations and a corresponding state accountability is proposed by the author, who concludes by stating:

**Arvind Kumar Meshram (2019)** Complainants/informants and witnesses for the police/prosecution are crucial roles for victims of crime in criminal justice administration. However, despite the fact that the criminal justice system is highly reliant on the victim, it has prioritised the perpetrator and his interests above those of the victim, often to the point of contempt. Victims had a more favourable position in the court system under civil law. Common law recognised the negative repercussions of this unfair condition in the final quarter of the twentieth century and developed rules providing victims with participation rights and compensation. Victims' rights have been recognised in the constitutions of several countries through amending criminal justice procedures. As a result of their participation in plea bargain discussions, victims have been demonstrated to limit their vindictive tendencies and reduce their perception of the criminal justice system as unduly lenient on criminals. The effectiveness of the criminal justice system can be improved by increasing the satisfaction of the victim.

**Nida Zainab Naqvi (2016)** Human rights, democracy, and the rule of law all depend on how well governments are able to deal with criminal justice. Prevention and control of crime, preservation of public order and peace, defence of victims' rights as well as those in violation of the law, punishment and rehabilitation of those found guilty, and protection of life and property from criminality are the goals of criminal justice. Under the Indian Constitution, it is regarded as the state's most important duty. From the British model, the Indian criminal justice system was born. According to various Supreme Court decisions, penal philosophy in India accepts the principles of crime prevention and treatment and rehabilitation of criminals. By seeing victims as merely witnesses, the state assumes complete responsibility for bringing criminal charges against and punishing the perpetrators, with no rights for the victims.

**Nida Zainab Naqvi (2016)** Victims' rights before international criminal courts are the subject of this article. The role of victims in these tribunals is still a contentious issue. A limited participation even if victims are allowed to participate and claim reparation. A third-party role is played by icc victims prior to the surgery. Furthermore, victims are cared for as a group. Their right to select their own legal counsel is curtailed because they have been designated a group representative. Reparations are also paid collectively due to the large number of victims and the evident desire to include as many victims as possible in the procedure Even if a victim or a community hasn't applied for compensation, it's still given to them and their families. As a result, victims are considered as objects rather than individuals who are entitled to compensation.

## **VICTIMOLOGY**

On the Indian subcontinent Four types of victimisation exist. This is known as Primary Victimization, Second Victimization, re-victimization, and Self Victimization. It is possible for the

offender or criminal to inflict primary victimisation by directly committing a crime against the victim. The post-crime victimisation or double victimisation are other terms for secondary victimisation. It happens after the crime has been committed. This is possible as a result of a skewed view of government agencies and institutions. Re-victimization occurs when a victim is repeatedly victimised. A multitude of reasons can be used to justify abuse in self-victimization.

Constitutional Remedies for Human Rights Violation, Criminal Procedure Code, 1855 Fatal Accidents Act, 1958 Probation of Offenders and 1988 Motor Vehicles Act provide compensation for crime victims.

## **RIGHTS OF VICTIMS UNDER CONSTITUTIONAL AND LEGISLATIVE PERSPECTIVE:**

### **1. THE RIGHT TO ATTEND**

There should be a right for crime victims and their families to be present during criminal procedures. Victims value this privilege because they want to observe how the criminal justice system works in action. Their interest in witness and defendant reactions, as well as counsel's arguments, could sway them.

#### **Proceedings Victims May Attend**

Victims have the right to be present at all processes involving the perpetrator, including the trial, sentencing, and parole hearings.

#### **Exclusion of Witnesses**

There are restrictions on the right of victims to testify in court if they are also cooperating witnesses in the criminal prosecution. The exclusion or "sequestering" of witnesses during a trial is permitted by a long-standing rule of evidence. In order to prevent witnesses from being swayed by the testimony of other witnesses in the case, this rule was implemented. It is up to the court in some countries whether or not a witness must be excluded based on a party's request. While some jurisdictions still demand that witnesses be kept out of the courtroom, more and more require that the court first determine that their testimony would be influenced by other witnesses' testimony before ordering the victim to remain in the courtroom when they will be testifying.

#### **Presence of Support Persons**

Having a friend or family member present during court proceedings is essential for victims of crime. A crime victim's right to be present during proceedings is often made possible by the supportive presence of a trusted advocate or family member.

### **2. THE RIGHT TO COMPENSATION**

Victims of violent crimes should be compensated for their out-of-pocket expenses related to the incident by a government programme. Limited compensation may also be available to surviving or affected family members. As a rule, victims seek restitution through the state's compensation scheme, regardless of whether they reside in that state or not. Even if no one is caught or convicted of the crime, compensation might still be granted.

### **Eligibility**

Violent crime victims and their families are included. Serious financial crime victims may be eligible for cash reimbursement for counselling costs. Direct reimbursement from the compensation programme should be available to those who pay for the medical or burial expenses of a victim.

The victim must have cooperated with the prosecution and reported the offence in order to be eligible. There is a deadline for them to submit a claim for compensation. For example, if the victim was hurt while engaging in criminal activity, they may not be eligible for compensation.

### **Compensable Expenses**

Medical fees, counselling expenses, missed pay, and burial expenses will be included in compensation schemes.

## **3. RIGHT TO BE HEARD**

Victims of crime have the right to be heard in processes involving the criminal justice system that could have a substantial impact on their interests. Victims' involvement in the criminal justice system is mostly based on their active participation in it. Victim impact statements and/or the opportunity for victims to speak at the sentencing hearing show that the criminal justice system recognises that crimes have personal consequences and that victims and their families have been harmed as a result.

### **Conferral with Prosecutor**

In the event of a plea agreement, dismissal of charges, or pre-trial diversion of the offender, the prosecutor should seek the input of the victim before making a final decision. Before a plea can be accepted, the prosecutor must provide proof to the court that he or she consulted the victim.

## **4. THE RIGHT TO BE INFORMED**

Information of interest to victims is frequently provided by the criminal justice system. The right to be advised of pending criminal procedures and their conclusions should be extended to victims or the families of victims. When proceedings are postponed or rescheduled, notify the victims.

### **General Information to be provided to Victims**

There are a number of legal rights that victims may be entitled to know about, including the right to: attend a proceeding and/or submit a victim impact statement; sue the offender for money damages in the civil justice system; and have a court order that they be protected from their attackers and/or their relatives.

## **5. THE RIGHT TO PROTECTION**

Ensure the safety of victims of crime throughout the criminal justice system. Individuals have the right to be protected, either by a general right to do so, or by a specific set of safeguards. Intimidation of victims or witnesses is one of the most commonly prosecuted offences.

## **6. THE RIGHT TO RESTITUTION**

The term "restitution" often refers to compensating the victim for the harm inflicted by the defendant. Property that was taken or damaged during the criminal act can also be referred to as "restitution.

### **Courts to order restitution by convicted offenders as part of their sentences.**

Losses to be Covered Restitution should cover any out-of-pocket losses directly relating to the crime, including:

- Medical expenses;
- Therapy costs;
- Prescription charges;
- Counseling costs;
- Lost wages;

Restitution will not cover things like pain and suffering or mental distress, but it may compensate predicted future losses, such as continued medical or counselling costs. A court should consider the victim's losses when determining the amount of restitution required.

## **7. RIGHT TO RETURN OF PROPERTY**

Theft or seizure and retention of property as evidence are the two ways in which a victim of crime may lose possession of their belongings.

## **8. THE RIGHT TO A SPEEDY TRIAL**

The right to "a swift trial" or "disposition of the case without unreasonable delay" should be granted to victims of crime. The right to a quick trial is sometimes embodied as a cap on the number of times a case can be postponed. A court-ordered "continuance" is a delay in judicial proceedings. As a result, the victim's emotional well-being must be taken into account by the court throughout its deliberations.

## **9. THE RIGHT TO ENFORCEMENT/REMEDIES OF VICTIMS**

Since victims of crime have been granted legal protections, it is imperative that those protections are upheld. Mechanisms for Enforcing Compliance Victims can only assert their rights if they have "legal standing. Legal standing for victims must be established and provided by statute or court order because they are not considered "parties" to the case, which only includes the defendant and the

prosecuting jurisdiction (such as the state). In addition to the broad "standing" to assert rights, certain jurisdictions have extra restricted court alternatives for enforcement of the rights claimed. Some victims can seek mandamus, an order from the court requiring an agency to follow the law, or take other restricted steps.

Responsibility for receiving, investigating, and attempting to resolve complaints from victims of crime. Others may use a committee or board instead of an ombudsman or state victim advocate. Give investigators the ability to penalise entities or officials who have violated a victim's constitutional rights.

## **CONCLUSION**

Victims' efforts to secure formal rights in the criminal justice system are ongoing. Lastly and most importantly, as the above-mentioned data shows, the victims face numerous challenges. Resistance from the criminal justice system's professed friends is usually low-key and takes the form of foot-dragging, cooptation, and practical obstacles.

They found that the newly-acquired rights had no effect and life went on as usual, thanks to their investigations. There are two ways to respond to all of the agony and suffering that Victims are subjected to. As a first reaction, it is both dangerous and undesirable to forsake the struggle for formal rights within the system and turn toward a veiled endorsement of street justice. More and more victims may choose to focus their efforts on the expanding subject of informal justice. Using conflict resolution concepts and mediation procedures to fulfil the aims of victim restitution, offender rehabilitation, mutual reconciliation and community harmony, this alternative to formal adjudication is carried out at the neighbourhood level.

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