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Evolution of Victimology in India: From Marginalization to Recognition

Rashmi Srivastava
LLM, UGC-NET
rashmiadvlko@gmail.com

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Abstract

Victimology, the study of victims, their experiences, and the responses of legal and social institutions, has undergone a profound transformation in India over the last half century. For much of the nineteenth and twentieth centuries, the criminal justice process cast the victim in a peripheral role: a mere witness to the State's prosecution of the offender. Beginning in the late twentieth century, constitutional tort jurisprudence and committee reports gradually foregrounded the needs of victims as subjects of justice rather than incidental objects of procedure. Reform milestones followed: the Code of Criminal Procedure (CrPC) amendments culminating in the 2008 insertion of Section 357A (Victim Compensation Scheme) and the proviso to Section 372 (victim's right to appeal), the Protection of Children from Sexual Offences (POCSO) Act 2012 with its 2020 Rules, the Justice Verma Committee's 2013 recommendations resulting in substantial criminal law amendments, the Supreme Court's approval of the Witness Protection Scheme (2018), and a string of judgments expanding victims' participation and entitlements. In 2023, Parliament enacted the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhiniyam (BSA), which took effect in 2024 and further institutionalized victim centric procedures (e FIR/zero FIR facilitation, mandatory 90 day investigation status updates to informants/victims, medical treatment duties, and structured plea bargaining with restitutional potential). This paper traces the evolution from marginalization to recognition, situates Indian developments in comparative and international frameworks (notably the 1985 UN Declaration on victims), analyzes emerging jurisprudence (e.g., Ankush Shivaji Gaikwad, Nipun Saxena, Jagjeet Singh, Rekha Murarka), and evaluates implementation through administrative schemes such as the Nirbhaya Fund, One Stop Centres, and NALSA coordinated compensation. Persistent gaps, uneven access, delays, low awareness, and intersectional vulnerabilities, are assessed alongside data snapshots (e.g., NCRB 2023), with policy directions proposed for deepening a rights based victimology attuned to dignity, participation, and effective redress.

Keywords: Victimology; Victim rights; Section 357A CrPC; BNSS 2023; Witness protection; POCSO 2012/2020 Rules; Nirbhaya Fund; One Stop Centres; Constitutional torts; Restorative justice.

1. Introduction: From a State-Centric Paradigm to Victim-Centered Justice

For much of India's modern legal history, the victim of crime occupied a paradoxical place. The criminal process was formally justified in the victim's name; yet, procedurally, victims were peripheral, largely relegated to the role of complainant or witness while the State confronted the accused. This State-centric paradigm, inherited in significant measure from colonial procedural design, treated injury and loss as public wrongs vindicated through punishment, not as harms necessitating participation, protection, restitution, or rehabilitation for the person harmed. Scholarly critiques in the 1970s/90s and international norms such as the UN General Assembly's 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power catalyzed alternative imaginaries that foregrounded access to justice, restitution, compensation, and assistance as components of justice, complementary to due process for the accused.

In India, the definitional "victim" moved from invisibility to legal personhood, first through constitutional tort jurisprudence (e.g., illegal detention and custodial death compensation) and later through statutory and institutional reforms. The re-orientation accelerated from the 1990s onward: Law Commission recommendations, the Malimath Committee's 2003 report emphasizing victim justice, legislative amendments culminating in Section 357A CrPC (Victim Compensation Scheme), and judicial authorizations for witness protection and victim participation. Most recently, the 2023 criminal-law codes (BNSS/BNS/BSA) codified several victim-centred procedures, signaling the normalization of victimology within procedural law.

This paper maps the arc, conceptually and doctrinally, from marginalization to recognition, while scrutinizing ongoing challenges in implementation, equity, and institutional design.

2. Conceptual Foundations and International Benchmarks

Victimology's core insight is straightforward: if crime inflicts harm, justice must address the victim's needs, not solely punish the offender. The 1985 UN Declaration articulated four pillars for victims of crime, access to justice and fair treatment, restitution, compensation, and assistance, and called on states to integrate these in criminal-justice responses. These norms informed scholarship and law reform agendas worldwide and influenced Indian debates, including Law Commission reports and committee proposals

that stressed reparative measures alongside prosecution.¹

The World Society of Victimology and international symposia consolidated research and advocacy networks that helped disseminate comparative learnings relevant to India's context, where inequalities of caste, class, gender, and region compound victimization and impede access to remedies.

3. Early Indian Trajectories: Constitutional Torts and Doctrinal Seeds

Indian courts, beginning in the 1980s/1990s, crafted **constitutional tort** remedies, compensation for violations of fundamental rights, particularly in cases of illegal detention and custodial death (e.g., *Rudul Sah v. State of Bihar* (1983); *Nilabati Behera v. State of Orissa* (1993)), laying the groundwork for a justice narrative that includes the victim's loss and dignity. Though outside the CrPC's conventional framework, these rulings re-framed harm as constitutionally cognizable and compensable, a stance that would later resonate in statutory schemes.

In parallel, Law Commission reports (notably the 152nd (1994) and 154th (1996) Reports) identified the need for structured victim compensation and a systematic victimology orientation in criminal procedure, presaging the eventual insertion of Section 357A CrPC.

4. Committees and Law Reform: From Recommendations to Statutes

4.1 The Malimath Committee (2003)

The Committee on Reforms of the Criminal Justice System (Malimath Committee) supplied a comprehensive blueprint to reposition the victim: recommend victim impact statements, compensation, support services, and a more participatory role during proceedings. While not all proposals were enacted, the Committee materially advanced the discourse, insisting that victim justice is essential to public confidence in criminal justice.

4.2 CrPC Amendments and the 2008 Milestone

A decisive reform came with the **CrPC (Amendment) Act, 2008**, which introduced **Section 357A (Victim Compensation Scheme)** obligating every State to notify a scheme for compensating victims who require rehabilitation, and added a **proviso to Section 372** granting victims a right to appeal against acquittal, conviction for a lesser offense, or inadequate compensation. It also appended a **proviso to Section 24(8)** authorizing courts to permit victims to engage an

¹ Law Commission of India, 152nd Report: *Custodial Crimes* (1994); and 154th Report: *Code of Criminal*

Procedure, 1973 (1996), chapters on victimology and compensation.

advocate to assist the prosecution.² These changes centralised the victim's remedial horizon within statutory criminal procedure.

4.3 Nirbhaya-Era Reforms and POCSO

Following the December 2012 Delhi gang-rape, the **Justice Verma Committee (2013)** recommended comprehensive changes to sexual-offence laws and victim-support protocols; Parliament's 2013 amendments and subsequent governmental initiatives (e.g., **Nirbhaya Fund**, **One-Stop Centres**) translated many of these into policy, funding, and service delivery.³ The **POCSO Act (2012)**, with **Rules 2020**, embedded **child-friendly procedures** and codified **interim and final compensation** pathways (e.g., Section 33(8), Rules 89) administered via Special Courts and Legal Services Authorities, reinforcing a rehabilitative architecture for child victims.

5. Jurisprudence Consolidating Victim Rights

5.1 Compensation as Judicial Duty

In **Ankush Shivaji Gaikwad v. State of Maharashtra** (2013), the Supreme Court clarified that Section 357 CrPC confers a **power coupled with a duty**: courts must apply their mind in every criminal case to the question of compensation, recording reasons where compensation is not awarded. This case cemented compensation as integral to sentencing, not a discretionary afterthought.

5.2 Identity Protection and Compensation Frameworks

In **Nipun Saxena v. Union of India** (2018), the Court mandated strict non-disclosure of the identity of sexual-offence survivors and **approved the NALSA Compensation Scheme (2018)** as interim guidelines for awarding compensation, pushing States and Special Courts toward uniform, victim-supportive practice.

5.3 Witness Protection as "Law of the Land"

Through **Mahender Chawla v. Union of India** (2018), the Supreme Court approved the **Witness Protection Scheme, 2018** and directed its enforcement as law under Articles 141/142 until legislation is enacted, recognizing witness safety as a precondition for effective victim participation and fair trial.

5.4 Mandatory Registration of FIRs

The Constitution Bench ruling in **Lalita Kumari v. Government of Uttar Pradesh** (2014) requires police to register an FIR upon receiving information disclosing a cognizable offense, thereby strengthening first-response access to justice for victims.

5.5 Participation at Bail and Appeal Stages

The Court's decision in **Jagjeet Singh v. Ashish Mishra** (2022) affirmed that victims have a **legally vested right to be heard** at crucial stages including bail, marking a significant expansion of participatory rights. Separately, **Satya Pal Singh v. State of Madhya Pradesh** (2015) recognized that a victim's legal heir (e.g., father of a deceased) qualifies as a "victim" and may invoke the **proviso to Section 372** to appeal, subject to the statutory framework governing leave in some situations. Moreover, **Rekha Murarka v. State of West Bengal** (2019) clarified the **limits** of a victim's counsel: the advocate may assist the prosecution but does not conduct the prosecution or examine witnesses in a Sessions trial, preserving prosecutorial coherence even as victim assistance is recognized.⁴

6. The 202324 Criminal-Law Codes: Institutionalizing Victim-Centric Procedure

India's comprehensive criminal-law overhaul, the **Bharatiya Nyaya Sanhita (BNS) 2023**, **Bharatiya Nagarik Suraksha Sanhita (BNSS) 2023**, and **Bharatiya Sakshya Adhiniyam (BSA) 2023**, came into force in 2024. Several provisions explicitly integrate victims into the procedural matrix:

- **Definition and Scope of "Victim"** under BNSS Section 2(1)(y) confirms an inclusive understanding, aligning with the prior CrPC §2(wa) while broadening participation and entitlements.
- **FIR and e-FIR/Zero-FIR Facilitation:** BNSS restructures the FIR mechanism (now in §173 BNSS) and operational frameworks (through SOPs) enable **electronic FIR** and **Zero-FIR**, increasing accessibility for victims across jurisdictions.
- **Mandatory Status Updates to Informant/Victim:** BNSS §193(3)(ii)(iii) requires the investigating officer to inform the informant/victim of the progress of investigation **within 90 days**, imposing a transparency duty during investigation.

² CrPC (Amendment) Act, 2008, Proviso to §24(8): court may permit victim to engage an advocate to assist the prosecution.

³ *Lalita Kumari v. Government of Uttar Pradesh* (2014), mandatory registration of FIR for cognizable offenses

⁴ *Rekha Murarka v. State of West Bengal*, Judgment dated 20 Nov 2019, scope of victim's counsel; assisting role vs. conduct of prosecution.

- **Medical-Treatment Obligations:** BNS §200 penalizes persons in charge of hospitals who contravene BNSS §397 obligations to provide immediate medical treatment to specified categories of victims, reinforcing the 2013 treatment-of-victims policy (formerly CrPC §357C).
- **Plea Bargaining Harmonization:** BNSS retains plea-bargaining (now **Chapter XXIII, §§289303**) corresponding to CrPC Chapter XXIA; in practice, victim restitution and mutually satisfactory disposition remain core objectives, structured under judicial oversight.⁵

Collectively, these features move beyond symbolic recognition: they embed notification duties, digital accessibility, and coordination duties into the ordinary workflow of investigation and trial, thereby **normalizing victim-centred procedure** within the criminal process rather than treating it as an add-on.

7. Administrative Architecture: Nirbhaya Fund, One-Stop Centres, and NALSA Coordination

The **Nirbhaya Fund** (2013) created a non-lapsable corpus for women's safety projects, administered across Ministries with an Empowered Committee vetting proposals. Over time, fund utilization and project portfolios have included forensic strengthening, emergency response systems, and victim-support initiatives. Complementing this financial framework, **One-Stop Centres** ("Sakhi", 2015; now part of the **Mission Shakti** "Sambal" sub-scheme) provide integrated **medical, legal, counseling, and shelter support** for women facing violence.

On **compensation implementation**, the **National Legal Services Authority (NALSA)** collates State/UT data and steers uniform practices. For **April 2024** **March 2025**, NALSA reported **26,917** applications received (A+B) and total compensation awarded of approximately **₹484.67 crore**, indicating sustained operationalization of **Section 357A** schemes nationwide.

8. Empirical Backdrop: Crime Patterns, Pendency, and the Need for Responsive Victimology

Data underscore why recognition must translate into functioning support. The **NCRB "Crime in India 2023"** dataset shows national crimes against women around **4.48 lakh** cases, with persistently high

pendency and uneven conviction rates; reportage is high in populous states while crime rates vary by demography. Specific state snapshots reveal the granularity: e.g., Madhya Pradesh in 2023 recorded over **32,000** crimes against women and nearly **3,000** rapes, with a predominance of offenders known to victims, a pattern with obvious implications for protection, support, and witness management.⁶

For child victims, **POCSO's** compensation and relief mechanisms (Rules 2020) exist in tandem with frequent implementation delays, highlighting the importance of **interim compensation** and **special relief** during pendency.

9. Participation, Counsel, and Procedural Balance

India's framework now recognizes **victims' participation rights** at key junctures:

- **Right to be heard** at bail and critical stages (*Jagjeet Singh*, 2022)⁷ ;
- **Right to appeal** under the **proviso to Section 372** (with leave requirements as clarified in *Satya Pal Singh*, 2015);
- **Right to engage counsel** to assist the prosecution (CrPC §24(8) proviso), albeit with the **Rekha Murarka** caveat that the public prosecutor conducts the trial in Sessions cases.

This balance, participation without supplanting the public prosecutor, seeks to integrate victim agency while maintaining prosecutorial coherence and fair-trial guarantees for the accused.

10. Compensation, Restitution, and Rehabilitation: The Normative Core

10.1 Section 357 and 357A: Two Tracks

Section 357 authorizes courts to direct compensation **out of fines or in addition to other sentences**, and **Ankush Shivaji Gaikwad** requires explicit judicial application of mind. Section 357A, by contrast, **shifts the burden to the State**: where offender-funded compensation is inadequate or recovery is impracticable, or even where the case ends in acquittal, the Legal Services Authorities assess and award compensation for rehabilitation, The **NALSA Scheme (2018)** and allied State schemes detail categories and indicative scales, refined by *Nipun Saxena* for sexual-offence survivors.

⁵ Plea Bargaining under BNSS Chapter XXIII (§§289303) corresponding to CrPC Chapter XXIA; BPR&D ready-reckoner.

⁶ State-level 2023 data snapshot: Madhya Pradesh (TOI report, Oct 2025) indicating patterns of known-offender prevalence.

⁷ *Jagjeet Singh v. Ashish Mishra*, Criminal Appeal No. 632 of 2022, victim's right to be heard at the bail stage and other crucial stages.

10.2 POCSO-Specific Relief and Compensation

Section 33(8) POCSO with Rules 89 (2020) provides **special relief** and **interim/final compensation**, recognizing that child survivors' needs, medical, psychological, educational, are immediate and continuing. Special Courts are empowered to calibrate compensation to the harm and rehabilitation needs, with DLSA/SLSA executing awards.

10.3 Acid Attacks and Minimum Compensation

In the **Laxmi** litigation, the Supreme Court not only pushed for regulating acid sale but also catalyzed minimum compensation standards and strengthened State obligations to support survivors of acid attacks, an example of disease-to-design translation: reading dignity and rehabilitation into implementation protocols.

11. Witness Protection and the Ecosystem of Safety

The **Witness Protection Scheme (2018)**, made enforceable by the Supreme Court, created graded protective measures, identity protection, relocation support, security, essential in cases where intimidation undermines testimony. Its logic is inextricably linked to victimology: **without safety, there is no meaningful participation or justice.**⁸

Additionally, High Courts and State rules increasingly recognize **vulnerable-witness protocols** (e.g., child-friendly courts, video-link testimony), which reduce secondary victimization and align with international best practices.

12. BNSS and Everyday Victim Experience: Access, Information, Dignity

Three BNSS design features, though procedural, shape lived experience:

- **Information access (e-FIR/Zero-FIR):** lowers entry barriers for reporting and preserves evidence proximity.
- **Status-update duty (§193(3)):** counters opacity during investigation, a chronic grievance among victims, by codifying periodic updates.
- **Medical-treatment duty and sanctions:** a compliance-through-deterrence model that protects bodily integrity and timely care.

These mechanisms, when coupled with **One-Stop Centres**, legal aid, and compensation pathways, change the **texture** of justice: not merely adjudication, but **accompaniment**.

⁸ Case materials and explanatory notes on Mahender Chawla, including judicial approvals of the Scheme.

13. Persistent Gaps and Structural Challenges

Despite progress, four deficits persist:

1. **Uneven Implementation and Awareness:** Many victims and frontline actors (police, medical staff) remain unaware of entitlements (e.g., interim compensation, POCSO special relief), and **utilization of Nirbhaya Fund** and associated schemes has sometimes lagged behind allocations.
2. **Delays and Pendency:** NCRB-aligned analyses repeatedly show high court pendency, especially in crimes against women, undermining the timeliness of relief and the deterrent effect of law.
3. **Intersectional Vulnerabilities:** As the Malimath report and allied human-rights analyses note, caste, class, gender, disability, and regional disparities amplify victimization risks and impede access to remedies; tailored outreach and localized supports remain necessary.
4. **Role Clarity and Capacity:** The **Rekha Murarka** decision demarcates counsel's assisting role; operationalizing constructive participation without procedural fragmentation requires capacity-building for prosecutors and victim-counsel coordination.

14. Comparative and Restorative Horizons

Comparative frameworks, such as U.S. victims' rights statutes or European victim charters, illustrate a trajectory from **notification and presence** rights to **restitution and participatory** rights. The 1985 UN Declaration remains the global synoptic reference. In India, **restorative justice** remains under-explored beyond **plea bargaining** and **compounding**; yet, **mutually satisfactory dispositions** (BNSS plea-bargaining) and **Lok Adalat**-style mediations for certain categories could be leveraged to amplify **victim restitution** while safeguarding voluntariness and proportionality.

15. Future Directions: Deepening Recognition into Realization

To consolidate the move from marginalization to recognition, policy should emphasize:

- **Statutory Codification of a Victims' Charter:** Drawing from UN principles and case-law, a dedicated chapter could enumerate notice, participation, protection,

and restitution rights, with enforceable remedies for breach.

- **Performance-Linked Funding:** Tie Nirbhaya Fund/Mission Shakti disbursements to measurable victim-centric outcomes (time-to-compensation, counseling uptake, shelter turnaround).⁹
- **Digital Public Goods for Victims:** BNSS-aligned dashboards for §193 updates, compensation status tracking, and OSC service slots to enhance transparency.
- **Specialized Training:** For prosecutors, victim-counsel, IOs, and medical staff on **trauma-informed** practice and statutory duties (POCSO rules; BNSS medical obligations).
- **Data and Research:** Institutionalize **disaggregated data** on victim compensation (category, stage, amounts) and outcomes; strengthen NALSA's already valuable reporting with richer public analytics.

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16. Conclusion

Victimology in India has unmistakably traveled from **marginalization** to **recognition**. The arc runs from constitutional torts to codified procedures; from sporadic compensation to State-backed schemes; from invisibility to rights of notice, participation, protection, and rehabilitation. The 2008 CrPC amendments and subsequent jurisprudence made victims visible; the 2012/13 reforms and administrative schemes made support tangible; the 2018 witness-protection mandate made participation safer; and the 2024 BNSS/BNS framework embedded **process-level guarantees**, e-FIR, 90-day updates, and medical-treatment enforcement, into the **everyday** of criminal procedure.

Yet the task is unfinished. Recognition must mature into **reliable realization**, timely compensation, accessible services, informed participation, and safety, for all victims, especially the most vulnerable. If law's purpose is the dignified repair of social harm, then India's evolving victimology, calibrated to constitutional values and international norms, is not a peripheral project; it is justice's central promise.¹⁰

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⁹ Nirbhaya Fund: Ministry of Finance/DEA press materials and scheme frameworks; Mission Shakti guidelines subsuming OSCs and helpline.

¹⁰ NALSA: *Statistical Information in r/o Victim Compensation Scheme u/s 357-A CrPC* (Apr 2024-Mar 2025), state-wise applications and amounts.