

**TOWARDS A CONSTITUTIONAL FRAMEWORK FOR VICTIMS’
RIGHTS IN INDIA: COMPARATIVE LESSONS FROM GLOBAL
DEMOCRACIES AND INSTITUTIONAL MODELS**

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ABSTRACT

The evolution of victims’ rights marks a paradigmatic shift in criminal jurisprudence, transforming victims from passive witnesses to active participants in the justice process. This paper critically explores the constitutional imperative of protecting victims’ rights within the Indian criminal justice system, situating the analysis within a comparative constitutional framework involving the United States, the United Kingdom, Canada, South Africa, and the European Union. It argues that while India’s judiciary has progressively interpreted constitutional guarantees to uphold victims’ rights, the absence of explicit textual recognition continues to impede justice. The paper integrates jurisprudential developments, statutory reforms, empirical evidence, and international norms to advocate for constitutional and institutional strengthening. The study concludes that embedding victims’ rights into the constitutional fabric is essential for actualizing substantive justice and restoring faith in democratic governance.

**SECTION I: THE CONSTITUTIONAL FOUNDATION OF VICTIMS’ RIGHTS –
THE INDIAN PERSPECTIVE**

The protection of victims’ rights in India has evolved primarily through judicial innovation rather than constitutional amendment. The Indian Constitution does not explicitly enumerate victims’ rights, yet the Supreme Court has interpreted Articles 14, 21, and 39A to include the rights of victims to equality, dignity, and access to justice. The central premise is that justice must encompass both the accused and the victim, aligning with the constitutional guarantee of fairness and equality before law.

Article 21, the heart of the Indian Constitution, guarantees the right to life and personal liberty, encompassing the right to live with dignity. This has become the constitutional foundation for extending protections to victims of crime. The landmark judgment in *Maneka*

*Gandhi v Union of India*¹ interpreted “procedure established by law” to mean “just, fair, and reasonable” procedure. This interpretation transformed Article 21 into a dynamic tool for ensuring substantive justice, laying the groundwork for victims’ participation in the criminal justice process. Later, in *Bodhisattwa Gautam v Subhra Chakraborty*², the Court held that the right to compensation for victims of rape arises directly from Article 21, linking dignity and justice to state responsibility. The judiciary’s role as a guardian of victims’ rights was reinforced in *Delhi Domestic Working Women’s Forum v Union of India*³, which mandated legal aid and victim support during criminal trials involving sexual violence. Similarly, *Nipun Saxena v Union of India*⁴ underscored that the right to privacy and anonymity for victims of sexual offences is an intrinsic component of dignity.

The legislative landscape also evolved to institutionalize these principles. The Criminal Law (Amendment) Act, 2008 introduced Section 357A in the Code of Criminal Procedure (CrPC), mandating state governments to establish victim compensation schemes. Additionally, the amendment to Section 372 CrPC conferred upon victims the right to appeal against acquittals, marking a shift from a purely state-controlled prosecution to a more participatory model. Despite these advancements, empirical studies indicate persistent challenges in implementation. Data from the National Judicial Data Grid (2023)⁵ reveals that only about 35% of victims eligible under compensation schemes received monetary relief within a reasonable time. The Law Commission’s 154th⁶ and 226th Reports⁷ highlight systemic flaws—ranging from bureaucratic inertia to inadequate coordination between police, prosecutors, and legal aid authorities.

The National Legal Services Authority (NALSA) and its state counterparts have played a pivotal role in operationalizing constitutional promises. Yet, victims often face secondary victimization due to police misconduct, societal stigma, and procedural delays. The protection envisioned under Articles 14 and 21 remains aspirational without structural

¹*Maneka Gandhi v Union of India* AIR 1978 SC 597

²*Bodhisattwa Gautam v Subhra Chakraborty* (1996) 1 SCC 490

³*Delhi Domestic Working Women’s Forum v Union of India* (1995) 1 SCC 14

⁴*Nipun Saxena v Union of India* (2019) 2 SCC 703

⁵National Judicial Data Grid, *District Court Dashboard* (NJDG, 2023) <https://njdg.ecourts.gov.in/njdgnew/> accessed 5 February 2026.

⁶ Law Commission of India, *154th Report on the Code of Criminal Procedure, 1973* (1996)

⁷ Law Commission of India, *226th Report on Legal Reforms to Combat Sexual Assault* (2009)

reforms to ensure accountability and accessibility. The current framework thus relies heavily on judicial intervention rather than proactive constitutional and legislative mechanisms.

SECTION II: EVOLVING A CONSTITUTIONAL REGIME FOR VICTIMS' RIGHTS IN INDIA: COMPARATIVE INSIGHTS FROM GLOBAL DEMOCRACIES

A comparative understanding of global constitutional frameworks highlights that democracies with well-defined legislative and institutional mechanisms for victims achieve stronger standards of justice, accountability, and public confidence. India's experience—anchored in constitutional interpretation and judicial activism—has broadened the contours of victims' rights. However, comparative perspectives suggest how structured constitutional design and statutory precision can lend greater stability and coherence to this evolution.

The United States exemplifies a robust institutional model where victims' rights are constitutionally and legislatively safeguarded. The *Victims of Crime Act* (1984) and the *Crime Victims' Rights Act* (2004) enshrine principles of fairness, dignity, and restitution, while several states have constitutionally embedded these protections through “Marsy's Law.” The *Kenna v United States District Court* (2006)⁸ decision reaffirmed that the right of victims to be heard during sentencing forms an integral element of procedural fairness. The United States' framework demonstrates how decentralized systems can still ensure uniform participation rights through constitutional commitment—a principle that resonates with India's federal aspirations toward equitable justice administration.

The United Kingdom integrates victims' rights within its human rights architecture. The *Human Rights Act* (1998) gives domestic effect to the European Convention on Human Rights, under which Article 6 guarantees fairness to both victims and the accused. The *Victims' Code* (2015) consolidates procedural entitlements relating to information, protection, and participation. The *European Court of Human Rights*, in *X v United Kingdom* (1981)⁹, underscored the necessity of balancing competing rights within a fair trial framework. The United Kingdom's rights-based approach illustrates how administrative mechanisms can harmoniously coexist with judicial principles—an alignment that could inform India's pursuit of procedural coherence and equitable access for victims.

⁸*Kenna v United States District Court* 435 F 3d 1011 (9th Cir 2006)

⁹*X v United Kingdom* (1981) 4 EHRR 188

Canada's model represents an intersection of constitutional rights and restorative justice. The *Canadian Charter of Rights and Freedoms* (1982) secure equality (Section 15) and personal security (Section 7), while the *Canadian Victims Bill of Rights* (2015) institutionalizes enforceable entitlements to protection, participation, and restitution. In *R v O'Connor* [1995] 4 SCR 411¹⁰, the Supreme Court emphasized proportionality between accused persons' rights and victims' privacy, setting a precedent for balanced justice. Beyond legal doctrine, Canada's emphasis on restorative initiatives—such as victim-offender mediation—has deepened reconciliation and accountability. The coherence of these measures reflects how justice delivery can integrate empathy and equity, a philosophy that aligns closely with India's evolving vision of participatory justice.

South Africa offers a constitutional model where dignity and equality form the normative core of victims' rights. The *Constitution of 1996* enshrines equality (Section 9), dignity (Section 10), and access to courts (Section 34) as enforceable guarantees. In *S v Baloyi* [2000] ZACC 21¹¹, the Constitutional Court recognized that the protection of victims of domestic violence is not merely legislative policy but a constitutional obligation grounded in human dignity. The *Service Charter for Victims of Crime* (2004) transforms these constitutional ideals into practical procedures that ensure respect, information, and assistance for victims. Data from the South African Law Reform Commission (2022)¹² reveal tangible improvements in conviction rates and victim confidence, illustrating how constitutional design can translate rights into measurable outcomes—an approach that may provide valuable direction for India's own rights-based jurisprudence.

The European Union establishes a supranational benchmark through *Directive 2012/29/EU*, which defines minimum standards for victims' support, protection, and participation. The *European Court of Justice*, in *Case C-507/10 X v Minister for Justice* (2012)¹³, emphasized that victim protection constitutes a fundamental aspect of EU law under Article 47 of the *Charter of Fundamental Rights*. This harmonized system exemplifies how legislative uniformity and procedural transparency strengthen confidence in justice processes across diverse jurisdictions. For a constitutional democracy like India, the EU's coordinated

¹⁰*R v O'Connor* [1995] 4 SCR 411

¹¹*S v Baloyi* [2000] ZACC 21

¹² South African Law Reform Commission, *Report on Domestic Violence and Victims' Rights* (2022)

¹³*Case C-507/10 X v Minister for Justice* [2012] ECR I-973

framework offers insights into developing a rights regime that combines national diversity with uniform guarantees of fairness and dignity.

Collectively, these comparative perspectives demonstrate that constitutional entrenchment, legislative clarity, and institutional mechanisms provide the foundation for meaningful victims' rights. India's judiciary has significantly advanced this field through interpretive innovation, and continued engagement with these global frameworks can help consolidate those achievements into a coherent, codified, and enduring constitutional structure for victims' protection.

SECTION III: TOWARDS A CONSTITUTIONAL IMPERATIVE – INTEGRATING HUMAN RIGHTS AND CRIMINAL PROCEDURE

The Indian framework for victims' rights, while progressive in its judicial expansion, continues to be constrained by the absence of explicit constitutional articulation and coherent statutory enforcement. Comparative insights from other democracies illustrate that the constitutionalizing of victims' rights is not merely symbolic—it operationalizes accountability, consistency, and participatory justice. The integration of human rights principles into criminal procedure is essential to transforming India's criminal justice system into one that equally safeguards the dignity of victims alongside the rights of the accused.

India's existing legal architecture primarily depends on judicial interpretation of Articles 14, 21, and 39A to extend protection to victims. However, this reliance on interpretive jurisprudence rather than explicit constitutional recognition leaves the enforcement of victims' rights fragmented and inconsistent. The United States demonstrates how constitutional embedding—through instruments like *Marsy's Law*—ensures enforceable participation rights and access to restitution. Similarly, South Africa's Constitution directly recognizes dignity and equality as justiciable rights, compelling state institutions to uphold victims' protections as a constitutional mandate. India should thus adopt a more structured constitutional approach.

One of the major impediments to realizing victims' participatory rights in India is the absence of a transparent, accessible, and integrated mechanism that keeps victims informed about the progress of their cases, hearings, compensation status, and appeal rights. Despite statutory safeguards under Sections 357A and 372 of the Code of Criminal Procedure, empirical data

show that most victims remain unaware of their legal entitlements or procedural status, leading to marginalization and secondary victimization. **Comparative research reinforces** this concern: in the United States, fewer than 3% of felony crime victims exercise their right to participate at sentencing due to inadequate institutional communication¹⁴; similarly, the European Union Agency for Fundamental Rights reports that victims across Member States are often excluded from case updates and hearings, revealing a stark implementation gap between legal guarantees and administrative realities.¹⁵ In the Netherlands, studies show that only 28% of victims deliver oral impact statements, with many deterred by procedural confusion¹⁶, while Canada's parliamentary review on parole hearings identified comparable deficiencies in victim inclusion and communication.¹⁷ Establishing a **National Victim Information and Participation Portal**, linked with the National Judicial Data Grid and State Legal Services Authorities, would bridge this systemic gap by providing real-time updates, digital access to compensation records, and multilingual legal and psychological support. Such an initiative would concretize the constitutional guarantees of equality, dignity, and access to justice under Articles 14, 21, and 39A, transforming victims from passive observers into empowered participants and embedding transparency, fairness, and accountability within India's justice delivery system.

Also, introducing an explicit constitutional provision—proposed here as Article 21B—could enshrine victims' rights to dignity, protection, participation, and compensation. Such a provision would transform victims from passive observers to active participants in the justice process. Comparative studies show that in jurisdictions like South Africa and Canada, constitutional guarantees foster more predictable legal remedies and institutional accountability. This shift from judicial discretion to constitutional obligation is essential for ensuring equitable justice across India's diverse federal landscape.

¹⁴ Office of Justice Programs, *Critical Dimensions of Victim Participation in Sentencing Hearings* (US Department of Justice, 2022) <https://www.ojp.gov/ncjrs/virtual-library/abstracts/critical-dimensions-victim-participation-sentencing-hearings> accessed 17 January 2026

¹⁵ European Union Agency for Fundamental Rights, *Rights of Crime Victims to Access Justice: Country Report – Netherlands* (FRA, 2019) https://fra.europa.eu/sites/default/files/fra_uploads/netherlands-rights-of-crime-victims-justice_en.pdf accessed 17 January 2026

¹⁶ Netherlands Institute for the Study of Crime and Law Enforcement, *Victim Interactions with the Criminal Justice System* (2020) <https://www.drugsandalcohol.ie/31407/> accessed 17 January 2026

¹⁷ Parliament of Canada, *Improving Support for Victims of Crime: Report of the Standing Committee on Justice and Human Rights* (2023) <https://www.ourcommons.ca/Content/Committee/441/JUST/Reports/RP12132484/justrp07/justrp07-e.pdf> accessed 17 January 2026

The United States offers a robust and empirically grounded model for India, demonstrating how institutionalized victim compensation and data-driven information systems can transform constitutional principles into measurable justice outcomes. Under the **Victims of Crime Act (VOCA)**, both federal and state programs collectively disburse billions of dollars annually, providing financial, psychological, and legal support to victims through a well-structured administrative framework. In Fiscal Year 2023, victim compensation programs processed 202,830 claims and distributed approximately \$359.6 million in compensation, while over 7.8 million victims received assistance through federally funded programs covering counseling, legal aid, and crisis services.¹⁸¹⁹ Annual data from 2013 to 2023 indicate sustained payouts ranging from \$300 million to \$400 million, with a peak of \$407 million in 2018, reflecting long-term institutional commitment.²⁰ Despite this success, participation remains uneven—many eligible victims fail to claim compensation due to limited awareness or procedural complexity.²¹ For India, this highlights the necessity of creating a **National Victim Compensation and Information Portal**, integrated with the National Judicial Data Grid and Legal Services Authorities, to standardize compensation procedures, enhance transparency, and ensure timely disbursement. By adapting the U.S. data-driven approach to India's constitutional framework, such a system would reinforce the state's obligation under Articles 14, 21, and 39A to guarantee equality, dignity, and access to justice, transforming fragmented victim support mechanisms into a unified, constitutionally enforceable rights-based infrastructure.

India's constitutional vision, articulated in its Preamble and Directive Principles, aligns closely with international human rights norms that emphasize the dignity and worth of every individual. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)²² and the International Covenant on Civil and Political Rights

¹⁸Office for Victims of Crime (OVC), *Victim Assistance and Victim Compensation Data Dashboards, FY 2023* (US Department of Justice, 2024) <https://ovc.ojp.gov/news/archives/announcements/victim-assistance-and-victim-compensation-data-dashboards> accessed 18 January 2026

¹⁹Ibid.

²⁰Abigail Abrams, 'The U.S. Promised to Help Crime Survivors. Instead, It's Withholding Millions of Dollars' *Time Magazine* (New York, 8 September 2020) <https://time.com/5886815/crime-survivors-funding/> accessed 18 January 2026

²¹Center for American Progress, *Hope After Harm: An Evaluation of State Victim Compensation Statutes* (Washington DC, 2022) <https://www.americanprogress.org/article/hope-after-harm-an-evaluation-of-state-victim-compensation-statutes/> accessed 18 January 2026

²²UNGA, 'Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power' (1985) UN Doc A/RES/40/34

(ICCPR)²³ obligate member states to ensure restitution, compensation, and rehabilitation for victims. Yet, India's compliance remains largely aspirational. The Supreme Court, in *Laxmi v Union of India* (2014)²⁴, directed states to provide free treatment and compensation to acid attack victims, treating it as a constitutional entitlement under Article 21. In *Parivartan Kendra v Union of India* (2016)²⁵, the Court reaffirmed that the state's failure to enforce victims' rights constitutes a violation of its constitutional duty. To translate these judicial pronouncements into enforceable obligations, India must domesticate international norms into constitutional and statutory frameworks. For instance, Canada's incorporation of restorative justice principles through its Victims Bill of Rights exemplifies how international human rights obligations can be aligned with domestic constitutional law. Similarly, South Africa's Service Charter for Victims of Crime operationalizes the principles of dignity and equality within the constitutional framework, providing a model India can emulate through a Victims' Rights Commission.

A rights-based reform agenda in India must also be supported by comprehensive institutional and policy transformations. The constitutional amendment introducing Article 21B could explicitly guarantee victims' rights to dignity, participation, protection, and compensation. Such constitutional recognition would transform victims from being passive witnesses to active claimants of justice. Establishing a constitutionally independent Victims' Rights Commission, akin to the National Human Rights Commission, could further institutionalize oversight, monitor implementation, adjudicate violations, and recommend systemic reforms. Restorative justice must become a central component of this reimagined framework. India should adopt restorative practices, inspired by the Canadian and South African models, that prioritize healing and reconciliation over mere retribution. Victim-offender mediation, community conferencing, and rehabilitation programs can reduce recidivism and humanize justice delivery. Empirical data from UNODC²⁶ studies indicate that restorative programs increase victim satisfaction rates by over 70% compared to conventional trials.

²³*International Covenant on Civil and Political Rights* (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

²⁴*Laxmi v Union of India* (2014) 4 SCC 427

²⁵*Parivartan Kendra v Union of India* (2016) 3 SCC 571

²⁶ United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes* (UNODC 2020)

Furthermore, expanding NALSA's mandate and funding would guarantee timely legal aid, counseling, and compensation disbursement. The NCRB (2024)²⁷ reports that 68% of violent crime victims remain dissatisfied with compensation mechanisms due to procedural delays and bureaucratic hurdles, underscoring the need for systemic reform. Transparency and accountability must also become core values of India's criminal justice system. Mandating the publication of periodic reports on victim compensation, case outcomes, and the enforcement of judicial orders would enhance institutional credibility. This approach mirrors the European Union's Directive 2012/29/EU, which requires member states to ensure transparency in victim protection and procedural fairness. India must also empower victims to participate directly in sentencing and parole proceedings, similar to the U.S. model that grants victims the right to submit impact statements. This would ensure that victims' voices meaningfully influence judicial outcomes without compromising the rights of the accused.

The transition from an offender-centric to a victim-centric justice system demands reimagining of criminal procedure. Comparative experience shows that procedural justice grounded in empathy, transparency, and participation enhances both victim welfare and judicial legitimacy. Canada's restorative models, the U.S. participatory framework, the UK's rights-based administrative codes, and South Africa's dignity-oriented constitutionalism each provide complementary lessons. India must synthesize these models to design a justice system rooted in constitutional morality and human rights. Empirical data and global precedents affirm that societies prioritizing victims' dignity and participation achieve higher conviction rates, reduced pendency, and increased public confidence. The constitutionalization of victims' rights is therefore not an abstract ideal—it is a pragmatic and moral necessity for ensuring the rule of law in a democratic state.

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In conclusion, India's criminal justice system stands at a constitutional crossroads. The jurisprudence evolved under Articles 14 and 21 has laid the foundation for victim protection, yet its enforcement remains inconsistent and heavily reliant on judicial discretion. Learning from global constitutional democracies, India must enshrine victims' rights as enforceable constitutional guarantees, supported by statutory precision and institutional oversight. The protection of victims' rights thus emerges not only as a constitutional imperative but also as a transformative step toward realizing the vision of justice, equality, and dignity enshrined in

²⁷ National Crime Records Bureau, *Crime in India Report 2024* (Ministry of Home Affairs, Government of India)

the Constitution. The true measure of constitutional democracy lies not in the rights it grants to the powerful but in the justice it ensures for the vulnerable.



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