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victimology And Criminal Justice Administration: A Critical Study of Victims' Rights

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Victimology And Criminal Justice Administration: A Critical Study of Victims' Rights

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Abstract

Victim compensation holds significant importance in criminal justice system helping to restore the loss to the victim's family by restoring dignity, providing relief and ensuring procedural fairness. Victim compensation was however, not widely discussed before two decades. However, with the advancement in knowledge and evolution in the landscape of crime, victim compensation gradually became center of criminal justice which has largely evolved because of the more holistic system which the India has moved towards. The system across world has now adopted the system mandating state responsibility for rehabilitation and access to justice. This paper analyses the transformation of indian criminal justice system from offender friendly to one rooted in restorative justice, focusing on statutory and constitutional mandates for victim compensation and legal aid. This paper deals with key legal frameworks governing victim compensation, the statutory regime of legal aid, judicial practices and also challenges associated. The legal architecture not just aims to provide the monetary compensation to the victim rather, it provides for a more holistic approach often utilizing the Victim Impact Report (VIR) for quantum determination. However, this system is highly undermined by the widespread administrative malpractices and chronic financial deficits caused by the reliance on inconsistent state budgetary allocations. To achieve genuine efficacy, the paper recommends adopting the financial sustainability model exemplified by the US Victims of Crime Act (VOCA), which funds its compensation through a dedicated, insulated corpus derived from criminal fines and penalties. Systemic reform must focus on establishing a dedicated National Victim Compensation Fund (NVCF) and enforcing strict accountability measures to ensure the timely and comprehensive delivery of justice and rehabilitation. This paper also examined the international framework governing victim compensation and highlighting its gaps and best practices.

Keywords: *Victim Compensation, Criminal Justice System, Rehabilitation, Legal Aid, Crime, restorative justice*

Introduction

The term "victim" is rooted in latin term "Victima" which means a sacrificial animal offered to deity during religious rituals. It has now significantly evolved denoting a person who has suffered harm because of injustice, offence or misfortune.¹ Article 1 and 2 of United Nations General Assembly Declaration of Basic Principles of Justice for Victim and Abuse of Power adopted in November 1985 defines the term victim as "a person who individually or collectively, have suffered harm, including physical and mental injury, emotional loss or

¹ Beniwal, G. (2025, April 14). Victim compensation. JurisCentre. <https://juriscentre.com/2025/04/14/victim-compensation/>

substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws in operation within member states, including those laws prescribing criminal abuse of power.”²

Victim compensation refers to schemes meant for providing relief and benefit whether monetary or otherwise to the family of victim, for the losses they have suffered as a result of criminal activities against them.³ Victims of crime usually suffer losses which may be either tangible or intangible. This can be either mental loss, physical loss, material or immaterial loss. Historically the criminal justice system globally was predominated by the offender centric model wherein the complete focus was to identify, prosecute and punish offenders, however, modern criminal approaches increasingly that the fairness demands remedial measures for victims as well for the loss suffered by them. This can be done by rehabilitation, reintegration, monetary support and various other means.

In India, the victim compensation modules can be found in constitution along with CrPC (Now BNSS) which is further strengthened by the various independent legislations and Acts institutionalizing free legal services and legal aid to those in need. Moreover, the statutes are only the theoretical part, the real game starts from the practical implementation which is significantly flawed in India making it almost impossible for the victim and family to get the timely relief.

The modern concept of victim centric approach requires a robust framework for governing individuals and a substantial shift towards restorative justice while recognizing victim as a primary stakeholder.

Literature Review

The existing literature and historical framework reveal a critical evolution in criminal justice approaches regarding victims.

Historically the criminal justice system all around the world was largely offendercentric model where the complete focus was on identifying, prosecuting, punishing, and reforming the perpetrator, majorly neglecting it's overall impact on the victim. Victims traditionally played the role only of complainant and witnesses rather than the one who has faced losses.⁴

The modern discipline of victimology demands a fundamental shift toward restorative justice, recognizing the victim as a primary stakeholder who requires attention and redressal. This necessitates moving away from the "war on crime model" to a system rooted in state responsibility for rehabilitation and access to justice⁵.

The existing literature also provides for a robust framework in our Indian Constitution where Right to Free Legal Aid forms part of Article 39A. The expansion of Article 21 also encompasses the right to speedy justice and fair compensation.

Prior studies and emerging commentary highlight that the efficacy of these theoretically sound frameworks is undermined by severe practical and implementation flaws. These include procedural hurdles, low victim awareness, and chronic financial deficits caused by inconsistent state budgetary allocations.

² Panda, B. (n.d.). Victim's right to rehabilitation: India, UK and US experience. Manupatra Round Up, (348). <https://www.manupatra.com/roundup/348/articles/article>

³ Sahu, A. K., & Das, L. (2023). Victim jurisprudence and victim compensation scheme: Socio-legal analysis. *NUJS Journal of Regulatory Studies*, 8(1), 55–71.

⁴ Kumar, A., & Son, M. (2025). Legal regime on victim compensation in Britain, USA and India: A comparative historical perspective and way forward. *Dehradun Law Review*, 4(1), 145–160.

<https://www.dehradunlawreview.com/wp-content/uploads/2025/03/12.pdf>

⁵ *Ibid.*

Research Gap

While the legal architecture for victim compensation in India is well documented, it fails to systematically provide a financially sustainable and institutionally accountable model to overcome the chronic implementation failures.

The paper aims to address this gap by:

- Specifically diagnosing the root cause of inefficacy
- Developing a concrete, viable solution by analyzing and recommending the adoption of a dedicated funding model, specifically the US Victims of crime model, to ensure financial sustainability and timely justice delivery.

Research Objectives

Following can be traced as the primary objectives for doing this research:

- To analyze the transformation of the Indian criminal justice system from an offender-centric model to one rooted in restorative justice.
- To examine the constitutional and statutory mandates governing victim compensation and legal aid.
- To critically evaluate the institutional framework for legal aid and compensation.
- To identify and discuss the key challenges and implementation gaps that undermine the scheme's efficacy, specifically focusing on funding inadequacy, procedural hurdles, and low awareness.
- To compare the legal framework of India with the other countries.
- To recommend systemic reforms.

Research Methodology

This paper employs a doctrinal legal research methodology based primarily on the analysis of primary and secondary legal sources.

- **Doctrinal Analysis:** A critical analysis of the constitutional provisions, including Articles 14, 21, and 39A, and statutory frameworks, notably the Code of Criminal Procedure (CrPC) and the Legal Services Authorities (LSA) Act, 1987, was conducted.
- **Case Law Analysis:** Key landmark judgments of the Supreme Court of India were analyzed to trace the evolution of victim jurisprudence, the establishment of the right to compensation, and the mandatory duty of courts, including cases like *M. H. Hoskot*, *Hussainara Khatoon*, *Nilabati Behera*, and *Ankush Shivaji Gaikwad*.
- **Comparative Approach:** A comparative study was undertaken to examine the institutional, funding, and procedural mechanisms of victim compensation schemes in other jurisdictions, specifically the United States (VOCA/CVF) and the United Kingdom (CICS), to extract best practices and develop sustainable reform recommendations for India.

Research Discussion and Analysis

1. Historical Framework and Evolution of Victim Compensation

Historically, the criminal justice system operated as the one centering offenders a structural framework often referred to as the 'war on crime model'.⁶ Under this system, the only focus of the state was to punish the offender and to stop him from committing any further offence by way of reformation. This system often overlooked the impact of offence on the victim

⁶ *Supra note 4, at 6.*

neglecting the remedy which would be beneficial to them often leading to them suffering in loss.⁷

Victims traditionally only played the role of complainant and more increasingly witnesses rather than the one who has suffered loss and compromising their position and minimizing their quest for redress.⁸ The modern discipline of victimology however demand a shift towards restorative justice, This expansive definition, which also includes immediate family members and persons intervening to assist victims, underscores the state's primary duty to the harmed party, independent of the perpetrator's fate.⁹

The legal recognition of victim rights in India can be traced to the constitution wherein it is the duty of state to provide free legal aid under Article 39A¹⁰. The Supreme Court has also repeatedly interpreted Article 21 i.e. Right to Life and Personal Liberty to include the right to live with dignity and the right to health, components which inherently require compensation and speedy redress for harm arising from crime or state negligence.¹¹ This jurisprudence argues that justice remains incomplete without adequate compensation to victims. The monetary compensation though cannot reduce the loss or compensate for life, however, it can provide them chance to rehabilitate and to come on track.¹²

This framework reframes the payment of compensation as a reflection of the state's obligation to maintain law, order, and social cohesion, particularly when it fails to prevent crime or ensure public safety.¹³

2. Constitutional Framework Governing Victim Compensation and Legal Aid

The constitutional framework governing victim compensation and legal aid in India primarily stems from the DPSP and is reinforced by the expansive interpretation of Fundamental Rights by the Judiciary. Following can be traced as constitutional provisions governing victim compensation and legal aid:

- **Article 39A:** This was inserted by 42nd Constitutional Amendment Act, 1976 mandating that the State to ensure justice is promoted on a basis of equal opportunity by providing free legal aid, ensuring no citizen is denied justice due to economic or other disabilities.¹⁴
- **Article 14:** It demands that the victims of crime must be treated fairly and equally in criminal proceedings irrespective of their socio-economic status.¹⁵
- **Article 21:** The Supreme Court interpreted the "procedure established by law" under Article 21 to mean a procedure that is "reasonable, fair, and just," which inherently

⁷ *Ibid.*

⁸ *Ibid.*

⁹ United Nations General Assembly. (1985). Declaration of basic principles of justice for victims of crime and abuse of power (G.A. Res. 40/34). <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse-power>

¹⁰ The Constitution of India, 1950, Art. 39A

¹¹ Karan v. State NCT of Delhi, (2021) DLT 195 (FB), available at

<https://judicialacademy.nic.in/sites/default/files/Judgment-Karan.pdf> (Last Visited: 05 November, 2025).

¹² *Ibid.*

¹³ Madaan, M., & Mohanty, A. (2025). Victim compensation laws: A comprehension of various Indian statutes and comparative analysis among jurisdictions in India, the UK, and the US. *International Journal of Criminology, Commercial & Statutory Law*, (1), 118.

https://www.researchgate.net/publication/396641299_Victim_compensation_laws_A_comprehension_of_various_Indian_statutes_and_comparative_analysis_among_jurisdictions_in_India_the_UK_and_the_US

¹⁴ *Supra* note 10, at 10.

¹⁵ The Constitution of India, 1950, Art. 14.

includes the right to free legal aid for an accused who cannot afford it.¹⁶ First case where the Supreme Court awarded monetary compensation for the violation of a fundamental right (illegal detention) was *Rudul Sah v. State of Bihar*, (1983)¹⁷, where court established that the court's power under Article 32¹⁸ would be "denuded of its significant content" without such a remedial power.

This structure clearly provides that the expansive scope of interpretation by judiciary and the amendments in the constitution has led to the shift from offender centric approach to the one favoring victim.

3. Statutory and legal framework for victim compensation (section 357 and 357a CRPC)

The movement toward formal state-provided compensation in India began with the judicial interpretation and subsequent amendment of the Code of Criminal Procedure (CrPC). Prior to the victim-centric amendments, Section 357¹⁹ of the CrPC was the primary resort for compensating victims.

This provision allowed the Court to order the offender to pay compensation, often utilizing the fine collected as the source of payment. The judiciary has interpreted the language of this section as mandatory, asserting that the word 'may' in Section 357(3)²⁰ must be read as 'shall,' thereby conferring a duty on the Court to apply its mind to the question of compensation in every criminal case. However, compensation under Section 357 faces two major limitations: it is often inadequate for rehabilitation, and it is entirely dependent on the offender's financial capacity and the outcome of the trial (i.e., conviction).²¹

With the realization of limitations of a reliance on fines alone, Section 357A²² was inserted into the CrPC. The Code of Criminal Procedure (Amendment) Act, 2008, fundamentally altered the landscape of victim redress by inserting Section 357A²³, which mandates the state's responsibility regardless of the trial outcome. This section requires every State Government, in coordination with the Central Government, to prepare a scheme for providing funds for compensation to the victim or their dependents who have suffered loss or injury as a result of the crime and who require rehabilitation.²⁴

The current statutory framework provides that whenever, a recommendation for compensation is made by the court, the legal services authorities as the center, state and district level shall decide the quantum of amount of compensation under the scheme.

The coexistence of the offender-paid mechanism (Section 357) and the State-paid mechanism (Section 357A) creates a dual compensation structure. This dualism is essential because the judicial emphasis on Section 357A ensures that compensation is guaranteed as a right against the State (a solvent entity) regardless of the criminal trial's outcome, addressing the historical

¹⁶ The Constitution of India, 1950, Art. 21.

¹⁷ *Rudul Sah v. State of Bihar*, (1983) 4 SCC 141

¹⁸ The Constitution of India, 1950, Art. 32.

¹⁹ The Code of Criminal Procedure, 1973, s. 357, No. 2 of 1974 (India).

²⁰ *Ibid.*

²¹ *Supra note 11, at 10.*

²² The Code of Criminal Procedure, 1973, s. 357A, No. 2 of 1974 (India).

²³ *Ibid.*

²⁴ UN Women. (n.d.). Victim compensation scheme. Global Database on Violence Against Women (UN Women Data Hub). Retrieved from <https://data.unwomen.org/global-database-on-violence-against-women/country-profile/India/measures/Victim%20Compensation%20Scheme>

flaw of victim neglect.²⁵ This framework compels courts to weigh both mechanisms meticulously to ensure that complete justice, including rehabilitation, is provided.²⁶

4. The Institutional Framework for Legal Aid

The practical implementation of victim compensation and legal aid relies upon the institutional structure established by the Legal Services Authorities (LSA) Act, 1987.²⁷ The legal services authorities act, 1987 has been instrumental in the implementation of Article 39A of the constitution India. The LSA Act creates the institutional backbone for providing free, qualitative, and competent legal services to eligible persons, operating through a three-tiered structure: the National Legal Services Authority (NALSA), State Legal Services Authorities (SLSAs), and District Legal Services Authorities (DLSAs).²⁸

The eligibility criteria for receiving free legal aid are expansive and victim-centric. Section 12 of the LSA Act guarantees free legal services to a wide range of vulnerable groups, including:²⁹

- All women and children (regardless of their income or social status).
- Members of Scheduled Castes/Scheduled Tribes.
- Industrial workmen Etc.³⁰

For victims of grave offenses, free legal aid is crucial. It provides legal advice, representation in court and assistance with complex compensation claims, ensuring survivors can assert their rights without facing legal or financial barriers.³¹

The prevailing system of legal aid delivery in India has traditionally followed the Assigned Counsel System. Under this model, cases are assigned to panel lawyers by Legal Services Institutions. A major structural difficulty arises because these panel lawyers often maintain private practices, resulting in limited dedicated time for legal aid matters. Consequently, issues such as the accessibility and availability of counsel for timely client consultation and updating legal aid seekers about case progress have become significant challenges.³² To address these shortcomings and professionalize the delivery of criminal legal aid, NALSA has been implementing the Legal Aid Defense Counsel (LADC) system.

The DLSAs and SLSAs are the designated institutional bodies responsible for operationalizing the Victim Compensation Schemes (VCS) mandated under Section 357A CrPC (now Section 396 of the Bhartiya Nagarik Suraksha Sanhita, 2023).¹ These schemes, such as the NALSA's

²⁵*Supra note 13, at 11.*

²⁶ Meer Foundation. (n.d.). Madhya Pradesh guidelines. Retrieved from <https://www.meerfoundation.org/guidelines/madhya-pradesh>.

²⁷ **Legal Services Authorities Act, 1987, No. 39 of 1987 (India).**

²⁸ Suhas Chakma v. Union of India, W.P. (C) No. 1082/2020 (S.C.), available at https://api.sci.gov.in/supremecourt/2020/19935/19935_2020_3_1501_56637_Judgement_23-Oct-2024.pdf (Last Visited: 05 November, 2025).

²⁹ Mallikarjun, G. (2013). Legal aid in India and the judicial contribution. NALSAR Law Review, (2), 234–245. <http://www.commonlii.org/in/journals/NALSARLawRw/2013/13.pdf>

³⁰ *Ibid.*

³¹ Equality Now & SAMAJ. (2025). Legal aid brief. <https://equalitynow.org/wp-content/uploads/2025/04/EN-SAMAJ-Legal-Aid-Brief.pdf>

³² National Legal Services Authority (NALSA), “Action Plan 2025-2026”, available at <https://cdnbbsr.s3waas.gov.in/s3ec0369386f6bb1dfed68692a24c86869/uploads/2025/05/2025052055.pdf> (Last Visited: 05 November, 2025).

Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes – 2018, represent a significant policy shift from an accused-centric approach to a victim-centric one.³³ District Legal Services Authorities (DLSAs) often coordinate with police, hospitals, and Victim Compensation Boards (where constituted) to fast-track medical aid, counselling, and compensation disbursement. Some states have online portals for claim submission; others rely on manual processes. NALSA periodically issues guidelines and training modules to improve delivery.

5. Landmark Judgements and Judicial Interpretations

The Indian judiciary has profoundly worked for the benefit of victims by wider statutory implementations and by ensuring the effective utilization of constitutional mandates. Following can be traced as some landmark judgements related to the victim compensation and legal aid:

1. **M. H. Hoskot v. State of Maharashtra (1978)**: this case deals with constitutional right to legal aid at appellate stage. The Court held that free legal services at the trial and appellate stages are a necessary component of 'reasonable, fair and just' procedure, implicit in Article 21. If a prisoner is indigent, the State must provide competent counsel at its own expense.³⁴
2. **Hussainara Khatoon v. State of Bihar (1979)**:³⁵ Right to Speedy Trial and Legal Aid at Pre-Trial Stage. This landmark PIL highlighted the plight of under-trial prisoners. The Court held that the right to free legal aid is available to the accused from the moment they are first produced before the Magistrate and throughout the period of remand.³⁶
3. **Nilabati Behera v. State of Orissa (1993)**: This judgement fundamentally reshaped the jurisprudence of victim compensation by establishing the doctrine of "public law compensation" for the violation of fundamental rights, particularly Article 21. The Court unequivocally held that the State cannot invoke the defense of sovereign immunity when its instrumentalities infringe upon a citizen's constitutional rights, especially resulting in custodial death or violence.³⁷
4. **Ankush Shivaji Gaikwad v. State of Maharashtra (2013)**: Mandatory Duty of the Court to Consider Compensation. This judgment made it a compulsory duty of every criminal court to apply its mind when you are actually awarding compensation to the victim, irrespective of the sentence imposed. The Court must record reasons for awarding or refusing compensation.³⁸

³³ Tiwari, A. (2022). Victim compensation in India: Issues and challenges. *International Journal of Law Management & Humanities*, 5(6), 2121. <https://ijlmh.com/wp-content/uploads/Victim-Compensation-in-India-Issues-and-Challenges.pdf>

³⁴ *M.H. Hoskot v. State of Maharashtra*, (1978) 3 SCC 544.

³⁵ *Hussainara Khatoon v. State of Bihar*, (1979) 3 SCC 168

³⁶ *Ibid.*

³⁷ *Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746.

³⁸ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 SCC 770.

6. Comparative Analysis Across Nations

For better understanding and suggestion for reforms, following present is the analysis between UK, US and India.

UNITED KINGDOM Model

The UK operates the Criminal Injuries Compensation Scheme (CICS)³⁹ 2012, administered by the Criminal Injuries Compensation Authority (CICA)⁴⁰. The CICA determines applicant eligibility and award quantum based on the Scheme. The Scheme's rules and the value of payments are set by the Secretary of State and approved by Parliament.⁴¹ The UK model is explicitly tariff-based. To qualify for an award, an injury must be described in the Scheme's tariff of injuries. Payments cover mental or physical injury, sexual or physical abuse, loss of earnings, special expenses, and fatality payments.⁴²

UNITED STATES MODEL

The US system operates through the federal Victims of Crime Act (VOCA) of 1984, which allocates formula grants to state, territorial, and tribal programs.⁴³ The US mechanism is highly significant due to its unique funding model i.e. the Crime Victims Fund (CVF). This Fund is a critical innovation because it is generated entirely by non-taxpayer money.

Research Findings

The research revealed the following definitive findings:

- **Financial Unsustainability is Systemic:** The fundamental flaw in India's Victim Compensation Schemes (VCS) is their reliance on fluctuating annual budgetary allocations from State Governments. This model results in a chronic and predictable financial deficit, making the scheme vulnerable to political changes, competing state priorities, and funding shortfalls.
- **High Theory, Low Utilization:** While the legal architecture is theoretically sound and mandates state-paid rehabilitative compensation, its effectiveness is critically compromised by low utilization rates.
- **Lack of Awareness:** There is a widespread lack of awareness among victims and judicial stakeholders (police, magistrates) regarding the existence and procedural mechanism of the VCS, severely limiting the scheme's reach.
- **The Need for NVCF:** To overcome the current systemic failures, the research finds that India must adopt a similar structure by establishing a dedicated National Victim Compensation Fund (NVCF) that is replenished primarily by criminal penalties, ensuring sufficient resources are available independent of inconsistent state budget cycles.
- **Inadequate Quality of Counsel:** The prevalent Assigned Counsel System under the Legal Services Authorities (LSAs) fails to provide adequate, specialized legal representation to victims.

³⁹ GOV.UK. (n.d.). Criminal injuries compensation: A guide. Retrieved from <https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide>

⁴⁰ Criminal Injuries Compensation Authority (CICA), United Kingdom, available at: <https://www.gov.uk/government/organisations/criminal-injuries-compensation-authority> (last visited Nov. 6, 2025)

⁴¹ "Criminal Injuries Compensation: A Guide" GOV.UK <https://www.gov.uk/guidance/criminal-injuries-compensation-a-guide> (last visited Nov. 5, 2025).

⁴² *Ibid.*

⁴³ NNEDV. (n.d.). Victims of Crime Act (VOCA). Retrieved from <https://nnedv.org/content/victims-of-crime-act/>

Challenges, Limitations and Implementational Gaps

Despite of the robust mechanism and statutory frameworks, the effectiveness of victim compensation scheme is severely questionable in India primarily because of widespread administrative malpractices, lack of funding, procedural hurdles etc. Let us look at the challenges and gaps in the victim compensation scheme.

- **Inadequacy and Inconsistency of Compensation:** The maximum compensation cap set by many schemes is frequently arbitrarily low and does not cover the full extent of a victim's losses, such as long-term care or significant income loss.⁴⁴ Compensation amounts and eligibility criteria vary significantly between different state or regional schemes for similar crimes, leading to unequal justice.⁴⁵
- **Low Awareness and Underutilization:** A significant deficit is the failure of schemes to reach the majority of eligible victims, often resulting in drastic underutilization. A high percentage of eligible victims are simply unaware that compensation programs exist or how to access them.⁴⁶ The number of applications typically represents a very small fraction (often less than 5%) of the total victimizations, indicating deep accessibility issues.⁴⁷
- **Bureaucratic and Procedural Hurdles:** The application process is often complex and includes restrictive rules that exclude vulnerable victims. Applications are often long, complex, and require extensive documentation, which is overwhelming for victims dealing with trauma.⁴⁸ Slow processing times for applications and disbursement of funds prolong the victim's financial and emotional stress⁴⁹.
- **Legal Aid Quality and Capacity:** While the LSA Act provides for counsel, the quality of representation and counsel varies. Advocates for Legal aid are overburdened, and mechanisms to monitor and ensure quality are inconsistent. This undermines victims' effective access to compensation and other remedies.⁵⁰
- **Funding Inadequacy and Financial Deficits:** The constitutional right to compensation is rendered ineffective by chronic financial instability rooted in poor budgetary practices. Victim Compensation Schemes rely heavily on annual state government budgetary allocations. This reliance creates a chronic funding gap, as state budget allocations often fail to meet the actual compensation funds awarded by the judicial authorities.⁵¹

⁴⁴Supra note 32, at 14.

⁴⁵ López-Guzmán, L. F. (2020). La indemnización a víctimas de crímenes internacionales: El dilema de la reparación integral. *Revista de Estudios Sociales*, (71), 13–28.

<https://www.redalyc.org/journal/3373/337371748002/html/>

⁴⁶ Hussemann, J., et al. (2024, August 1). 2023 National survey of victim compensation programs: Barriers and challenges. NORC at the University of Chicago and Urban Institute. https://www.norc.org/content/dam/norc-org/pdf2024/G259_Victim-Comp-Barriers-and-Challenges-Brief_Final.pdf

⁴⁷ Alvidrez, J., Azzi, A., & Pincus, D. (2008). Reduction of state victim compensation disparities in disadvantaged crime victims through active outreach and assistance: A randomised trial. *American Journal of Public Health*, 98(5), 882–888.

⁴⁸ Supra note 47, at 18.

⁴⁹ Supra note 32, at 14.

⁵⁰ *Id.*

⁵¹ Mohan, V. (2018, April). Revisiting victim compensation in India. Manupatra Newline.

https://docs.manupatra.in/newline/articles/Upload/6F5E12E5-2A56-49A9-BF1B-CBE1DF4F8726.2-F__criminal.pdf

Conclusion

The process of transformation of legal aid and victim compensation in India has achieved a significant success. The legislative and judicial progress in establishing victim compensation and legal aid as fundamental state obligations, moving beyond the offender centric model to embrace principles of restorative justice and sovereign liability. The framework of victim compensation rooted in constitutional mandates, statutory provisions and judicial interpretations is theoretically superior due to its strong emphasis on comprehensive rehabilitation, not merely monetary payment.

However, the efficacy of this system is critically undermined by systemic implementation deficiencies. Victim compensation and legal aid are essential components of a humane criminal justice system. Indian law through Sections 357 and 357A CrPC and the Legal Services Authorities Act contains the provisions for a restorative and rights-based approach. Judicial pronouncements and executive schemes have consolidated the state's duty to provide relief. Yet implementation remains uneven such insufficient funds, procedural bottlenecks, low awareness, and weak legal-aid capacity hinder meaningful access to justice. The path toward achieving true restorative justice hinges on adopting international best practices for stability.

Recommendations and Reforms

To make compensation and legal aid meaningful for victims, the following reforms are recommended:

- 1. Mandatory Adherence to Timelines:** Judicial monitoring must be enhanced, to ensure that the District Legal Services Authorities (DLSAs) and State Legal Services Authorities (SLSAs) must adhere strictly to the statutory timeline for inquiry completion and fund disbursement. Failure to meet these mandatory timelines must result in clearly defined institutional penalties and accountability measures.⁵²
- 2. Simplification of Application and Interim Relief:** The compensation mechanism must be streamlined to prioritize immediate victim needs. Interim compensation should be expedited based on minimal preliminary documentation, such as a police certificate or initial medical reports, rather than relying on exhaustive, time-consuming medical reports that delay urgent payouts. This reduces the burden placed on victims during their most vulnerable state.⁵³
- 3. Ending Institutional Friction:** Legislative and judicial clarity is essential to define a seamless, automatic accountability pathway for fund transfer. The conflict between the State Government and the SLSA concerning who is responsible for initiating the fund transfer must be resolved through a mandate requiring the state treasury to automatically remit necessary funds immediately upon receiving an authorized DLSA award notification.⁵⁴
- 4. Establishment of a Dedicated, Insulated Fund (VOCA Model Adoption):** The central government should establish a dedicated, protected National Victim Compensation Fund (NVCF), structurally insulated from political interference and

⁵² Hussain, E. (2022, July 4). How delays in victim compensation fund fail trafficking survivors. BehanBox. <https://behanbox.com/2022/07/04/how-delays-in-victim-compensation-fund-fail-trafficking-survivors/>

⁵³ Singh, A. (2024). Victim compensation in India: Issues and challenges. *International Journal of Law Management & Humanities*, 7(6), 2374. <https://ijlmh.com/wp-content/uploads/Victim-Compensation-in-India-Issues-and-Challenges.pdf>

⁵⁴ *Supra note 43, at 16.*

annual budget fluctuations. This NVCF should function akin to the US Crime Victims Fund (CVF).⁵⁵

5. **Transition to Dedicated Legal Aid Counsel:** The acceleration of the transition from the compromised Assigned Counsel System to the full-time Legal Aid Defense Counsel (LADC) system is crucial.⁵⁶ LADC professionals must be mandated to dedicate their efforts exclusively to criminal matters, including specialized victim representation in compensation applications, appeals, and comprehensive coordination with police, medical, and social services.⁵⁷
6. **Mandatory Sensitization and Training:** To prevent re-victimization and ensure proper application processing, comprehensive training and sensitization must be mandated for all personnel involved in the victim redress process—police, judicial officers, health staff, and social service providers.⁵⁸ This training must establish guidelines to ensure prompt and appropriate aid delivery

Scope for Future Research

The following areas require in-depth investigation to transition the policy recommendations from theoretical proposals to actionable, effective reforms:

1. Future research is needed to conduct a detailed financial study on the proposed National Victim Compensation Fund (NVCF) model.
2. Conduct empirical studies to quantitatively measure the key performance indicators (KPIs) of existing State Victim Compensation Schemes (VCSs).
3. Research is required to analyze the practical impact of the recently introduced victim compensation provisions in the BNSS.
4. A comparative study should be conducted to evaluate the effectiveness and quality of legal representation provided by the newer LADC System versus the traditional Assigned Counsel System, specifically from the victim's perspective in seeking compensation and rehabilitation.
5. A specific study is needed on how effectively Victim Impact Reports (VIRs) are currently being utilized by courts and LSAs for the qualitative determination of compensation quantum, ensuring that awards are truly rehabilitative and not merely symbolic.

⁵⁵https://www.researchgate.net/publication/396641299_Victim_compensation_laws_A_comprehension_of_various_Indian_statutes_and_comparative_analysis_among_jurisdictions_in_India_the_UK_and_the_US *Supra note 13, at 11.*

⁵⁶ Mann, S. S., & Chauhan, S. (2023, May). Access to justice in India: A report (India National Report – ILAG Conference 2023). Harvard Law School Centre on the Legal Profession. <https://clp.law.harvard.edu/wp-content/uploads/2023/05/UPDATED-India-National-Report-ILAG-Conference-2023.pdf>

⁵⁷ *Supra note 32, at 14.*

⁵⁸ United Nations General Assembly. (1985). Declaration of basic principles of justice for victims of crime and abuse of power (G.A. Res. 40/34). <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>

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