

Securing Victims' Rights in India: Issues and Challenges

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Abstract

Victims of crime in India face several challenges while seeking justice and compensation. Although there are several legal frameworks as well as various victim compensation schemes, a significant number of victims are not either not provided with or are deprived of sufficient support or protection. The present study explores the legal structure pertaining to the rights of victims in India and highlights the obstacles encountered by them. The challenges encompass lack of awareness, education and, prejudice against victims, insufficient victim compensation schemes, and inadequate victim support services. This article examines the various initiatives and programmes implemented by both governmental and non-governmental entities aimed at safeguarding the rights of victims. It is founded on a qualitative examination of secondary data sources, which comprise case law, academic literature, government reports, and NGO publications. This study emphasises the examination of the legal framework governing the rights of victims in India, encompassing the provisions enshrined in the Constitution as well as those outlined in the Criminal Procedure Code. The study covers a comparative evaluation of legal structures implemented in other countries to safeguard the rights of victims. The article additionally underscores the endeavours and schemes implemented by both governmental and non-governmental entities to protect the rights of victims. This paper endeavours to propose various measures aimed at reinforcing the rights of victims in India. These measures include augmenting awareness, bolstering support services for victims, fortifying compensation schemes for victims, protecting the identity of victims, fostering the participation of victims, encouraging collaboration, and strengthening the legal framework. Through the implementation of these measures, cooperation between the government and civil society organisations can be made to provide essential support and protection to victims, enabling

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them to reconstruct their lives following the traumatic experience of victimisation.

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I. Introduction

Victims' rights are fundamental to any criminal justice system because they provide a framework for ensuring that victims of crime are treated with dignity and respect. The protection of the rights of victims in India is frequently a secondary consideration, characterised by limited legal provisions and insufficient enforcement of existing legislation. The outcome is a justice system that frequently falls short in furnishing victims with the requisite assistance and security.

As per a report released by the National Crime Records Bureau (NCRB), there was a 7.3% rise in the incidence of crimes perpetrated against women in the year 2019, with a cumulative total of 4,05,861 cases reported throughout the nation³. In addition, communities that have been marginalised, such as Dalits and Adivasis, frequently encounter violence and run into substantial obstacles in obtaining legal redress⁴.

The objective of this paper is to examine the obstacles and prospects associated with safeguarding the rights of victims in India. The study will analyse the legal framework pertaining to the rights of victims, the obstacles encountered by victims, instances of victimisation, the involvement of the government and civil society in protecting victims' rights, global outlooks on victims' rights, and proposals for enhancing victims' rights in India.

³ National Crime Records Bureau, *Crime in India-2019*. MINISTRY OF HOME AFFAIRS, GOVERNMENT OF INDIA (March 05, 2023 5:25 PM) <http://ncrb.gov.in/en/crime-india-2019>.

⁴ Amnesty International India, *Fabric of Slavery: Large-scale Forced Labour of Dalit Women and Girls in India's Silk Industry* (March 05, 2023 5:27 PM) <https://www.amnesty.org.in/wp-content/uploads/2020/06/Fabric-of-Slavery-Report.pdf>.

II. Brief Overview of Victim's Rights in India

The Criminal Procedure Code is the primary legal framework governing victim's rights in India. Amended in 2018, it now includes provisions for victim compensation, victim protection, and witness protection⁵. Furthermore, the Indian Constitution incorporates provisions safeguarding the protection of life and individual liberty, which have been construed by the judiciary to encompass the rights of victims⁶.

Nonetheless, the execution of these legislative provisions continues to pose a difficulty. Individuals who have experienced criminal victimisation frequently encounter substantial impediments to obtaining justice, such as insufficient knowledge of their legal entitlements, prejudicial attitudes towards victims, and an overwhelmed judicial system⁷.

Notwithstanding the obstacles, endeavours have been made by the government and civil society to enhance the rights of victims in India. In 2018, the Ministry of Home Affairs initiated the Central Victim Compensation Fund with the aim of offering monetary assistance to individuals who have suffered from criminal acts, including but not limited to sexual assault and acid attacks⁸. Furthermore, non-governmental entities such as the Human Rights Law Network offer legal assistance and backing to individuals who have suffered from infringements on their human rights⁹.

III. Importance of Protecting Victim's Rights

In order to protect and empower people who have suffered harm at the hands of others, victims' rights are crucial. Victims' rights not only establish a structure for facilitating access to justice but also acknowledge and address the requirements and distress of victims.

⁵ The Criminal Law (Amendment) Act, 2018.

⁶ INDIA CONST. art. 21.

⁷ National Legal Services Authority, *Handbook on Victim Assistance*, (March 05, 2023 5:37 PM) https://nalsa.gov.in/sites/default/files/handbook_victim_assistance.pdf.

⁸ Ministry of Home Affairs, *Central Victim Compensation Fund (CVCF) Scheme 2018* (March 05, 2023 05:43 PM) https://www.mha.gov.in/sites/default/files/CVCF_0.pdf

⁹ Human Rights Law Network, *What We Do* (March 05, 2023 6:30 PM) <https://hrln.org/what-we-do>.

The safeguarding of the rights of victims is of utmost importance in India, owing to the high incidence of violence and criminal activities perpetrated against women, children, and marginalised groups¹⁰. Neglecting victims' rights can have dire repercussions, such as retraumatizing victims, preventing justice from being served, and even permitting the continuation of violence.

Moreover, acknowledging and protecting the rights of victims are imperative in guaranteeing accountability and transparency within the realm of the criminal justice system¹¹. The provision of a voice to victims in the legal process can aid in the efficient investigation and prosecution of crimes, while also advancing a justice system that prioritises the needs of victims¹².

IV. Legal Framework for Victim's Rights in India

The Criminal Procedure Code (CrPC) is the principal legal framework governing victims' rights in India. The most recent amendment to the CrPC in 2018 aimed to enhance victim compensation, victim protection, and witness protection provisions¹³. According to the Criminal Procedure Code (CrPC), it is mandatory to treat victims with due respect and dignity and apprise them of their legal rights, such as the right to participate in trial proceedings and be heard.

Furthermore, the Indian Constitution incorporates provisions safeguarding the protection of life and individual liberty, which have been construed by the judiciary to encompass the entitlements of victims¹⁴. Under Article 21, the

¹⁰ Amnesty International India, *Fabric of Slavery: Large-scale Forced Labour of Dalit Women and Girls in India's Silk Industry* (March 05, 2023 5:27 PM) <https://www.amnesty.org.in/wp-content/uploads/2020/06/Fabric-of-Slavery-Report.pdf>.

¹¹ C. Gambetta, *The Importance of Victims' Rights in the Criminal Justice System*, CANADIAN JOURNAL OF CRIMINOLOGY AND CRIMINAL JUSTICE, 57(1), 1-6. (March 06, 2023 6:25 PM) <https://doi.org/10.3138/cjccj.2014.E01>.

¹² Sarkar, S., & Singhal, R., *Role of Victims in Criminal Justice System: An Analysis of Indian Legal Provisions* INDIAN JOURNAL OF CRIMINOLOGY AND CRIMINALISTICS, 40(1), 58-66. (March 06, 2023 6:51 PM) <https://www.indianjournals.com/ijor.aspx?target=ijor:ijcc&volume=40&issue=1&article=006>.

¹³ *Ibid.*

¹⁴ *Supra* n. 4.

Supreme Court of India has acknowledged the fundamental right of victims, affirming their entitlement to compensation and rehabilitation¹⁵.

The Central Victim Compensation Fund was initiated by the Ministry of Home Affairs in 2018 with the aim of extending monetary assistance to individuals who have been subjected to criminal acts such as sexual assault, acid attacks, and human trafficking¹⁶. The purpose of the Fund is to serve as a supplementary measure to the victim compensation schemes that have been instituted by various states and union territories in compliance with the CrPC.

Notwithstanding the existence of legal provisions, the implementation of victims' rights in India is beset by considerable challenges. The challenges identified in this context encompass a dearth of cognizance regarding the rights of victims among law enforcement and the judiciary, insufficient measures for protecting victims, and a limited scope of compensation available to them¹⁷.

A. Constitutional Provisions

The Constitution of India contains several provisions that uphold the rights of victims of crime. Article 21 of the Indian Constitution is considered to be of utmost importance as it declares that no individual can be deprived of their personal liberty or life unless according to a legal procedure established for the same¹⁸. The Supreme Court of India has interpreted this to mean that victims have a right to life with dignity, and that this includes access to justice and fair treatment in the legal process¹⁹.

The Constitution stipulates the formation of a National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRCs), with the responsibility of probing human rights violations, including the rights of victims²⁰. Furthermore, it is stipulated in Article 39A of the Constitution that it

¹⁵ National Legal Services Authority v. Union of India, Writ Petition (Civil) No. 400 of 2012.

¹⁶ *Supra* n. 6.

¹⁷ Human Rights Watch, *Violence Against Women in India*, (March 07, 2023 7:10 PM) <https://www.hrw.org/world-report/2020/country-chapters/india>.

¹⁸ INDIA CONST. art. 21.

¹⁹ *Olga Tellis v. Bombay Municipal Corporation*, 1985 SCC (3) 545.

²⁰ INDIA CONST. art. 21; The Protection of Human Rights Act, 1993.

is the responsibility of the state to guarantee the accessibility of the legal system to all individuals, and to prevent the denial of justice on the basis of economic or other forms of disadvantage²¹.

Several landmark cases have led to the recognition of victims' rights by the courts. The Supreme Court ruling in *Bodhisattwa Gautam v. Subhra Chakraborty*²² established that crime victims possess the entitlement to partake in the criminal justice proceedings, and it is the state's responsibility to safeguard their rights. The Delhi High Court, in the matter of *Nipun Saxena v. Union of India*²³, held that the entitlements of victims include being apprised of the progress of their case and being furnished with pertinent records.

B. Criminal Procedure Code Provisions Relating to Victim's Rights

The Criminal Procedure Code (CrPC) in India provides several provisions aimed at protecting the rights of victims during criminal proceedings. The following are some of the pertinent clauses²⁴:

- a) The Code of Criminal Procedure defines the term “victim”²⁵. Victim refers to an individual who has undergone any form of harm or damage due to the act or omission for which the accused person has been charged. This definition also encompasses the legal heirs or representatives of the victim.
- b) The Code mandates that the court must consider the victim's interests when determining whether to grant bail to an accused. This includes evaluating factors such as the type of offence committed, the probability of the accused committing more offences, and the necessity of ensuring the accused's availability for trial²⁶.
- c) Section 41A of the Code of Criminal Procedure makes it mandatory for the police to furnish a notice to the accused prior to making an

²¹ INDIA CONST. art. 39A.

²² 1996 SCC (1) 490.

²³ Writ Petition (Civil) No. 565 of 2012.

²⁴ Code of Criminal Procedure, 1973, No. 2 of 1974, Acts of Parliament, 1974 (India).

²⁵ *Id.* at. s. 2 (wa).

²⁶ *Id.* at s.437 (3).

arrest²⁷. The notice must be inclusive of, a) information regarding the grounds for arrest and b) the right to seek bail. It is essential for the law enforcement officials to provide the victim with notification regarding the apprehension of the offender, as well as the opportunity to request release on bail.

- d) The Code also mandates the police to document the initial information report (FIR) pertaining to a criminal offence, encompassing the personal details of the victim such as their name and address²⁸. The aggrieved party possesses the entitlement to procure a duplicate of the First Information Report (FIR).
- e) As per the Code of Criminal Procedure, it is mandatory for the police to conduct an investigation into all cognizable offences and furnish a copy of the investigation report to the victim upon their request²⁹.
- f) The Code also mandates the creation of victim compensation schemes by state governments³⁰. These schemes enable victims to seek redress for any damages or harm incurred due to criminal activity.

C. Other Relevant Laws and Regulations Related to Victim's Rights in India

Apart from the aforementioned provisions of the Constitution and Criminal Procedure Code, (CrPC), there exist several other laws and regulations in India that pertain to the rights of victims. The following are several significant laws and regulations.

The Protection of Women from Domestic Violence Act, 2005: It is a legislative measure aimed at safeguarding women from domestic violence. The aforementioned legislation is designed to safeguard women from instances of domestic violence and mistreatment. The legislation acknowledges the right of victims to seek protection orders, dwelling orders, and financial compensation,

²⁷ *Id.* at s. 41A.

²⁸ *Id.* at s. 154 (1).

²⁹ *Id.* at s.157 r/w s. 154.

³⁰ *Id.* at s.357A.

while also imposing sanctions on individuals who commit acts of domestic violence³¹.

The Juvenile Justice (Care and Protection of Children) Act, 2015: It is a legislative measure that outlines provisions for the care, protection, and rehabilitation of children who have engaged in delinquent behaviour, as well as those who require care and protection. The Act acknowledges the rights of juvenile victims to engage in judicial processes³².

The Mental Healthcare Act, 2017: It is a legislative measure that outlines provisions for the management, medical attention, and restoration of individuals diagnosed with mental health disorders. The Act acknowledges the right of individuals affected by mental illness to avail themselves of mental healthcare services³³.

The National Legal Services Authority (Legal Services to the Victims of Acid Attacks) Scheme of 2016: The scheme offers pro bono legal aid and support to individuals who have suffered from acid attacks. The scheme encompasses a range of services such as counselling, medical assistance, and rehabilitation³⁴.

The Motor Vehicles (Amendment) Act, 2019: The Act entails the creation of a Motor Vehicle Accident Fund that is designed to furnish indemnification to individuals who have suffered harm as a result of motor vehicle accidents³⁵.

D. POCSO Act and Victim's Rights in India

The Protection of Children from Sexual Offences (POCSO) Act of 2012 is a legislation in India that is designed to safeguard minors from instances of sexual abuse and exploitation. The legislation comprises numerous provisions pertaining to the rights of individuals who have experienced sexual offences,

³¹ The Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005, Acts of Parliament, 2005 (India).

³² The Juvenile Justice (Care and Protection of Children) Act, 2015, No. 2 of 2016, Acts of Parliament, 2016 (India).

³³ The Mental Healthcare Act, 2017, No. 10 of 2017, Acts of Parliament, 2017 (India).

³⁴ The National Legal Services Authority (Legal Services to the Victims of Acid Attacks) Scheme, 2016, Legal Services to the Victims of Acid Attacks, 2016 (India).

³⁵ The Motor Vehicles (Amendment) Act, 2019, No. 32 of 2019, Acts of Parliament, 2019 (India).

encompassing minors who have been victimised. The following are several significant provisions:

As per the provisions of the POCSO Act, an individual who has not attained the age of 18 years and has been subjected to a sexual offence is referred to as a “child”³⁶. The POCSO Act's Section 33 stipulates the appointment of a special public prosecutor to advocate for the welfare of the child victim during legal proceedings³⁷. It also stipulates the establishment of special courts to adjudicate violations under the Act. It is mandated that these courts establish an environment that is conducive to the well-being of the child victim and take measures to prevent any contact between the victim and the accused throughout the trial proceedings³⁸.

According to Section 37 of the Protection of Children from Sexual Offences (POCSO) Act, it is mandatory to maintain the confidentiality of the identity of the child victim during the trial and all other proceedings pertaining to the offence³⁹. The legislation additionally forbids the dissemination of identifying details, such as the name, residence, image, or any other data that could potentially reveal the identity of the juvenile victim⁴⁰.

The Act also mandates the State governments to prepare guidelines for the use of special educators designated to impart education and vocational training to the child victim throughout the trial proceedings⁴¹. The Act empowers the Central government to make rules for the payment of compensation to child victims who have suffered loss or injury due to sexual offences, whether mental or physical⁴².

V. Challenges in Securing Victim's Rights in India

Notwithstanding the existence of legal provisions and frameworks aimed at safeguarding the rights of victims in India, there are numerous obstacles that

³⁶ The Protection of Children from Sexual Offences (POCSO) Act, 2012, s. 2(1)(d).

³⁷ *Id* at s. 33.

³⁸ *Ibid.*

³⁹ The Protection of Children from Sexual Offences (POCSO) Act, 2012, s. 37.

⁴⁰ *Id* at s. 33 r/w s.23 and 24.

⁴¹ *Id* at s.39.

⁴² *Id* at s. 45.

impede the efficacious enforcement of these statutes. The following are some of the primary obstacles:

- a) *Inadequate application of legal regulations:* One major barrier to protecting victims' rights in India is the inadequate application of laws. Even with strong legal frameworks in place, many victims face barriers to justice and are unable to exercise their rights. This problem is often linked to inadequate understanding of the law, instances of corruption, and inefficiencies in the legal system.
- b) *Stigma and social attitudes:* People who have been victims of crime, especially sexual assault, are seen negatively by society, which is another barrier. People who have been victimised may face discrimination, social marginalisation, and responsibility for the crime committed against them. People may find it difficult in this situation to report the offence, make a complaint, or seek compensation for the harm they have suffered.
- c) *Inadequate support services:* A large number of victims in India do not have access to sufficient support services, including counselling, medical attention, and legal assistance. People may find it difficult to recover from the harm caused by this circumstance and pursue legal action.
- d) *Limited compensation:* Although victim compensation plans exist, the sums offered are frequently insufficient and do not fully compensate for the suffering endured.
- e) *Lack of awareness and education:* Lack of awareness and education is a major challenge in securing victims' rights in India. A significant number of individuals who have suffered harm may not possess knowledge pertaining to their lawful entitlements and the procedures involved in pursuing remedies. Insufficient cognizance regarding the matter can pose a challenge for individuals who have suffered harm to obtain legal recourse and assert their entitlements. In order to tackle this challenge, it is imperative to enhance awareness-raising endeavours and educational initiatives pertaining to the rights of victims and the legal structures established to safeguard them.
- f) *Bias against victims:* Bias against victims is a significant challenge in securing victims' rights in India. Individuals who have been subjected to

criminal acts may encounter prejudicial treatment and inequitable treatment on the basis of their gender, social class, religious affiliation, or other related factors. The presence of bias may lead to a dearth of empathy and assistance for victims, and may also impact the treatment they receive from the legal system. In order to tackle this issue, it is imperative to cultivate heightened sensitivity and awareness among law enforcement personnel, judges, and other relevant parties, while also implementing measures to counteract deep-seated societal biases and prejudices.

VI. Case Studies of Victims in India

A. Nirbhaya Gang Rape Case

In the year 2012, a young woman was subjected to a heinous gang rape incident while travelling on a bus in Delhi. The incident triggered extensive public indignation and demonstrations and prompted demands for enhanced safeguarding of women's entitlements in India. Several of the perpetrators were convicted and sentenced to death.⁴³

The Nirbhaya case exemplified the egregious levels of violence and mistreatment that women encounter in India. The aforementioned case has brought to light the difficulties encountered by individuals who have been victimised in terms of reporting the crime, obtaining assistance, and attaining legal redress. Notwithstanding the case's prominent status and the resultant public indignation, it took more than five years for the offenders to be found guilty and receive capital punishment. The aforementioned case has garnered attention towards the matter of victim blaming and has highlighted the necessity for enhanced awareness and education regarding gender-based violence in India.

B. Bilkis Bano Case

During the Gujarat riots of 2002, Bilkis Bano, a Muslim woman who was pregnant at the time, was subjected to gang rape and abandonment. Notwithstanding the evidence presented, a number of the offenders were initially absolved of the charges. Following a protracted legal

⁴³ R. Bhandari, *Nirbhaya rape case: An analysis of Indian laws on crimes against women* 12 JLP 1-9 (2013).

dispute, Bano and her family succeeded in obtaining justice, resulting in the conviction and life imprisonment of a number of the offenders⁴⁴.

The case of Bilkis Bano exemplified the difficulties encountered by individuals seeking legal recourse, particularly in instances of communal unrest. The systemic issues that impede the safeguarding of victim's rights in India were highlighted by the initial exoneration of multiple perpetrators and the absence of responsibility for the security forces implicated in the case. Nonetheless, the tenacity exhibited by Bilkis Bano and her kin in their pursuit of legal recourse culminated in the dispensation of justice. However, this justice was ephemeral. In 2022, a group of 11 men who were found guilty of gang rape were released from custody. Bilkis Bano has since contested their early release. Currently, there is no definitive resolution that has been reached.

C. Suresh Kumar Koushal Case

The case of Suresh Kumar Koushal brought to the forefront the obstacles encountered by the LGBT community in India and the prejudicial treatment they endure. The retention of Section 377 of the Indian Penal Code constituted a regression in the protection of the rights of the LGBT community in India and was indicative of the prevailing societal perspectives and prejudices that perpetuate their exclusion.

The constitutionality of Section 377 of the Indian Penal Code, which criminalised homosexual acts, was upheld by the Indian Supreme Court in 2013. The decision was subject to significant criticism from human rights organisations and LGBT advocates, who contended that it contravened the rights of individuals who identify as LGBT.⁴⁵ However, later on the apex court went on to partially de-criminalise Section 377 of the Indian Penal Code, 1860⁴⁶ and at present, the apex court is also considering the legalization of same-sex marriages⁴⁷.

⁴⁴ S.Bhatt, *Justice for Bilkis Bano: Triumph of the human spirit*, 6 JILS 119-130, (2015).

⁴⁵ B.Nanda, *The Indian Supreme Court and the decriminalization of homosexuality* 3(6) IJHSSR, 57-62, (2014).

⁴⁶ See *Navtej Singh Johar v. Union of India*, AIR 2018 SC 4321. (India).

⁴⁷ *Supriyo v. Union of India*, W.P.(C) No. 1011/2022.

D. Manorama Devi Case

In 2004, an individual by the name of Manorama Devi was apprehended by the Indian military on the grounds of potential involvement in militant activities. The individual in question was apprehended and subsequently discovered deceased, exhibiting indications of physical torment upon her person. The aforementioned case garnered significant attention towards the utilisation of torture by Indian security forces, thereby prompting appeals for enhanced accountability and reformation.⁴⁸

The case of Manorama Devi serves as an illustration of the difficulties encountered by individuals who have been subjected to torture and mistreatment at the hands of Indian security personnel. Insufficient accountability and oversight of security forces, particularly in zones of conflict, renders individuals susceptible to violence and exploitation. This particular case has emphasised the necessity of enhanced transparency and accountability in security operations, alongside the provision of increased protection for human rights within areas of conflict.

E. Shanti Mukund Hospital Case

In 2010, Savita Halappanavar passed away in an Irish hospital due to being refused an abortion, despite encountering severe pregnancy-related complications. The aforementioned case garnered global attention and ignited a discourse regarding the issue of abortion rights in India and beyond⁴⁹. The case of Shanti Mukund Hospital brought to light the obstacles that women encounter when seeking safe and lawful abortion services in India. The imposition of stringent abortion regulations and the restricted availability of related services frequently compel women to resort to hazardous and unlawful procedures, thereby jeopardising their well-being and survival. The aforementioned case has highlighted the necessity for legal and policy modifications aimed at enhancing the accessibility of secure and lawful abortions in India. Additionally, there is a need for increased awareness and education regarding reproductive rights.

⁴⁸ S. Chakravarty, *Armed forces (Special Powers) Act, 1958: A critical review*, 5 JILS 53-66, (2014).

⁴⁹ R. Bajpai, *Abortion in India: Legal and ethical issues*, 16(3) JIHM, 433-444, (2014).

VII. Role of Government and Civil Society in Protecting Victim's Rights.

The safeguarding of the rights of victims in India necessitates a collaborative endeavour between the governmental and non-governmental sectors. The following is an overview of the functions performed by these entities in safeguarding the rights of victims:

A. Role of Government

- a) *Policy development:* The development and implementation of policies that safeguard the rights of crime victims is a responsibility that falls under the purview of the government. It encompasses the provision of legal assistance, counselling, and support systems to victims, alongside the enforcement of accountability for the offenders.
- b) *Law enforcement:* The enforcement of laws that safeguard the rights of victims is the responsibility of the government's law enforcement agencies. The aforementioned tasks encompass the process of scrutinising criminal activities, detaining offenders, and guaranteeing that aggrieved parties are promptly and effectively redressed.
- c) *Capacity building:* Capacity building is a crucial aspect in ensuring that law enforcement agencies and the judiciary are equipped with the requisite resources, training, and support to effectively respond to and address the needs of victims. It is imperative that the government takes the necessary steps to provide these resources to enhance the capacity of these institutions.

B. Role of Civil Society

- a) *Advocacy:* The advocacy efforts of civil society are of paramount importance in championing the rights of individuals who have been victimised by criminal acts. The aforementioned actions encompass increasing consciousness regarding the rights of victims, promoting modifications to policies and laws, and ensuring that the government fulfils its obligations.
- b) *Service:* Civil society organisations are known to offer crucial services to victims, such as legal assistance, counselling, and support systems.

The significance of these services lies in their provision to marginalised and vulnerable populations who may encounter difficulties in accessing government services.

- c) *Monitoring and evaluation:* The monitoring and evaluation of government policies and programmes aimed at safeguarding the rights of victims is a crucial task that is often undertaken by civil society organisations. In addition, they have the capability to furnish feedback and suggestions for enhancement.

C. Initiatives and Programs Undertaken by the Government for Victim Protection in India

The government of India has implemented various initiatives aimed at safeguarding the rights of individuals who have been subjected to criminal acts. The Indian government has implemented several measures aimed at safeguarding victims, including:

- a) *Victim Compensation Scheme:* The Indian government has instituted a Victim Compensation Scheme with the aim of offering monetary aid to individuals who have suffered harm as a result of criminal activities. According to this programme, individuals who have suffered harm may be eligible to receive financial restitution ranging from Rs. 50,000 to Rs. 7 lakhs, contingent upon the gravity of the offence. The National Legal Services Authority has implemented a scheme that is accessible to individuals who have been victimised by both violent and non-violent offences.
- b) *One Stop Centres:* The Indian government has instituted One Stop Centres (OSC) with the aim of offering aid and succour to individuals who have been subjected to violent acts such as domestic violence, sexual assault, and acid attacks. The aforementioned centres offer a variety of services, such as medical aid, legal support, psychological counselling, and housing.
- c) *Legal Aid:* The National Legal Services Authority offers free legal aid to individuals who have been victimised by criminal activities, as mandated by the Indian government. Legal aid clinics have been established

nationwide by the governing body to offer legal aid to individuals who are unable to procure the services of a lawyer due to financial constraints.

- d) *Fast-track Courts*: The government has instituted fast-track courts with the aim of accelerating the legal proceedings for cases pertaining to offences committed against women and children. The purpose of these courts is to guarantee the prompt and effective administration of justice.
- e) *Cyber Crime Cells*: The Indian government has instituted cyber-crime cells with the purpose of examining and pursuing legal action in instances of cyber-crime, encompassing online harassment, identity theft, and financial fraud. The purpose of these cells is to safeguard individuals who have fallen prey to cybercrime and to ensure that those responsible for such acts are duly prosecuted.

D. Need for Stronger Collaborations Between Government and Civil Society for the Protection of Victim's Rights in India

The protection of victims' rights in India necessitates the collaboration of the government and civil society. The enactment of laws and policies that protect the rights of victims falls under the purview of the government, whereas civil society organisations are instrumental in providing aid and succour to victims of criminal activities. There exists a pressing need for enhanced collaborations between the government and civil society in India to safeguard the rights of victims. This can be attributed to various factors as follows:

- a) *Limited resources*: It is plausible that the government lacks the requisite resources and infrastructure to furnish aid and assistance to individuals who have fallen prey to criminal activities. The involvement of civil society organisations in collaborative efforts can serve as a means of addressing the shortfall in services that are not currently accessible through government agencies. Non-governmental organisations (NGOs) have the capacity to provide a range of services to individuals who have been victimised by criminal activities, including but not limited to counselling and legal assistance.
- b) *Increased outreach*: Civil society organisations possess a wider scope and are frequently better situated to detect individuals who have fallen victim to criminal activities and may lack access to government-provided

services. Through collaboration with non-governmental organisations and other entities within civil society, governmental bodies can guarantee that individuals who have suffered receive the necessary aid.

- c) *Advocacy and awareness*: Civil society organisations are instrumental in promoting awareness of the rights of victims and lobbying for policy reforms that are advantageous to them. Through the establishment of partnerships with civil society organisations, governmental bodies can effectively facilitate the amplification of the perspectives of those who have suffered harm, while concurrently safeguarding their rights.
- d) *Accountability*: The establishment of a collaborative relationship between the government and civil society can facilitate the promotion of accountability in safeguarding the rights of victims. Civil society organisations possess the capacity to oversee the execution of policies and initiatives aimed at safeguarding victims and ensuring that the government is answerable for any inadequacies.

VIII. Comparative Analysis of the Legal Framework for the Protection of Victim's Rights in Other Countries

A comparative examination of victim's rights frameworks in foreign nations can offer valuable insights into optimal methodologies and potential areas for enhancement in safeguarding the rights of victims.

A. The United States of America

The United States possesses an extensive legal structure that safeguards the rights of victims, which encompasses the Victims of Crime Act (VOCA) of 1984 and the Victims' Rights Constitutional Amendments implemented in all 50 states. The Victims of Crime Act (VOCA) allocates financial resources for victim assistance and compensation initiatives, whereas the Constitutional Amendments safeguard the legal entitlements of victims throughout the criminal justice proceedings.

B. Canada

Canada has implemented a similar legal structure to that of the U.S. to safeguard the rights of victims, which encompasses the Canadian Victims Bill of Rights that was enacted in 2015. The proposed legislation affords

individuals who have suffered harm, the right of access to information, protection measures, involvement in legal proceedings, and compensation..⁵⁰

C. Australia

Australia has implemented various federal and state legislations to safeguard the interests of victims, such as the Victims' Charter Act 2006 and the Victims of Crime Assistance Act 1996. The aforementioned laws grant victims the entitlement to access information, receive assistance, and obtain reparation.⁵¹

D. The European Union

The Directive on Victims' Rights, which was ratified in 2012, is an example of the legal framework that the European Union has put in place to safeguard the rights of victims. The aforementioned directive confers upon victims the right to receive information, support, and protection, and mandates that member states guarantee that victims are accorded respect and dignity.⁵²

In general, the legal structures implemented to safeguard the rights of victims in these nations exhibit numerous resemblances, including the dissemination of information, assistance, and security for affected parties. Notwithstanding, variations may exist in the particular entitlements granted to victims, alongside the financial backing and resources accessible to bolster victim services.

IX. Lessons and Best Practices for India for the Protection of Victim's Rights

Drawing upon a comparative analysis of legal frameworks pertaining to the protection of victims' rights in various nations, it is evident that India can

⁵⁰ Government of Canada, *The Canadian Victims Bill of Rights* (March 10, 7:30 PM) <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/bill-projet.html>.

⁵¹ Australian Government, *Victim support and rights* (March 10, 7:45PM) <https://www.australia.gov.au/information-and-services/public-safety-and-law/victim-support-and-rights>.

⁵² European Commission, *Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime*, (March 10, 8:15 PM) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0029&qid=1438693135391&from=EN>.

potentially benefit from adopting several best practices and lessons to enhance the protection of victims' rights. They include:

- a) *Strengthening victim-centred approaches*: The criminal justice systems of nations such as Canada and the United Kingdom have implemented a victim-centric approach that centres the victim in the legal process. India has the potential to implement comparable strategies to accord priority to the requirements and entitlements of victims within the framework of the criminal justice system.
- b) *Provision of legal aid and support*: Legal aid systems have been implemented in countries such as South Africa and Canada to furnish legal assistance and support to individuals who have been victimised, particularly those who are marginalised and vulnerable. India could potentially derive valuable insights from these nations and implement comparable frameworks to furnish legal assistance and backing to affected parties.
- c) *Protection of the identity of victims*: The United States and Canada have implemented legal measures to safeguard the anonymity of victims, particularly in instances of sexual offences. India has the potential to implement comparable measures aimed at safeguarding the anonymity of victims, thereby motivating them to report crimes without apprehension of social disgrace or retribution.
- d) *Ensuring victim participation in criminal proceedings*: The United Kingdom and Canada possess mechanisms that enable victims to engage in criminal proceedings, including the provision of victim impact statements. India has the potential to implement comparable mechanisms to guarantee that victims are afforded a voice in the criminal justice proceedings.
- e) *Establishing support services for the victims*: Countries such as United States and Canada offer support services such as emotional support and counselling to victims. India can then develop such services that aim to protect and help the victims manage the psychological and emotional impact of victimisation.

X. Conclusion

Although there have been a lot of developments pertaining to victim protection, there are still significant challenges that need to be addressed. The primary obstacles come from victims' lack of awareness and knowledge, preconceived and prejudiced notions towards victims and limited resources for services that provide support to victims. Stronger collaborations between governmental and non-governmental organisations are imperative to address these challenges. It is safe to say that more awareness campaigns are needed for both the victims, for their rights, and to those with unfavourable or biased attitudes, to generate sympathetic support. Most importantly, the government must strive, along with, the civil society organisations to ensure that the victims are treated with respect and decency during the criminal justice process.

After careful perusal, the researchers are of the opinion that the following suggestions shall strengthened the rights of the victims in India.

- a) *Increasing awareness*: Both the government and non-governmental organisation such as various civil society organisations can initiate awareness programmes and campaigns that aims to educate the victims on their rights and support services that are at their disposal.
- b) *Enhancing victim support services*: The government may allocate additional resources towards services such as legal aid, rehabilitation and counselling for the victims.
- c) *Strengthening victim compensation schemes*: The government may reinforce the Victim Compensation Scheme and guarantee its universal accessibility to all victims.
- d) *Protecting victim identity*: In instances of sexual assault and domestic violence, the government must proactively to safeguard the identities of victims, particularly in in order to avert additional victimisation and prejudicial treatment.
- e) *Encouraging victim participation*: It is imperative for the government to facilitate and promote the involvement of victims in the criminal justice system, in order to provide them with a platform to express their views and prevent any additional harm to their well-being.

- f) *Enhancing collaboration*: It is vital that the government and civil society organisations establish a close working relationship with one another to ensure the implementation and execution of victim protection laws and policies, and guarantee that victims receive the requisite support and protection.
- g) *Strengthening legal framework*: To strengthen the legal framework pertaining to victim's rights, it may be suggested that the government enact additional laws and policies that prioritise the needs and interests of victims.

The objective of these suggestions is to establish an ambience where victim-centric laws can be implemented to protect the rights of the aggrieved. The governmental and non-governmental organisations together will have at their disposal both financial resources and human resources to be able to successfully adopt these measures that would subsequently be beneficial for and protective of the rights of the victims in India.