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COMPARATIVE STUDY OF LAWS RELATED TO VICTIMS IN UK, USA AND INDIA

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ABSTRACT

Society from the time immemorial has been governed by laws so as to keep it in order and with the evolution of society nature of crimes also changed and in tackling these different crimes rulers of state come up with different laws at a particular time.in earlier period of development of laws the theory of retribution was mostly prevailing in societies where victim was given every right to seek vengeance by chances and personal passion that later changed to group vengeance. later on, this practice changed and a shift was made towards victim compensation rather that retribution. This paper will briefly try to explore the development of laws related to victim in countries like USA, UK and India where we will deal with various legislations and rights availed to victims of crime and what more can be done to protect these victims. The Latest approaches of these countries towards victims has been vividly expressed by some new legislations that will be discusses in paper

LAWS RELATED TO VICTIMS IN INDIA

Under the criminal law 'Victim' means a person who has suffered any loss or injury caused by reason of the act or omission of the accused person and includes the guardian or legal heir of such victim" as defined under section 2(y) of Bharatiya Nagarik Suraksha Sanhitha. Word victimology as per Britannica Dictionary is the branch of criminology that scientifically studies the relationship between an injured party and an offender by examining the causes and the nature of the consequent suffering. Criminal victimization results in economic costs, physical injuries, and psychological harm. The Hon'ble Supreme Court in *Rattiram & Ors vs State Of M.P,*[1] observed "The criminal jurisprudence, with the passage of time, has laid emphasis on victimology which fundamentally is a perception of a trial from the view point of the criminal as well as the victim. Both are viewed in the social context. The view of the victim is given due regard and respect in certain countries. In respect of certain offences in our existing criminal jurisprudence, the testimony of the victim is given paramount importance. Sometimes it is perceived that it is the duty of the court to see that the victim's right is protected."

[1] AIR 2012 SC 1485

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The Hon'ble Supreme Court in *Mangal Singh & Anr vs Kishan Singh & Ors*[2] held "Any inordinate delay in conclusion of a criminal trial undoubtedly has highly deleterious effect on the society generally and particularly on the two sides of the case. But it will be a grave mistake to assume that delay in trial does not cause acute suffering and anguish to the victim of the offence. In many cases the victim may suffer even more than the accused. There is, therefore no reason to give all the benefits on account of the delay in trial to the accused and to completely deny all justice to the victim of the offence."

VICTIMS AND THEIR RIGHTS UNDER CRIMINAL LAWS IN INDIA

Under criminal legislation like Bharatiya Nagarik Sursksha Sanhitha, 2023, and Bharatiya Sakshya Adhiniyam, 2023, victims have been granted a number of rights and protections, including special enactments.

1. Victim Rights Under Bharatiya Nagarik Sursksha Sanhitha, 2023:

1. Section 18(8) of the BNSS (section 24(8) of the Cr.P.C.) allows a victim to hire any advocate they choose to support the prosecution. The advocate's authority is constrained, though, and unless the court gives permission, he can only make written arguments after the evidence has been recorded.

2. A victim who files a First Information Report in accordance with section 173 of the BNSS (section 154 of the Cr.P.C.) is entitled to a free copy of the information that was recorded at the time of filing.

3.A female police officer must record the victim's statement in situations of offenses under sections 64 to 71, 74 to 79, and 124 of the Bharatiya Nyaya Sanhitha, 2023.

4. Information on a victim who is temporarily or permanently mentally or physically challenged must be recorded at the victim's home or at a convenient location of the victim's choosing, with a special educator or interpreter present.

5. In accordance with section 173 of the BNSS, the victim may also provide information electronically, and the official in charge of a police station will record it once the informant signs it within three days of providing it.

6. The victim may submit the information to the relevant Superintendent of Police if the responsible officer declines to record it, and if the information is still not documented, the victim may file a petition before the magistrate.

7. The victim or informant must be notified of the closure of the case if the officer in charge of the police station decides to file a final report ending it.

8. The court may allow an advocate to carry out the prosecution on behalf of the victim in accordance with section 339 of the BNSS (section 302 of the Cr.P.C). The question before the three-judge panel of the Hon'ble Supreme Court of India in Shiv Kumar v. Hukam Chand was whether the aggrieved party had the right to hire their own attorney to handle the prosecution even while the Public Prosecutor was present. The Public Prosecutor's

[2] AIR 2009 SC 1535

job was to enforce the law and put together a strong case, according to the Hon'zahble Supreme Court. The presence of a private attorney would unavoidably compromise the fairness and impartiality that must be the defining feature of any successful prosecution.
In *Shiv Kumar v. Hukam Chand*[3] , the question that was posed before three-Judge Bench of the Hon'ble Supreme Court of India was whether an aggrieved has a right to engage his/her own counsel to conduct the prosecution despite the presence of the Public Prosecutor. The Hon'ble Supreme Court noted that "the role of the Public Prosecutor was upholding the law and putting together a sound prosecution; and that the presence of a private lawyer would inexorably undermine the fairness and impartiality which must be the hallmark, attribute and distinction of every proper prosecution.

If in any case, the advocate appointed by the aggrieved party attempted to cross-examine the witness, which the trial court had permitted but which the High Court had reversed in revision. The High Court only allowed the submission of written arguments following the conclusion of the evidence. The Hon'ble Supreme Court upheld the High Court's position, noting that anyone (apart from a police officer below the rank of Inspector) could conduct the prosecution before the Magistrate, but that this laxity is prohibited in the Sessions by Section 225 CrPC, which explicitly states that a Public Prosecutor is responsible for conducting the prosecution.
In *Zahira habibuullah h. sheikh v. State of Gujrat*[4], the Hon'ble Supreme Court rendered a decision. It should be mentioned that a public prosecutor frequently does not know the facts that the victim possesses. Additionally, police, not the victim, give instructions to a public prosecutor. It was also evident that as society changes, the types of offenses also alter to fit the circumstances.
That is a reason why number of special enactments have been made such as Dowry Prohibition Act, Negotiable Instruments Act, and Domestic Violence Act which can be said as apart from offence against the society are also personnel in nature in as much as it is the victim who can bring-forth the alleged offence in a better way." As observed by the Hon'ble Apex Court in the judgment referred above, justice should need not be done but appears to be done. Further inasmuch as the victim seeks to assist prosecution there cannot be any prejudice since what is sought to be made is only to assist the prosecution and not to replace the prosecution. Moreover, in view of the huge inflow and pendency of cases, at times it may be possible for a Public Prosecutor to concentrate fully on a single case.

Under section 413 of the BNNS, the victim has the right to file an appeal against the court's decision to clear the accused, convict them of a lesser crime, or impose insufficient reparation (Section 372 of Cr.P.C).

When imposing a sentence that does not include a fine, the court may, in accordance with section 395 of the BNSS (section 357 of the Cr.P.C.), order the accused to compensate the victim—someone who has suffered any loss or harm as a result of the act for which the accused is sentenced—with the amount specified in the order. The court will consider any amount paid

[3] (1999) 2 ANDH LT (CRI) 433

[4] AIR 2006 SUPREME COURT 1367, 2006 (3) SCC 374

or collected as compensation under section 395 of the BNSS when determining the amount of compensation in any other later suit pertaining to the same incident.

Under section 350 of the BNSS (section 312 of the Cr.P.C.), the court may further mandate that the complainant or victim pay reasonable costs for attending any investigation, trial, or other judicial processes.

When imposing a sentence that does not include a fine, the court may, in accordance with section 395 of the BNSS (section 357 of the Cr.P.C.), order the accused to compensate the victim—someone who has suffered any loss or harm as a result of the act for which the accused is sentenced—with the amount specified in the order. The court will consider any amount paid or collected as compensation under section 395 of the BNSS when determining the amount of compensation in any other later suit pertaining to the same incident.

Under section 350 of the BNSS (section 312 of the Cr.P.C.), the court may further mandate that the complainant or victim pay reasonable costs for attending any investigation, trial, or other judicial processes.

Under the BNSS, in camera proceedings are permitted in order to protect the victim's identity in certain offenses. Section 366 of the BNSS (section 327 of the Cr.P.C.) requires a female judge or magistrate to try cases involving offenses under sections 64 to 68, 70 and 71 of the BNS, 2023, and sections 4, 6, 8, or 10 of the Protection of Children from Sexual Offences Act, 2012, in camera.

The Hon'ble Supreme Court of India in Sakshi Vs. Union of India[5], held "the mere sight of the accused may induce an element of extreme fear in the mind of the victim or the witnesses or can put them in a state of shock. In such a situation he or she may not be able to give full details of the incident which may result in miscarriage of justice. Therefore, a screen or some such arrangement can be made where the victim or witnesses do not have to undergo the trauma of seeing the body or the face of the accused." And the Hon'ble Supreme Court gave following directions:

(1) The provisions of sub-section (2) of section 327 Cr.P.C. shall in addition to the offences mentioned in the sub-section would also apply in inquiry or trial offences under sections 354 and 377 IPC.

(2) In holding trial of child sex abuse or rape:

(a) a screen or some such arrangements may be made where the victim or witnesses (who may be equally vulnerable like the victim) do not see the body or face of the accused;

(b) the questions put in cross-examination on behalf of the accused, in so far as they relate directly to the incident, should be given in writing to the President Officer of the Court who may put them to the victim or witnesses in a language which is clear and is not embarrassing;
(c) the victim of child abuse or rape, while giving testimony in court, should be allowed sufficient breaks as and when required. The Hon'ble Supreme Court has also laid down certain precautions to be taken in case the victim is a child as follows:

[5] AIR 2004 SC 3566

(i) Permitting use of a videotaped interview of the child's statement by the judge (in the presence of a child support person).

(ii) Allowing a child to testify via closed circuit television or from behind a screen to obtain a full and candid account of the acts complained of.

(iii) The cross examination of a minor should only be carried out by the judge based on written questions submitted by the defence upon perusal of the testimony of the minor.

(iv) Whenever a child is required to give testimony, sufficient breaks should be given as and when required by the child.

The Hon'ble Supreme Court held that the above directions are in addition to those given in *State of Punjab v. Gurmit Singh*[6]. Wherein the Hon'ble Supreme Court held that:

i)When trials are held in camera, it would not be lawful for any person to print or publish any matter in relation to the proceedings in the case, except with the previous permission of the Court as envisaged by Section 327 (3) Cr. P.C. This would save any further embarrassment being caused to the victim of sex crime.

ii)Wherever possible it may also be worth considering whether it would not be more desirable that the cases of sexual assaults on the females are tried by lady Judges, wherever available, so that the prosecutrix can make her statement with greater ease and assist the Courts to properly discharge their duties, without allowing the truth to be sacrificed at the altar of rigid technicalities while appreciating evidence in such cases.

iii)The Courts should, as far as possible, avoid disclosing the name of the prosecutrix in their orders to save further embarrassment to the victim of sex crime. The anonymity of the victim of the crime must be maintained as far as possible throughout.

2. Victim Rights Under Bharatiya Sakshya Adhiniyam, 2023:

According to Sections 154 and 155 of the BSA (sections 151 and 152 of the Indian Evidence Act), the Court can prohibit victims and other witnesses from being asked questions that it deems offensive or scandalous and that are meant to offend or irritate them.

3. Victim Rights under the Indian Constitution:

Apart from the safeguards provided under criminal laws, the Indian constitution also provides rights to victim, such as right to fair investigation and trial.

In *Nirmal Singh Kahlon v. State of Punjab* [7], the Hon'ble Apex Court was pleased to observe that the right to fair investigation and trial is applicable to the accused as well as the victim and such a right to a victim is provided under Article 21 of the Constitution of India. The Hon'ble Apex Court held "An accused is entitled to a fair investigation. Fair investigation and fair trial are concomitant to preservation of fundamental right of an accused under Article 21 of the Constitution of India. But the State has a larger obligation i.e., to maintain law and order, public order and preservation of peace and harmony in the society. A victim of a crime, thus, is equally entitled to a fair investigation. When serious allegations were made against a former Minister

[6] 1996 SCC (2) 384
[7] (2009) 1 SCC 441

of the State, save and except the cases of political revenge amounting to malice, it is for the State to entrust one or the other agency for the purpose of investigating into the matter. The State for achieving the said object at any point of time may consider handing over of investigation to any other agency including a Central agency which has acquired specialization in such cases."

The Hon'ble High Court of Madras in *Sathyavani Ponrani vs Samuel Raj*[8] held "Free and Fair Investigation and Trial is enshrined in Article 14, 21 and 39-A of the Constitution of India. It is the duty of the state to ensure that every citizen of the country should have the free and fair investigation and trial. The preamble and the constitution are compulsive and not facultative, in that free access to the form of justice is integral to the core right to equality, regarded as a basic feature of our Constitution. Therefore, such a right is a constitutional right as well as a fundamental right. Such a right cannot be confined only to the accused but also to the victim depending upon the facts of the case. Therefore, such a right is not only a constitutional right but also a human right. Any procedure which comes in a way of a party in getting a fair trial would in violation of Article 14 of the Constitution."

4. Victim Rights under Special Acts:

Apart from the above rights and safeguards provided to the victims, further protection is provided to Victims under Special Acts such as:

The special Acts like The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, provide protection to atrocity victims or their dependents and witnesses from intimidation and harassment; (section 15A(11)(h)) and also right to information and other such rights.

The Hon'ble High Court of Andhra Pradesh at Amaravathi, in Writ Petition no.27193/2023 dated 09.01.2024, held that the scope of the 15-A of the SC and STs (POA) Act is more wider and broader than the scope of Section 302 Cr.P.C. The Hon'ble High Court also held that "where a right of Audi Alterm Partem is conferred on the victim of his dependents, then the court has to give an opportunity/right of audience to the victim of his/her dependent to hear them as to enable them to participate in the proceedings including bail proceedings also. Therefore, a victim or dependent has a right to be heard by the Court enabling the victim or dependents to participate in any proceedings in respect of not only bail proceedings but also in the proceedings of discharge, release, parole, conviction or sentence of an accused of any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing of a case."

Section 33(7) and (8) in The Protection of Children from Sexual Offences Act, 2012, provides for protection of identity of child victims and for payment of compensation as may be prescribed to the child victims for any physical or mental trauma caused to him/her or for immediate rehabilitation. The Hon'ble Supreme Court of India in Nipun Saxena And Another Vs. Union of India and others[9] while dealing with the question of protection of identity of adult victims of rape and children who are victims of sexual abuse, laid following directions:

[8] 2010 (4) CTC 833
[9] WRIT PETITION (CIVIL) NO. 565 OF 2012 dated 11.12.2018

1. No person can print or publish in print, electronic, social media, etc. the name of the victim or even in a remote manner disclose any facts which can lead to the victim being identified and which should make her identity known to the public at large.

2. In cases where the victim is dead or of unsound mind the name of the victim or her identity should not be disclosed even under the authorization of the next of the kin, unless circumstances justifying the disclosure of her identity exist, which shall be decided by the competent authority, which at present is the Sessions Judge.

3. FIRs relating to offences under Sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of IPC and offences under POCSO shall not be put in the public domain.

4. In case a victim files an appeal under Section 372 CrPC, it is not necessary for the victim to disclose his/her identity and the appeal shall be dealt with in the manner laid down by law.

5. The police officials should keep all the documents in which the name of the victim is disclosed, as far as possible, in a sealed cover and replace these documents by identical documents in which the name of the victim is removed in all records which may be scrutinized in the public domain.

6. All the authorities to which the name of the victim is disclosed by the investigating agency or the court are also duty bound to keep the name and identity of the victim secret and not disclose it in any manner except in the report which should only be sent in a sealed cover to the investigating agency or the court.

7. An application by the next of kin to authorise disclosure of identity of a dead victim or of a victim of unsound mind under Section 228A(2)(c) of IPC should be made only to the Sessions Judge concerned until the Government acts under Section 228A(2)(c) and lays down a criteria as per our directions for identifying such social welfare institutions or organisations.

8. In case of minor victims under POCSO, disclosure of their identity can only be permitted by the Special Court, if such disclosure is in the interest of the child.

9. All the States/Union Territories are requested to set up at least one ‘one stop centre’ in every district within one year from today.

5. Compensation

The court may when passing judgment, order the whole or part of any part of the fine recovered to be applied for payment of compensation to the victim, when such compensation is recoverable by such person in a civil court, or for payment of compensation to victim entitled under The Fatal Accidents Act, 1855, who is entitled to recover damages from the persons sentenced. And for compensation to the bona fide purchaser of stolen property, where such property is restored to the possession of persons entitled thereto. When a Court imposes a sentence, of which fine does not form a part, the Court may, when passing judgment, order the accused to pay, by way of compensation, such amount as may be specified in the order to the victim. (section 395 of BNSS).

The Hon'ble Supreme Court in *Vijayan vs Sadanandan K. & Anr*[10], held that "Section 64 IPC makes it clear that while imposing a sentence of fine, the Court would be competent to include a default sentence to ensure payment of the same. The provisions of Sections 357(3) and 431 Cr.P.C., when read with Section 64 IPC, empower the Court, while making an order for payment of compensation, to also include a default sentence in case of non-payment of the same. Recourse can only be had to Section 421 Cr.P.C. for enforcing the same, the very object of Sub-Section (3) of Section 357 would be frustrated and the relief contemplated therein would be rendered somewhat illusory." and held that that while awarding compensation under Section 357(3) Cr.P.C., the Court is within its jurisdiction to add a default sentence of imprisonment.

The Hon'ble Supreme Court while dealing with the cases under section 138 of Negotiable Instruments Act, held in R. Vijayan vs Baby & Anr[11] that in those cases where the discretion to direct payment of compensation is not exercised, it causes considerable difficulty to the complainant, as invariably, by the time the criminal case is decided, the limitation for filing civil cases would have expired. The Hon'ble Supreme Court further held "As the provisions of Chapter XVII of the Act strongly lean towards grant of reimbursement of the loss by way of compensation, the courts should, unless there are special circumstances, in all cases of conviction, uniformly exercise the power to levy fine up to twice the cheque amount (keeping in view the cheque amount and the simple interest thereon at 9% per annum as the reasonable quantum of loss) and direct payment of such amount as compensation. Direction to pay compensation by way of restitution in regard to the loss on account of dishonour of the cheque should be practical and realistic, which would mean not only the payment of the cheque amount but interest thereon at a reasonable rate. Uniformity and consistency in deciding similar cases by different courts, not only increase the credibility of cheque as a negotiable instrument, but also the credibility of courts of justice."

6. Interim compensation under Negotiable Instruments Act

The Hon'ble Supreme Court in *Rakesh Ranjan Shrivastava v. State of Jharkhand*[12], held that the exercise of power under Section 143A is discretionary and that the power can be exercised even before the accused is held guilty and at the threshold even before the evidence is recorded. The Hon'ble Apex court held that section 143A will apply only when the case is being tried as a warrant case. And in the case of a summary or summons trial, the power under section 143A can be exercised after the plea of the accused is recorded. The Hon'ble Apex Court laid down the following parameters to be considered while deciding the prayer made under Section 143A:

VICTIM COMPENSATION SCHEME

Victim Compensation scheme under Section 396 of BNSS:

The State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation to the victim who have suffered loss or injury and who require rehabilitation. When the Court recommends for compensation to victim, the District Legal Service Authority or the State Legal Service Authority, as the case may be, shall decide the quantum of compensation. And when the trial court considers that the

[10] 2009 AIR SCW 3469
[11] AIR 2012 SC 528
[12] (2024) 4 SCC 419

compensation awarded under section 395 is not adequate for rehabilitation of victim, or in case of acquittal or discharge and the victim has to be rehabilitated, it may make recommendation for compensation.

The Victim can also make an application for compensation to the State or the District Legal Services Authority where the offender is not traced or identified, and where no trial takes place. The State or the District Legal Services Authority shall award adequate compensation on such application by conducting enquiry within two months. And on the certificate issued by the officer in charge of the police station or a Magistrate concerned, the State or the District Legal Services Authority, may also order immediate first-aid facility or medical benefits to be made available free of cost to the victim. The compensation so payable shall be in addition to the payment of fine to the victim under section 65, section 70 and sub-section (1) of section 124 of the Bhartiya Nyaya Sanhita, 2023. (Section 357A, 367B CrPC).

NALSA'S COMPENSATION SCHEME FOR WOMEN VICTIMS/SURVIVORS OF SEXUAL ASSAULT/OTHER CRIMES – 2018

The Hon'ble Supreme Court of India in Nipun Saxena and Another Vs. Union of India and others[13] vide order dated 12.10.2017 directed NALSA to set up a committee and to prepare a model victim compensation scheme for survivors of sexual offences and Acid attacks. And accordingly, the above scheme was prepared. The Hon'ble Supreme Court observed that, while nothing should be taken away from the scheme, but it does not preclude the state Governments and Union Territories administrations from adding to the scheme.

The scheme aims at setting up a fund as "WOMEN VICTIMS COMPENSATION FUND" operated by the Hon'ble State Legal Services Authority, from which the amount of compensation, as decided by the Hon'ble State Legal Services Authority or District Legal Services Authority, shall be paid to the women victims or their dependents.

The 'Women Victims Compensation Fund' shall comprise: -

(a) Contribution received from The Central Victim Compensation Fund (CVCF) Scheme, 2015.

(b) Budgetary allocation in the shape of Grants-in-aid to SLSA

(c) Any cost amount ordered by Civil/Criminal Tribunal deposited in this Fund.

(d) Amount of compensation recovered from the accused under clause 14 of the Scheme;

(e) Donations/contributions from International/ National/ Philanthropist/ Charitable Institutions/ Organizations and individuals permitted by State or Central Government.

(f) Contributions from companies under Corporate Social Responsibility A woman victim or her dependents as the case may be, shall be eligible for grant of compensation from multiple schemes applicable to her. However, the compensation received by her in the other schemes will be considered while deciding the quantum in the such subsequent application. The scheme sets out a schedule for granting compensation to the victims, prescribing the minimum and maximum limit of compensation to be granted under the scheme.

[13] WRIT PETITION (CIVIL) NO. 565 OF 2012 dated 11.12.2018

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FACTORS CONSIDERED WHILE AWARDING COMPENSATION

The Hon'ble State Legal Services Authority/District Legal Services Authority may take into consideration the following factors while awarding compensation:

(1) Gravity of the offence and severity of mental or physical harm or injury suffered by the victim;

(2) Expenditure incurred or likely to be incurred on the medical treatment for physical and/or mental health including counselling of the victim, funeral, travelling during investigation/ inquiry/ trial;

(3) Loss of educational opportunity as a consequence of the offence, including absence from school/college due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(4) Loss of employment as a result of the offence, including absence from place of employment due to mental trauma, bodily injury, medical treatment, investigation and trial of the offence, or any other reason;

(5) The relationship of the victim to the offender, if any;

(6) Whether the abuse was a single isolated incidence or whether the abuse took place over a period of time;

(7) Whether victim became pregnant as a result of the offence, whether she had to undergo Medical Termination of Pregnancy (MTP)/ gave birth to a child, including rehabilitation needs of such child;

(8) Whether the victim contracted a sexually transmitted disease (STD) as a result of the offence;

(9) Whether the victim contracted human immunodeficiency virus (HIV) as a result of the offence;

(10) Any disability suffered by the victim as a result of the offence;

(11) Financial condition of the victim.

(12) In case of death, the age of deceased, her monthly income, number of dependents, life expectancy, future promotional/growth prospects etc.

(13) Or any other factor which the authority may consider just and sufficient.

DISBURSEMENT OF COMPENSATION

The amount of compensation so awarded shall be disbursed by the Hon'ble State Legal Services Authority by depositing the same in a Bank in the joint or single name of the victim/dependents. In case the victim does not have any bank account, the concerned District Legal Services Authority would facilitate opening of a bank account in the name of the victim or the guardian of a minor victim. In case the minor is in a child care institution, the bank account with the Superintendent of the Institution as Guardian. Interim amount shall be

disbursed in full. And the final compensation amount is concerned, 75% shall be put in a fixed deposit for a minimum period of three years and the remaining 25% shall be available for utilization by the victim. In the case of a minor victim, 80% of the amount of compensation so awarded, shall be deposited in the fixed deposit account and shall be drawn only on attainment of the age of majority, but not before three years of the deposit. However, in exceptional cases, amounts may be withdrawn for educational or medical or other pressing and urgent needs of the beneficiary at the discretion of the Hon'ble State Legal Services Authority/District Legal Services Authority. The interest on the FDR, shall be credited directly by the bank in the savings account of the victim/dependent, on monthly basis which can be withdrawn by him/her.

INTERIM RELIEF TO THE VICTIM

The Hon'ble State Legal Services Authority/District Legal Services Authority, may also order for immediate first-aid facility or medical benefits to be made available free of cost to the victim on the certificate of the officer-in-charge of the police station, or concerned Magistrate or on the application of the victim. On the receipt of application, the Hon'ble State Legal Services Authority/District Legal Services Authority, shall disburse an amount of Rs.5000/- or up to Rs. 10,000/- immediately to the victim through pre-loaded cash card from a Nationalised Bank. The interim relief so granted shall not be less than 25 % of the maximum compensation awardable as per schedule. In cases of acid attack a sum of Rs.1,00,000/- shall be paid to the victim within 15 days of the matter being brought to the notice of the Hon'ble State Legal Services Authority/District Legal Services Authority. The order shall be passed within 7 days of the matter being brought to the notice of the Authority and compensation shall be paid within 8 days of passing of order. Thereafter an additional sum of Rs.2,00,000/- shall be awarded and paid to the victim as expeditiously as possible within two months.

RECOVERY OF COMPENSATION

The Hon'ble State Legal Services Authority, may institute proceedings before the competent court for recovery of compensation granted to the victim Subject to the provisions of sub-section (3) of Section 357A of Cr.P.C. The amount, so recovered, shall be deposited in Woman Victim Compensation Fund.

THE CENTRAL VICTIM COMPENSATION FUND 2016

The central victim compensation fund guidelines- 2016 came into force from 06/07/2016 with the objective to support and supplement the existing victim compensation schemes notified by the states/UT administrations. The guidelines aim at reducing the disparity in quantum of compensation amount notified by different States and union territories and also encouraging the States and union territories to effectively implement the compensation schemes notified by them under section 357 A of Cr.P.C and to continue financial support to the victims of various crimes especially sexual offences including rape, acid attacks common crimes against children and human trafficking etcetera. The sanctioned size of central victim compensation fund is 200 crores. The CVCF is administered by an empowered committee chaired by the Additional

Secretary (CS), MHA. The quantum of compensation is provided in the Annexure to the guidelines and the States and Union territories must notify the victim compensation scheme which should not be less than the amount mentioned in the annexure as per the guidelines. The States and Union territories shall get onetime grant from CVCF and the amount so received shall be utilized by the States/Union territories for disbursement under their respective victim compensation schemes.

VICTIMS' RIGHTS IN USA

In America there was a serious imbalance between the rights of offenders and crime victims. Despite the reliance on victims, the American Jurisprudence has emphasised its interest in favour of offenders. As a consequence, the needs of the victims had become subordinate to the offenders. During the years 1960s and 1970s a movement for the victims' rights started in view of extraordinary rise in the crime. The movement began as a coalition of various organizations seeking to redress the criminal justice system's inadequate treatment of victims.' Early in 1980 President Ronal Regan appointed a Task Force to investigate the crime trends and ascertain the position of victims in criminal proceedings. The Task Force in its report called for assistance for victims and recommended a Constitutional Amendment recognizing the victims' right to be present and heard at all the critical stages of criminal proceeding and restitution in all the cases where victim suffered financial loss.[14]

Prior to this Task Force Report, the notable legislation concerning victims was The Victim Witness Protection Act, 1982. This Act anticipated the recommendations of the Task Force Report and incorporated important provisions concerning victims rights which included restitution by the victim and victim impact statements at sentencing of offenders. The Act also required the Attorney General to lay down the policies for the protection of victims and witnesses. Overall, the Act assured a fair treatment for victims in Federal Criminal Justice System, by assuring his participation and protection from victimization along with restitution on priority basis.

There after the **Victims of Crimes Act, 1984 referred as (VOCA)** was passed by which the Congress provided funding for victim assistance, victim compensation and training and technical assistance for victim service providers in the state. The Act redistributed the monies collected from federal offenders in the form of fines, penalties, bond forfeiture to the states and local funding the victims.[15]

States responded by making suitable amendments in their respective laws. Then in the subsequent Victims' Rights and Restitution Act, 1990, the Congress gave the crime victims a host of rights which included the right to notification of court proceedings and right to attend them, right to know the changes in the status of offenders' detention, right to consult the prosecutors and right to protection from the offenders' aggression. Later, during President Bill Clinton's regime The Violent Crime Control Act and the Law Enforcement Act gave federal

[14] President Task Force on Victims of Crime, Final Report (Washington DC, Govt. Printing Office, 1982
[15] .Barbara E. Smith "Constitutionalizing Victims' Rights" in Victims of Crime 2nd Edition, ed. Robert C. Davis, Arthur Lurigio and Wesely Skogan (Thousand Oaks, Sage Publication, 1999) p 247-249

victims right to speak at sentencing hearings, made restitution mandatory in sexual harassment cases and expanded the funding for the local victim assistance programmes.[16]

Under the Victims' Rights and Restitution Act (VRRA), 34 U.S.C. § 20141, victims are entitled:

To be notified they have been the victim of a federal crime;

To be informed of the place where they may receive medical and social services;

To be informed of public and private programs available for counselling, treatment, and other support services;

To receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender;

To know the status of the investigation of the crime, to the extent it is appropriate and it will not interfere with the investigation;

To have personal property being held for evidentiary purposes maintained in good condition and returned as soon as it is no longer needed for evidentiary purposes.

For purposes of these rights and services, victims are defined in specific ways in the law.

Under the VRRA, a crime victim is a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. If a crime victim is under 18 years of age, incompetent, incapacitated, or deceased, services should be provided to one of the following representatives of the victim (in order of preference): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court. More than one representative victim can be identified and provided with services depending on the circumstances. Under no circumstances shall a person culpable for the crime be treated as a representative victim.

The next important legislation, **The Mandatory Restitution Act, 1996** authorised the federal judges to order full restitution from the offenders in the specific cases of fraud, property crimes, consumer product tampering and drug crimes etc. By 1998, 29 states have amended their Constitutions under the influence of the recommendations by Regan Task Force, granting new rights to victims which included right to speedy trial and right to participate in parole proceedings.[17]

Finally, there came the most important legislation advancing the victims' rights in 2004, the Crime **Victims Rights Act, 2004** (CVRA). The Act strengthened the existing federal crime victims' rights provisions and its most important contribution is the creation of a judicial enforcement regime, including standing for crime victims to transform often illusory crime

[16] Dean G.Kilpatrick, David Beatry and Susan Smith Howley, The Rights of Crime Victims; Does the legal Protection make a Difference? (Washington DC, US Department of Justice, National Institute of Justice, 1998
[17] "A Victims Rights and Services; a Modern Saga" 198 (From Victims of Crime, P 194-210, 1997, Robert C. Davis, Arthur J. Lurigio, et al., eds)

victims' rights into meaningful, enforceable ones.[18] The CVRA can be distinguished from earlier legislations and most state constitutional amendments and statutes in three areas:

(1) It extended rights and remedies to victims of all infringements and violent crimes,

(2) It gave a significant right to participate at all critical stages of criminal proceedings and

(3) It provided judicial enforcement regime, which gave a right to victim to appeal against a violation of his rights immediately after the violation occurs to federal appellate courts and the same to be heard within seventy-two hours.

The Act provides the following rights to victims: The right to be reasonably protected from the accused. The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused. The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding. The reasonable right to confer with the attorney for the Government in the case. The right to full and timely restitution as provided in law. The right to proceedings free from unreasonable delay. The right to be treated with fairness and with respect for the victim's dignity and privacy.[19] The Crime Victims' Rights Act (CVRA) of 2004 is a seminal contribution towards advancing crime victims' rights through the creation of a new judicial enforcement regime.

The Act besides providing number of trial participation rights also provides the victims, the right to be treated fairly and respect the victim's dignity and privacy. This results in increase of cooperation of victim with police, prosecution and judges. Further, the creation of new judicial enforcement regime has resulted in the new body of case law. In interpreting and applying victims' rights, it has set standards to guide the conduct of trial judges, prosecutors, defence attorneys, and other criminal justice officials.

In recent years, the United States has introduced several legislative measures to enhance and protect victims' rights. Notable developments include:

1.VICTIM Act of 2024: Violent Incident Clearance and Technological Investigative Methods This Act instructs the Attorney General to create a grant program that uses cutting-edge technical investigation techniques to increase the clearance rates of violent occurrences. The objective is to ensure that victims receive justice by giving law enforcement organizations the tools they need to combat and resolve violent crimes.

2.The Ceasing Recurrent, Severe, and Predatory (CREEP) Act: The CREEP Act, which was introduced by Democratic lawmakers in Albany, aims to update stalking laws for the digital era. The Act acknowledges the difficulties presented by social media and sophisticated technology by proposing "anti-stalking orders" through civil courts, which would allow victims to get protection more quickly without having to be related to or intimately connected to the

[18] David E. Aaronson, "New Rights and Remedies: The Federal Crime Victims' Rights Act of 2004" (Vol 28, Issue 4, Pace Law Review. 2008)
[19] Marie Manikis, "A Comparative Overview of Victims' Rights, Enforcement Mechanisms, and Redress in England and Wales and the American Federal Jurisdiction", Issue No. 6, Victims of Crime Research Digest.

stalker. By recognizing how the internet makes it simpler to obtain personal information and allows dangerous content to spread quickly, this project fills the efficiency gap in the rules that are now in place.
3. KOSA, or the Kids Online Safety Act: The goal of KOSA, which was proposed in 2022, was to require tech companies to strengthen safeguards for minors by addressing online threats and giving them the option to refuse algorithmic recommendations. Advocates and families impacted by damaging social media practices were disappointed when the bill failed to pass the House despite a resounding Senate vote. Potential unintentional censoring, especially with regard to LGBTQ+ content, alarmed critics. In order to protect minors online, proponents are still pushing for its restoration.

4. "Take It Down" Act: The "Take It Down" Act was introduced in the U.S. Senate in July 2024 as a result of bipartisan efforts. By making it illegal to distribute deepfake pornography without permission, this law seeks to give victims of AI-generated pornography federal safeguards. In order to address the growing concern of non-consensual explicit deepfakes, it also mandates that social media networks set up procedures for victims to have these photos taken down.
5. 2024's National Crime Victims' Rights Week (NCVRW) is an annual event that raises awareness of victims' rights and services. It is observed from April 21 to April 27, 2024. The topic for 2024 focused on providing safe spaces for victims of crime to talk about their experiences, enabling hope, support, and access to assistance. A thorough Resource Guide was made available by the Office for Victims of Crime (OVC) to help communities create public awareness campaigns all year long.

These legislative efforts and awareness initiatives reflect a growing commitment in the U.S. to adapt to emerging challenges and ensure comprehensive protections for victims in various contexts.

VICTIMS' RIGHTS UNDER UNITED KINGDOM IN ENGLAND AND WALES

victims' rights are mainly service rights.[20] The Code of Practice for Victims of Crime has played a major role in providing victims with a minimal level of service they can expect from eleven criminal justice agencies,[21] including a comprehensive and detailed list of information rights.[22] In addition, the Code includes a clear division of service obligations between the different criminal agencies to facilitate implementation and avoid confusion among the different agencies. For instance, the Code (as well as prosecutorial pledges and the Code for Crown Prosecutors) recognises the prosecutor's key role, not only in informing victims about

[20] s. 7.4 of the Code of Practice for Victims of Crime: "If, after an offender has been charged and following case review, the CPS takes a decision to substantially alter or drop any charge, the CPS must notify the victim within one working day for vulnerable or intimidated victims and within five working days for all other victims. In all other circumstances, the police will be responsible for notifying victims of decisions in cases."
[21] Code of Practice for Victims of Crime.
[22] Power of Criminal Justice Act of 1973.

decisions,[23] but also in meeting certain victims and providing them with explanations when certain prosecutorial decisions are made in the most serious crime cases.[24]

The Code provides vulnerable and intimidated victims with enhanced services through Witness Care Units. These units have a unique duty to inform victims about case progress and to identify victims and witnesses with particular needs that would require enhanced services under the Code. Then came in 2001 Victim Personal Statement (VPS) scheme which provided victims with a right to submit a victim personal statement (VPS) to the police which is also meant to be part of the victim's file to inform criminal justice agencies about victims' specific service needs. Prior to this Legislation, the main thirst of English law was on payment of compensation to the crime victims. The most prominent legislation in England that showed concern for crime victims was Criminal Justice Act, 1972.

According to this Act payment of compensation was the most appropriate action after the conviction of the offender. This Act was subsequently replaced by Criminal Court Act, 1973. This Act empowered the courts to make the compensation order under Section 35(1) "by or before which a person is convicted of an offence." and additionally the courts can make any other order it thought appropriate. This order was not dependent upon an application by the victim and it can be granted in respect of any personal injury, loss or damage resulting from that offence or any other offence which is taken into consideration by the court in determining sentences.[25] It is important to note that this provision extended to not only personal injury loss or damage suffered by the immediate victim of the offence but also to persons indirectly affected by it, provided, of course, that a clear and casual connection can be established.[26] The Criminal Court Act, 1973 also went through several amendments and lastly replaced by Criminal Justice Act, 1988.

Under the 1973 Act, the compensation order was entirely a matter of discretion of the court. But under the Criminal Justice Act, 1988, the courts had no such discretion to grant or not to grant the compensation to the victims. Further, the Act made it obligatory for the courts to record reasons for not awarding the compensation, even if it had a power to order compensation, but declining to do so.[27] The power of court to order compensation was considered to be a useful sentencing tool. The court by directing the convict to pay compensation to the victim for the injury suffered by him as a result of criminal behaviour of the convict saved the victim from filing a civil suit for the same.

In R v. Inwood[28], Scarman LJ. observed that compensation order was introduced on to our laws as a convenient and rapid means of avoiding the expense of civil litigation when criminal has means which would enable compensation to be paid. The court could award compensation in respect of any personal injury, loss or damage. But there must be a causal link between the

[23] J. L. Lambert: Compensation Orders - A review of the appellate case - 1, New Law Journal (1976)
[24] Criminal Justice Act, 1988
[25] L.J. Lawton explained in R.V. Thomson case, (1974) Q. B. 592, 599 C.A.
[26] Compensation for victims of crime of violence: Her Majesty's Stationery Office, London, command No. 2323; Alec Samuels : "Compensation for Criminal Injuries in Britain", University of Toronto Law Journal, Vol 17 (1967) pp. 20-50
[27] Sec 108-117 and schedules 6 and 7 to the Act set out the scheme. It is interesting to not that, if the Board refuses to pass the order of compensation to the eligible applicant, he could enforce the payment through judicial review of Board decision.
[28] Zender, Lucia, Victims – The Oxford Handbook of Criminology, 3rd ed. Oxford Univ. Press, p 441 |

offence and the loss suffered by the victim. When the court makes a compensation order, it was not required to consider the complete concept of causation applicable to civil law, it was sufficient if the loss or damage "can fairly be said to have resulted", from the offence.[29] The court showed its concern by laying down simple procedure for compensation largely administered by law magistrates. The order for payment of compensation was not punitive but purely compensation. In R v. Maynord[30] it was observed that compensation should explicitly refer to the loss suffered. Sec 35(4) of the Act of 1973 states that the offenders' means to pay the compensation should be taken into consideration by the courts. Apart from the compensation to the victim of crime by the offender, there is also a scheme which provides compensation to the victim of crime by the State.

The Criminal Injuries Compensation Scheme was first introduced as an experiment on a non-statutory basis in the year 1964 to provide ex-gratia compensation to the victims of crimes of violence and to those hurt in their attempts to arrest the offenders and to prevent crimes. This scheme was revised in the year 1979, in which major changes were introduced to make it effective, so also the scope of the scheme was extended so as to cover the victims of family violence.

The government of U. K. has introduced a revised Criminal Injury Compensation Scheme giving effect from 1979 on a non-statutory basis to provide ex-gratia compensation to compensate the victims of crime. Criminal Justice Act of 1988 replaced the earlier scheme with another placed on a statutory footing, with the consequence that eligible applicants now have an express legal right to compensation. The new scheme is based closely on the earlier scheme, although certain adjustments are made. The earlier scheme simply stipulated that victim of a crime of violence including arson and poisoning were eligible but the phrase was not further defined and its interpretation caused difficulty. Consequently, Section 109 of the Criminal Justice Act, 1988 sets out a new and more detailed definition of eligibility, intended to cover same broad group of victims. Under the present scheme so also in the earlier scheme, persons who are injured in the law enforcement activity are entitled to compensation. The Act embodies provisions for victim's compensation against various crimes, such as Rape, corporate offences, traffic violation, dangerous driving etc.

The concern for victims continued with launching of new schemes like 'Victim Support' and victim's welfare. These schemes provided the victim various rights like right to be heard, right to necessary information for protecting his interest, right to be protected by the enforcement agencies, right to receive compensation and restitution, right to receive support and assistance etc. The Victim's Charter, 1990 and Victim's Charter, 1996 issued by Home Office provides for standards of service to be given to the victim and his family. It included right to be treated human dignity and respect, right to support and protection and right to compensation and reparation. The compensation awarded through the State Funded Criminal Injuries Schemes which began in 1964 was modified in 1969, 1979, and 1990.

Finally, the Criminal Injury Compensation Act, 1995 established a new tariff approach based on types of injuries rather than individualized consideration of harm or damage. The Act set a

[29] Integrating a Victim's Perspective Within Criminal Justice, ed. Crawford & Gooding, Ashgate 2000, at Chapter 6 ' New Status of Victims in the UK: Opportunities and Threats', Reeves & Mulley.
[30] Jyosna Dighe, Victims' Rights in India, http://www.legalservicesindia.com/article/article/victims-rights-in-india-1315-1.html, accessed on: 25 January, 2025

standard fixed payment ranging from 1000 to 2,50,000 pounds depending upon the severity of injuries which were grouped into twenty-five bands. The subsequent enactments in UK considered reparation as other mode of doing justice crime victims. The Crime and Disorder Act, 1998, the Youth Justice and Criminal Evidence Act, 1999 and the Power of Criminal Court Act, 2000 are the legislations where the reparation to the victims is dealt with. The scheme of reparation is applied at three different levels in the criminal justice. At pre-prosecution, in between conviction and sentence and as a part of punishment to make the offender liable personally for his behaviour. The gradual increase in the importance accorded to victims of crime over recent years has gone hand-in hand with a shift in how they are perceived. In the past, the relationship between victims and criminal justice professionals has overwhelmingly been defined in terms of the needs of one agency in particular - the police.

The focus has been almost wholly on the victim reporting crimes, identifying offenders and providing evidence. However, the emphasis has progressively moved away from this focus solely on what the police need from victims, and more towards recognition that the latter not only have needs of their own but also have positive rights. Commentators have suggested that now, for the first time, "… victims and witnesses are genuinely central to people's thinking on criminal justice… not merely regarded as a source of evidence."[31] In general, England and Wales have been able to take positive action toward rebalancing justice with no task force, no declarations and no framework decisions.

By the time the Magna Carta for victims of crime was adopted in 1985, the government of England and Wales had already developed a network of victim assistant agencies (referred to as "victim support schemes") as well as relatively generous criminal injuries program. The National Association of Victim Support Schemes (NAVSS) was set up by the British government to establish victims' service standards across England and Wales in 1979. The British government also modified the restitution law so that restitution was to be paid before fines. In 1996 and 2004 this charter went to two further iterations. The British government didn't stop there. In 2006, it adopted the code of practice for victims of crime, a protocol that governs the services provided to victims. It defines which victims of crime will benefit from which services and the service providers. The minister of justice for England and Wales appointed a victim champion to advocate for victim's issues and advise top levels of government on victim concerns. In 2008, Sara Payne was appointed the same who called for more integration between victims and criminal justice systems. In 2010, two new initiatives were rolled out to better serve victims of crime. One was to launch a National Victim Service to build on a national network of victim assistance agencies and court-based services. The second was to replace the rotating victim champion with a permanent victim commissioner to oversee the National Victim Service.

Latest legislation that has been introduced in England has been 'victims and prisoners act 2024' The Victims and Prisoners Act 2024 is a comprehensive piece of legislation enacted by the UK Parliament to enhance the rights and support of crime victims, reform the parole system, and address specific issues related to prisoners. Introduced by the Secretary of State for Justice, Dominic Raab, in March 2023, the Act received Royal Assent on 24 May 2024.

[31] Jyosna Dighe, Victims' Rights in India, http://www.legalservicesindia.com/article/article/victims-rights-in-india-1315-1.html, accessed on: 25 January, 2025

Key Provisions of the Act:

1. Victims' Rights and Support:

Independent Advocate for Major Incidents: The Act establishes an Independent Advocate to support victims of major incidents, ensuring they receive appropriate assistance and representation. Duty to Collaborate: Local policing bodies, authorities, and Integrated Care Boards are mandated to collaborate in commissioning community support services for victims of domestic abuse, sexual abuse, and serious violence. This includes developing joint needs assessments and local strategies to improve victim support services.

Non-Disclosure Agreements (NDAs): The Act renders any NDA clauses that prevent victims from disclosing criminal conduct void and legally unenforceable, empowering victims to report crimes without legal hindrance.

2. Parole System Reforms: Ministerial Oversight: The Act grants government ministers the authority to veto the release of certain prisoners, enhancing oversight of the Parole Board and the early release of dangerous offenders.

Marriage Restrictions for Prisoners: Prisoners serving whole life orders are prohibited from forming marriages or civil partnerships, a measure first applied in August 2024 to prevent serial killer Levi Bellfield from entering into a civil partnership.

3. Infected Blood Compensation Scheme: Establishment of the IBCA: The Act establishes the Infected Blood Compensation Authority (IBCA) to administer compensation payments to victims of the infected blood scandal.

Compensation Routes: Two pathways are provided: the "core route," offering set tariffs with predefined severity levels for infections like Hepatitis B and C, and the "IBSS route," allowing beneficiaries to retain regular support payments with a transition to compensation payments under the new scheme.

Overall, the Victims and Prisoners Act 2024 aims to place victims at the centre of the justice system, ensuring they receive adequate support and representation, while also implementing significant reforms to the parole system and addressing historical injustices through compensation schemes.

CONCLUSION

This comparative study reveals that while the USA, UK, and India all aspire to protect victim rights, each jurisdiction adopts distinct approaches reflective of its legal traditions and socio-political contexts. In the United States, landmark legislation such as the Crime Victims' Rights Act has significantly advanced victim participation, ensuring that victims receive timely information, compensation, and judicial recourse. The United Kingdom, on the other hand, has institutionalized comprehensive victim support through detailed protocols and dedicated support services, thereby integrating victim welfare more systematically into the justice process. In contrast, although recent reforms have begun to address victim rights in India—particularly in the wake of high-profile cases—the Indian framework still suffers from gaps in statutory provisions, inconsistent enforcement, and limited access to effective support services.

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The findings suggest that India could benefit from a hybrid approach, incorporating best practices from both the USA and the UK. Such a reform would not only enhance victim empowerment and participation throughout the criminal process but also foster a more balanced system that upholds the dignity and rights of all parties. Ultimately, strengthening victim rights is essential for a fair, responsive, and humane criminal justice system.