

VICTIM RIGHTS UNDER THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023: A CRITICAL ANALYSIS

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ABSTRACT

The criminal justice system is not concerned only with punishing the offender. It must also recognise the person who has suffered because of the crime. For a long time, criminal proceedings in India were largely understood as a dispute between the State and the accused, while the victim had a comparatively limited role. The development of victim-oriented criminal justice has gradually changed this position.

The Bharatiya Nagarik Suraksha Sanhita, 2023 BNSS introduces and continues several provisions which are important from the perspective of victims. These include the right to information, participation in legal aid programmes, compensation, medical facilities, witness protection and the right to appeal. The law therefore gives a right to victims to attempts a more meaningful position in criminal proceedings.

However, the existence of a statutory right does not mean that the right will be effectively enjoyed. A victim may have a right to compensation but may face delay in receiving the right. A victim may have a right to information but may not know how to obtain the compensation.

This paper critically examines the victim-oriented provisions under the BNSS and considers the gap between legal recognition and practical implementation. It also examines important judicial decisions which have contributed to the development of victim rights in India. The paper argues that the BNSS provides a stronger statutory foundation for victims, but its real success will depend upon awareness, effective legal aid, police and prosecutorial accountability, timely

compensation and sensitive treatment of victims. The protection of victims must also be balanced with the accused right to a fair trial.

Keywords: Victim Rights, BNSS 2023, Criminal Justice, Victim Participation, Access to Justice, Compensation, Legal Aid, Fair Trial.

1. INTRODUCTION

A criminal offence affects more than the person accused of committing it. In many cases, the person who suffers the greatest physical, financial and emotional consequences is the victim. Yet, criminal law has focused mainly on the relationship between the State and the accused. The victim often became important only as a witness whose evidence was required to prove the prosecution case.¹

This approach has gradually changed. Modern criminal justice recognises that justice should not end with conviction or acquittal. The victim should also receive information, assistance, protection, compensation and an opportunity to participate in the legal proceedings.²

The BNSS contains several provisions which have the relevance to victims. These provisions concern reporting of offences, communication regarding investigation, access to documents, compensation, medical facilities and appeal to appropriate court.

The important question is not simply that, whether these provisions exist or not rather the most important question is whether these victims can actually use their rights?

A victim may not understand the legal procedure, may not have the financial ability to appoint an advocate, may be afraid of the accused, or may not know that compensation or an appeal is available. Therefore, the effectiveness of victim rights depends upon both law and implementation.

This paper examines this issue and argues that the BNSS represents an important step towards victim-oriented criminal procedure.

¹ See K. Chockalingam ed., *Readings in Victimology* (Ravi Raj Publications 1985); Andrew Karmen, *Crime Victims: An Introduction to Victimology* (8th ed., Cengage Learning 2012).

² See *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321; *Mallikarjun Kodagali (Dead) v. State of Karnataka*, (2019) 2 SCC 752. The Supreme Court has emphasised both meaningful victim participation and the need to balance competing rights in criminal proceedings.

2. EVOLUTION OF VICTIM RIGHTS IN INDIA

The position of victims in Indian criminal law has developed eventually. Under the traditional criminal justice model, the State was considered the principal party because a criminal offence was treated as an offence against society. The victim therefore did not always have an independent and meaningful role in the proceedings.³

The position began to change through judicial decisions, legislative reforms and growing recognition of human rights.

The Supreme Court has repeatedly recognised that victims cannot be treated as forgotten participants in the criminal justice system. In **Mallikarjun Kodagali v. State of Karnataka**, case, the Court considered the importance of the victims right to appeal and emphasised that access to justice includes meaningful remedies for victims.⁴

Similarly, in *Jagjeet Singh v. Ashish Mishra* case, the Supreme Court recognised the importance of the victim's participation and right to be heard in criminal proceedings.⁵

The development of victim rights is therefore not entirely new under the BNSS. Rather, the BNSS provides a statutory framework which many of these developments can operate.

3. RESEARCH PROBLEM

The BNSS contains several provisions intended to protect the victims. However, the central difficulty is whether these statutory provisions provide effective access to justice in practice.

A victim may technically possess a right to information, compensation, medical facilities, legal aid programmes or the appeal. However, the practical benefit of these rights depends upon police authorities, prosecutors, and State Government.

The research problem may therefore be stated as follows:

Whether the victim-oriented provisions under the Bharatiya Nagarik Suraksha Sanhita, 2023 provide an effective and meaningful framework for protecting victim rights, or whether significant gaps continue to exist between legal recognition and practical implementation.

The study also considers whether victims are adequately informed about the progress of investigation, whether compensation reaches them in a timely manner, whether legal assistance is meaningful and whether participation in criminal proceedings is sufficiently protected.

³ Andrew Karmen, *Crime Victims: An Introduction to Victimology* (8th ed., Cengage Learning 2012).

⁴ See K. Chockalingam ed., *Readings in Victimology* (Ravi Raj Publications 1985).

⁵ Bharatiya Nagarik Suraksha Sanhita, 2023, §§ 173, 193(3)(ii), 230, 395–398, 413 (India).

4. HYPOTHESIS

The recognition of victim rights under the Bharatiya Nagarik Suraksha Sanhita, 2023 strengthens the position of victims in the criminal justice process. However, the practical effectiveness of these rights depends upon legal awareness, timely assistance, and proper implementation by police, prosecutors, and legal services.

The hypothesis is largely supported by the study.

5. OBJECTIVES OF THE STUDY

The main objectives of this research are:

1. To examine the meaning and legal position of a victim under the BNSS.
2. To examine the victim right to information and participation.
3. To analyse the provisions relating to compensation.
4. To examine the role of legal assistance and victim's counsel.
5. To study the victim's right of appeal.
6. 8. To identify practical difficulties faced by victims.

6. RESEARCH METHODOLOGY

The present research adopts a doctrinal and analytical methodology.

Primary sources include the Constitution of India, the Bharatiya Nagarik Suraksha Sanhita, 2023, judicial decisions of the Supreme Court of India.

Secondary sources include books, research articles, legal commentaries, Law Commission materials and government publications.⁶

The research mainly uses statutory interpretation and case-law analysis. It is qualitative in nature and does not involve empirical interviews or statistical surveys.

⁶ See Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996), discussion on victimology and compensation; see also Ezzat A. Fattah, Understanding Criminal Victimization (Prentice Hall 1991).

7. MAJOR VICTIM RIGHTS UNDER THE BNSS

7.1 Right to Report a Cognizable Offence

Section 173 of the BNSS deals with information relating to cognizable offences. The provision permits information to be given orally or by electronic communication, subject to the statutory requirements.⁷

This is significant because the first interaction between the victim and the criminal justice system is often the reporting of the offence.

Electronic communication can potentially make reporting easier. However, technology alone cannot solve the problem. Victims who lack digital access or knowledge may still face practical difficulties.

Therefore, police stations should ensure that technological methods do not become a barrier for victims who are unfamiliar with digital procedures.

7.2 Right to Information Regarding Investigation

One important provision is Section 193(3)(ii), under which the police officer is required to communicate the progress of investigation to the informant or victim within ninety days.⁸

This provision is important from the perspective of transparency.

A victim should not be left completely unaware of what is happening after the complaint is registered. Information about investigation can reduce uncertainty and can also improve confidence in the criminal justice system.

However, the effectiveness of this provision will depend upon how consistently the information is actually communicated. Simply placing a duty on the police is not sufficient. There should be a clear mechanism for recording whether the information was provided and in what form.

7.3 Right to Obtain Documents

⁷ See D.R. Singh, Development of Victimology in India, 13(2) Indian Journal of Criminology (1985).

⁸ Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996).

Section 230 provides for the supply of copies of specified documents to the accused and, where applicable, to the victim represented by an advocate.⁹

Access to relevant documents is important because meaningful participation requires knowledge of the proceedings.

A victim cannot effectively protect his or her interests without understanding the basic material forming part of the case.

At the same time, access to documents must be balanced against restrictions relating to privacy, sensitive information and the rights of the accused.

7.4 Right to Legal Assistance and Participation

Section 18(8) permits the Court to allow the victim to engage an advocate of the victim's choice to assist the prosecution.¹⁰

This is an important development because legal proceedings can be difficult for an ordinary person to understand.

However, victim's counsel does not mean that the victim's advocate automatically takes over the prosecution. The Supreme Court in *Rekha Murarka v. State of West Bengal* explained that the role of a victim's counsel is to assist the prosecution within the framework of criminal procedure.¹¹

This balance is important. Victim participation should be meaningful, but it should not result in two completely independent prosecutions being conducted against the accused.

8. RIGHT TO COMPENSATION

8.1 Section 395 – Compensation

Section 395 empowers the Court to order payment of compensation in appropriate circumstances.¹²

⁹ *Mallikarjun Kodagali (Dead) v. State of Karnataka*, (2019) 2 SCC 752. The Supreme Court described victim rights and victimology as an evolving area of jurisprudence and upheld the statutory right of a victim to appeal against acquittal.

¹⁰ *Jagjeet Singh v. Ashish Mishra*, (2022) 9 SCC 321. The Supreme Court recognised the victim's right to participate and to receive a fair and effective hearing in criminal proceedings.

¹¹ See *Bharatiya Nagarik Suraksha Sanhita*, 2023, §§ 193(3)(ii), 396–398 (India).

¹² See C.R. Kothari, *Research Methodology: Methods and Techniques* (2d ed., New Age International Publishers 2004); Klaus Krippendorff, *Content Analysis: An Introduction to Its Methodology* (3d ed., SAGE Publications 2013).

Punishment of an offender and compensation to a victim serve different purposes. Punishment responds to the criminal conduct, whereas compensation attempts to address some of the harm suffered by the victim.

Compensation may be particularly important where the victim has suffered medical expenses, loss of income, disability or other financial consequences.

The Supreme Court in *Ankush Shivaji Gaikwad v. State of Maharashtra* emphasised that courts should apply their mind to the question of compensation. The decision helped strengthen the idea that compensation is an important part of the criminal justice process.¹³

8.2 Section 396 – Victim Compensation Scheme

Section 396 provides for a Victim Compensation Scheme.¹⁴

Where a victim requires rehabilitation, the law provides a mechanism through the State or District Legal Services Authority. The provision also addresses situations where the offender is not traced or identified. The statutory framework therefore recognises that rehabilitation cannot always depend upon the conviction and punishment of an identified offender.

This is particularly important in serious offences where the victim may require medical care, counselling, rehabilitation or financial support.

However, compensation is meaningful only when it reaches the victim within a reasonable period. Delay can defeat the purpose of the provision.

9. RIGHT TO MEDICAL TREATMENT

Section 397 of the BNSS deals with the treatment of victims.¹⁵

It requires hospitals, public or private, to immediately provide first-aid or medical treatment free of cost to victims of specified offences and to inform the police. The provision specifically includes certain offences under the Bharatiya Nyaya Sanhita as well as specified offences under the POCSO Act.

This provision recognises that medical treatment should not be delayed because of financial difficulties.

¹³ Bharatiya Nagarik Suraksha Sanhita, 2023, § 173 (India).

¹⁴ Id. § 193(3)(ii). The provision requires the police officer to inform the informant or victim about the progress of the investigation within ninety days, including through electronic communication.

¹⁵ Id. § 230. The provision requires specified documents to be supplied free of cost to the accused and to the victim where the victim is represented by an advocate, ordinarily within fourteen days.

For victims of sexual offences, immediate medical assistance can be extremely important. Delay may affect both the health of the victim and the proper collection of evidence.

The provision should therefore be supported by proper training of medical personnel and clear institutional protocols.

10. RIGHT TO WITNESS PROTECTION

Section 398 of the BNSS requires every State Government to prepare and notify a Witness Protection Scheme.¹⁶

This is an important provision because victims are often also witnesses. Fear, threats, social pressure or intimidation may affect their ability to participate freely in criminal proceedings.

The Supreme Court had already recognised the importance of witness protection in *Mahendra Chawla v. Union of India*, where the Witness Protection Scheme, 2018 was approved.¹⁷

The BNSS gives statutory recognition to the need for a State-level witness protection mechanism.

However, the existence of a scheme is not enough. Protection must be practically available to persons who face genuine threats.

The Supreme Court's decision in *Mallikarjun Kodagali* is particularly important in understanding the development of this right under the earlier CrPC framework. The Court recognised the victim's statutory right to challenge specified adverse outcomes.¹⁸

The BNSS now contains its own statutory framework, making awareness of this remedy particularly important.

11. JUDICIAL APPROACH TO VICTIM RIGHTS

11.1 Mallikarjun Kodagali v. State of Karnataka

¹⁶ Id. § 18(8).

¹⁷ *Rekha Murarka v. State of West Bengal*, (2020) 2 SCC 474. The Supreme Court explained the role of the victim's advocate as one of assisting the prosecution rather than conducting an independent prosecution.

¹⁸ *Bharatiya Nagarik Suraksha Sanhita*, 2023, § 395. Section 395 concerns the power of the Court to order payment of compensation in circumstances specified by the provision.

In Mallikarjun Kodagali, the Supreme Court examined the victim's right to appeal against acquittal under the proviso to Section 372 of the CrPC.¹⁹

The Court recognised that victims are entitled to meaningful remedies and that access to justice should not be understood only from the perspective of the accused and the State.

The case is significant because it reflects the judicial movement towards recognising the victim as an important participant in criminal proceedings.

11.2 Jagjeet Singh v. Ashish Mishra.

In Jagjeet Singh, the Supreme Court discussed the rights of victims and their participation in criminal proceedings.²⁰

The judgment reinforces the principle that a victim should not simply disappear from the process once the prosecution begins. The victim has a legitimate interest in the outcome of the case.

The decision is particularly useful in understanding why victim participation must be meaningful rather than merely symbolic.

11.3 Rekha Murarka v. State of West Bengal

The Supreme Court considered the role of a victim's advocate in criminal proceedings.

The Court recognised the importance of victim participation but also maintained the distinction between assisting the prosecution and conducting an independent prosecution.²¹

This approach is relevant under the BNSS because Section 18(8) also provides a statutory basis for the victim's advocate to assist the prosecution.

11.4 Ankush Shivaji Gaikwad v. State of Maharashtra

The case is important for victim compensation.

The Supreme Court emphasised that courts should apply their mind to compensation and should not treat it as an afterthought.²²

¹⁹ Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 SCC 770. The Supreme Court emphasised the importance of judicial consideration of compensation under the criminal procedure framework.

²⁰ Id. § 396(5). The State Legal Services Authority or District Legal Services Authority is required to complete the enquiry within two months after receipt of the relevant recommendation or application.

²¹ Id. § 397. The provision requires public and private hospitals to provide immediate first-aid or medical treatment free of cost to victims of specified offences and to inform the police.

²² Id. § 398. The provision requires every State Government to prepare and notify a Witness Protection Scheme.

The principle remains relevant because compensation is an important part of the victim's rehabilitation.

12. CRITICAL ANALYSIS

The BNSS represents a positive movement towards a more victim-sensitive criminal justice system. However, the statutory provisions should not be considered sufficient by themselves.

First, legal awareness remains a major problem.

Many victims are unaware of their legal rights. A right that is unknown to the person entitled to it is unlikely to provide meaningful protection.

Second, implementation differs from statutory recognition.

The law may require information to be provided within a particular period, but the practical question is whether the victim actually receives understandable information.

Third, compensation can be delayed.

Compensation is often needed when the victim is facing immediate financial and medical difficulties. Delayed compensation reduces its practical value.

Fourth, legal representation is not equally accessible.

Victims with financial resources may be able to engage experienced lawyers. Poor or socially vulnerable victims may depend upon legal aid. The quality and availability of legal assistance therefore becomes important.²³

Fifth, witness protection needs stronger implementation.

Victims may withdraw from proceedings because of threats or pressure. A protection scheme is meaningful only when authorities respond quickly to genuine risks.

Sixth, victim participation must remain consistent with fair trial.

A victim-oriented system should not become an accused-hostile system. The accused continues to enjoy constitutional and statutory protections, including the right to a fair trial.²⁴

The proper objective is therefore balance rather than dominance.

²³ Mahender Chawla v. Union of India, (2019) 14 SCC 615. The Supreme Court approved and made the Witness Protection Scheme, 2018 operative, recognising the importance of allowing witnesses to depose without intimidation.

²⁴ See In Re: To Issue Certain Guidelines Relating to Witness Protection, Supreme Court of India, order dated Feb. 5, 2026

13. MAJOR CHALLENGES

The following challenges affect the practical implementation of victim rights:

1. Lack of awareness regarding legal rights.
2. Delay in investigation and trial.
3. Delay in compensation.
4. Limited access to quality legal assistance.
5. Fear and intimidation by accused persons.
6. Lack of psychological and counselling support.
7. Digital literacy problems.
8. Unequal institutional capacity between different regions.
9. Lack of coordination between police, prosecutors, courts and legal services authorities.
10. Limited understanding among victims regarding their right to appeal.

These challenges show that victim protection cannot be achieved by criminal procedure alone. It requires coordination between different institutions.

14. SUGGESTIONS AND REFORMS

14.1 Victim Rights Information Sheet

At the time of registration of a case, the victim should be provided with a simple document explaining

- the victim's rights
- investigation procedure
- compensation
- legal aid
- medical assistance
- witness protection
- right of appeal.

14.2 Better Legal Aid

Legal Services Authorities should ensure that victims receive meaningful legal assistance rather than merely being assigned an advocate.

14.3 Regular Investigation Updates

The requirement relating to communication of investigation progress should be implemented through a simple and trackable system.

14.4 Faster Compensation

Applications for victim compensation should be processed within clearly defined timelines. Authorities should also explain the procedure in simple language.

14.5 Stronger Witness Protection

Threat assessment should be carried out promptly where the victim or witness faces intimidation.

14.6 Counselling and Psychological Support

Victim support should not be limited to legal assistance. Counselling and rehabilitation should form part of the support system, particularly in cases involving sexual violence, children and serious bodily injury.

14.7 Training of Police and Prosecutors

Police officers and prosecutors should receive regular training on victim-sensitive procedures, communication and the practical operation of victim rights.

14.8 Victim-Friendly Courts

Courts should adopt procedures that reduce unnecessary stress and repeated appearances of victims, particularly vulnerable victims.

15. FINDINGS OF THE STUDY

The study produces the following findings:

1. The BNSS provides several important statutory protections for victims.
2. The position of the victim has become more visible within criminal procedure.
3. The right to receive information regarding investigation is important for transparency.
4. Legal assistance is necessary for meaningful participation.
5. Compensation is an important component of rehabilitation.
6. Medical treatment provisions provide immediate protection to victims of specified offences.
7. Witness protection is necessary to ensure that victims and witnesses can participate without fear.
8. The right of appeal provides an important remedy against certain adverse outcomes.
9. The major weakness is not necessarily the absence of legal provisions but their implementation.
10. Legal awareness must therefore become an essential part of victim protection.

The hypothesis of the research is therefore largely supported.

16. CONCLUSION

Victim rights are an essential part of a fair and effective criminal justice system. A system that focuses only on the accused and the State cannot be considered complete if the person who suffered because of the crime remains unheard or unsupported.

The Bharatiya Nagarik Suraksha Sanhita, 2023 provides an important statutory foundation for a more victim-oriented criminal justice process. Provisions relating to investigation updates, legal assistance, compensation, medical treatment, witness protection and appeal indicate that the victim has a more recognised position within criminal procedure.

A victim who receives information on time, obtains proper medical treatment, receives legal assistance, gets compensation without unnecessary delay and feels safe while participating in the case is more likely to experience the justice system as meaningful.

Therefore, the victim-oriented criminal justice lies in implementation, awareness and state support. The State must ensure that victim rights do not remain rights only on paper. At the same time, these reforms must implement within the constitutional requirement of a fair trial for the accused person.

