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Victims' Rights under the Bharatiya Nagarik Suraksha Sanhita, 2023: A Critical Legal Analysis

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Abstract

The Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS') replaced the Code of Criminal Procedure, 1973 ('CrPC') with effect from 1 July 2024 and presents itself as a citizen-oriented reconstruction of Indian criminal procedure. This article asks whether the new statute correspondingly reconstructs the legal position of the victim. It argues that the BNSS consolidates an important, though incomplete, movement from treating the victim as a source of evidence toward recognising the victim as a procedural stakeholder. The movement is visible in the statutory definition of 'victim'; territorially neutral and electronic reporting; communication of investigation progress; access to police papers in represented cases; participation through counsel; a hearing before withdrawal from prosecution; compensation, interim relief and immediate treatment; witness protection; and a distinct appellate entitlement. Yet the normative language of participation is not matched by a general remedial architecture. Several guarantees reproduce earlier CrPC amendments, remain offence-specific, depend upon police or prosecutorial discretion, or contain no express consequence for non-compliance. The paper adopts a doctrinal and comparative method, reading the BNSS against constitutional principles, Supreme Court jurisprudence, victimology, restorative justice, the 1985 United Nations Victims Declaration and the European Union Victims' Rights Directive. National Legal Services Authority data are used to test the practical context of compensation. The paper concludes that the BNSS is best understood as a transitional rights catalogue: significant enough to alter the grammar of criminal procedure, but not yet sufficient to establish a comprehensive law of victims' rights. It proposes a justiciable victim charter, universal information duties, publicly funded victim representation, an individual needs assessment, stronger protection and compensation standards, and defined remedies for procedural breach.

Keywords: *BNSS 2023; Victim Rights; Criminal Procedure; Victim Compensation; Victim Participation; Witness Protection; Restorative Justice; India.*

1. INTRODUCTION

A criminal prosecution is conventionally framed as a contest between the State and the accused. That binary serves important constitutional purposes: it restrains public power, safeguards the presumption of innocence and prevents punishment without proof. It also obscures the person whose injury set the criminal process in motion. For much of the history of Indian criminal procedure, the victim appeared principally as an informant, witness or recipient of occasional compensation. The prosecution was controlled by the State; the accused possessed elaborated procedural rights; and the victim's interests were expected to be represented indirectly through the public prosecutor. The result was not a total absence of protection, but an institutional posture in which the victim could be indispensable to the case and still remain peripheral to its decisions.

The BNSS was enacted on 25 December 2023 and, subject to a limited exception in its First Schedule, came into force on 1 July 2024.[1] It is not merely a renumbered procedural code. It expands the use of electronic communication, introduces time-linked duties, restructures certain investigative processes and recasts several provisions in a language of accessibility and expedition. The Department-related Parliamentary Standing Committee described the proposed reform in citizen-centric terms, including free copies of information, communication of investigative progress and a hearing for the victim before withdrawal of prosecution.[2] Such framing invites a more difficult inquiry than a clause-by-clause comparison: does the BNSS convert victims from passive beneficiaries of official discretion into holders of enforceable procedural claims?

This article answers that question with qualified affirmation. The BNSS strengthens the visibility of victims and gives legal form to rights of entry, information, assistance, protection, reparation and appellate review. Some changes are substantial. A victim's opportunity to be heard before withdrawal from prosecution, for example, directly constrains a decision historically located within the relationship between the executive and the court. Progress information within ninety days responds to the routine experience of complainants who lose contact with a case after registration. Electronic reporting irrespective of territorial jurisdiction reduces one familiar barrier at the police-station door. These are not trivial matters.

Nevertheless, novelty must not be confused with renumbering, and recognition with enforceability. The definition of victim, participation through counsel, victim compensation, free medical treatment and the victim's appeal all have antecedents in the amended CrPC. Many of the BNSS provisions state a duty but specify no complaint route, sanction or curative order when that duty is ignored. The victim has no general statutory entitlement to notice of every bail hearing, release, parole, remission or escape. Access to the police report and documents under section 230 is expressly linked to representation by an advocate, though the Code does not establish universal publicly funded counsel for victims. Witness protection is reduced to a broad mandate that every State notify a scheme. Digitalisation may shorten distance but it may also reproduce inequalities in connectivity, literacy, language and privacy. Thus, a procedural promise may look larger on paper than in station-house practice.

The central thesis is that the BNSS creates a **transitional victim-rights model**. It is transitional in three senses. First, it consolidates judicial and legislative developments that arose under the CrPC rather than beginning on a clean slate. Secondly, it moves toward participatory justice without deciding how victim participation is to coexist, institutionally, with prosecutorial independence and the accused's fair-trial guarantees. Thirdly, section 531 preserves the CrPC for pending investigations, trials, appeals and applications, meaning that two procedural regimes will coexist for years.[3] A victim's actual procedural position may therefore turn on the date and stage at which the case commenced.

The argument proceeds in eight parts. Part 2 explains the research method and analytical framework. Part 3 locates victims' rights in victimology, restorative justice and the Constitution. Part 4 traces the movement from the original CrPC to the reforms that preceded the BNSS. Part 5 maps the rights architecture of the new Sanhita. Part 6 subjects

[1] Bharatiya Nagarik Suraksha Sanhita 2023, s 1; Ministry of Home Affairs, Notification SO 848(E), Gazette of India, Extraordinary, Part II, s 3(ii), 23 February 2024.

[2] Department-related Parliamentary Standing Committee on Home Affairs, 247th Report on the Bharatiya Nagarik Suraksha Sanhita Bill, 2023 (Rajya Sabha Secretariat 2023) paras 1.8–1.11 and observations on cls 173, 193 and 360.

[3] Bharatiya Nagarik Suraksha Sanhita 2023, s 531.

that architecture to a critical rule-of-law and implementation analysis. Part 7 applies international benchmarks. Part 8 offers a reform agenda, followed by a conclusion. The analysis concentrates on general criminal procedure; special statutes such as the Protection of Children from Sexual Offences Act 2012 ('POCSO Act') and the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act 1989 are discussed only where their interaction illuminates the BNSS.

2. SCOPE, METHOD AND ANALYTICAL FRAMEWORK

The study employs doctrinal legal research. Its primary materials are the BNSS, the Constitution of India, relevant special legislation, reported decisions of the Supreme Court and selected High Courts, committee and Law Commission reports, and official compensation statistics. The comparison with the CrPC distinguishes three categories: (i) provisions substantially retained; (ii) retained rights whose mechanics have been strengthened; and (iii) genuinely new victim-facing obligations. That distinction matters because claims about a wholly new victim-centred code can conceal how much of the architecture was built through earlier amendments and judicial interpretation.

The doctrinal method is supplemented by a functional test. A provision is treated as a meaningful victim right only where it has: a clearly identifiable beneficiary; a corresponding duty-bearer; an ascertainable content; a point in the procedure at which it operates; and a remedy, consequence or review mechanism capable of responding to breach. A moral aspiration may influence interpretation, but it is not equivalent to an enforceable entitlement. This five-part test draws attention to a recurrent weakness in the BNSS: beneficiaries and duties are often identifiable, yet the statute is silent about enforcement.

The paper also uses a limited comparative benchmark. The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985 ('UN Victims Declaration') organises victim justice around access and fair treatment, restitution, compensation and assistance.[4] The European Union's Directive 2012/29/EU adds more operational duties: understandable communication, information from first contact, support services, participation, individual assessment and protection against secondary victimisation.[5] These instruments are not transplanted as if institutional context were irrelevant. They are used to ask whether the BNSS covers the main stages of a victim's journey and whether it translates general recognition into service standards.

There are limits. The BNSS is a young statute, and a stable body of appellate interpretation has not yet developed. Implementation varies between States and Union Territories, especially in policing, legal services, hospitals and compensation authorities. National statistics aggregate schemes with different eligibility rules and administrative practices. The study is therefore an evaluation of legal design informed by early operational indicators, not a full empirical assessment. This modesty is important; but the absence of mature case law does not prevent close analysis of the choices Parliament made, or did not make.

3. VICTIMHOOD, PARTICIPATION AND THE CONSTITUTIONAL SETTING

3.1 From evidentiary object to rights-holder

Modern victimology challenges the idea that crime belongs exclusively to the State. Nils Christie's account of 'conflicts as property' argued that professional institutions appropriate disputes from those most immediately affected, leaving the victim with little control over the narration or resolution of harm.[6] The insight should not be read as a demand to privatise prosecution. Criminal offences express public wrongs, and the State must protect equality, consistency and the rights of the accused. It does, however, expose a democratic deficit: the person whose bodily integrity, property, dignity or family life has been violated may be denied information and voice in a process justified partly in that person's name.

A victim-rights model is not singular. **Service rights** concern respectful treatment, information, translation, counselling, safety and practical support. **Procedural rights** concern notice, attendance, submissions, access to material, review and appeal. **Reparative rights** concern restitution, compensation,

[4] UN General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, GA Res 40/34 (29 November 1985) annex, paras 4–17.

[5] Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime [2012] OJ L315/57, arts 3–9 and 18–24.

[6] Nils Christie, 'Conflicts as Property' (1977) 17 British Journal of Criminology 1, 3–8.

rehabilitation and acknowledgment. **Protective rights** reduce intimidation, retaliation, privacy invasion and repeat trauma. Jonathan Doak has shown that the challenge is to integrate these interests within a rights-based criminal process rather than treating the victim's claims and the defendant's rights as a zero-sum competition.[7] The most defensible position is one of bounded participation: victims should be informed, protected and heard on decisions that directly affect their interests, while the burden of proving guilt remains upon the prosecution and adjudication remains impartial.

Restorative justice adds another dimension. It focuses on harm, responsibility and repair rather than treating conviction and sentence as the complete response to crime. Indian criminal procedure contains fragments of restorative logic-compensation, compounding, plea bargaining and return of property-but it lacks an integrated restorative process. The BNSS's compensation and victim-participation clauses can therefore be read as reparative, though not fully restorative. Money ordered after conviction, without explanation, dialogue or rehabilitation, is useful but narrow. Sometimes the need is medical care today, relocation tomorrow, and sustained psychological assistance for years. A legal system that counts compensation orders yet ignores these needs has adopted the vocabulary of restoration without its institutional depth.

3.2 Constitutional foundations

The Constitution does not contain a self-standing chapter of victims' rights. Their normative basis is instead constructed from equality, life and personal liberty, access to justice and the State's obligation to maintain a fair criminal process. Article 21, after Maneka Gandhi v Union of India, requires procedure affecting life and liberty to be fair, just and reasonable, not merely enacted.[8] The principle protects the accused, but its concern with fairness cannot be confined to one participant. A failed investigation, intimidation of a witness, disclosure of a sexual-offence survivor's identity, or arbitrary denial of compensation can each engage dignity and effective access to law.

Article 14 prohibits arbitrary state action and supports equal access to investigative and adjudicative institutions. Article 39A directs the State to secure equal justice and free legal aid. Together, these provisions supply a constitutional basis for requiring that vulnerability, poverty, disability, gender and geography do not determine whether a victim can activate the criminal process. The Supreme Court's public-law compensation jurisprudence further establishes that monetary redress can be an appropriate constitutional response where unlawful state action violates fundamental rights.[9] That jurisdiction is conceptually distinct from offender-paid compensation and statutory victim compensation, yet it reinforces a broader proposition: remedy is part of the right, not an optional act of sympathy.

In Delhi Domestic Working Women's Forum v Union of India, the Supreme Court connected legal assistance, anonymity, compensation and institutional support for rape survivors.[10] In Bodhisattwa Gautam v Subhra Chakraborty, it affirmed the possibility of interim compensation while proceedings were pending.[11] These decisions did not create a complete code. They did demonstrate that victim welfare could be treated as a legal demand arising from dignity and access to justice, rather than a charitable add-on.

The constitutional position must also accommodate fair-trial rights. Victim participation cannot dilute the presumption of innocence, reverse the burden of proof outside lawful exceptions, or turn adjudication into vengeance. Nor should the prosecutor become the private agent of the complainant. Ian Edwards describes the victim as an 'ambiguous participant' because criminal justice both recognises personal harm and insists upon public control of decision-making.[12] That ambiguity is not a reason to exclude the victim. It is a reason to define participation precisely.

[7] Jonathan Doak, Victims' Rights, Human Rights and Criminal Justice: Reconceiving the Role of Third Parties (Hart 2008) 20–34.

[8] Maneka Gandhi v Union of India (1978) 1 SCC 248, 281–84.

[9] Nilabati Behera v State of Orissa (1993) 2 SCC 746, 762–69.

[10] Delhi Domestic Working Women's Forum v Union of India (1995) 1 SCC 14, 21–22.

[11] Bodhisattwa Gautam v Subhra Chakraborty (1996) 1 SCC 490, 499–500.

[12] Ian Edwards, 'An Ambiguous Participant: The Crime Victim and Criminal Justice Decision-Making' (2004) 44 British Journal of Criminology 967, 967–72.

4. EVOLUTION BEFORE THE BNSS

4.1 The original CrPC settlement

The CrPC largely inherited a State-centred model. Section 357 authorised courts to direct that all or part of a fine be applied toward compensation and, in appropriate cases, to order compensation even where the sentence did not include a fine. The provision was significant but underused. In Hari Singh v Sukhbir Singh, the Supreme Court urged courts to exercise the power liberally because compensation could respond to loss more directly than punishment alone.[13] Decades later, Ankush Shivaji Gaikwad v State of Maharashtra held that sentencing courts must apply their minds to compensation and give reasons when declining it.[14] Judicial insistence was necessary precisely because the statutory discretion had become routine neglect.

The original Code did permit a private person to instruct a pleader, but control remained with the public prosecutor, particularly before the Court of Session. The victim ordinarily lacked a general appeal against acquittal and had to rely on revision, State appeal or, where applicable, the complainant's special-leave route. Information rights during investigation were sparse. Protection, counselling and rehabilitation depended substantially on special laws, court directions and executive schemes. There was no coherent journey from first report to post-sentence support.

4.2 Legislative and committee-led transformation

The 154th Report of the Law Commission advocated a stronger compensation framework, while the Malimath Committee placed justice to victims among the central objects of criminal justice reform.[15] The Committee proposed participation, legal assistance, compensation and a victim-oriented understanding of justice. Its recommendations were broader than the reforms eventually enacted, but they shifted the policy debate from the victim as a witness to the victim as a stakeholder.

The Code of Criminal Procedure (Amendment) Act 2008 introduced the definition of 'victim' in section 2(wa), allowed the court to permit the victim to engage an advocate to assist the prosecution through the proviso to section 24(8), created State victim-compensation schemes under section 357A, and added a proviso to section 372 granting the victim an appeal against acquittal, conviction for a lesser offence or inadequate compensation. Subsequent reforms strengthened immediate medical treatment and compensation in specified sexual and acid-attack cases. These amendments constitute the direct ancestry of many BNSS provisions.[16]

The appellate right became especially consequential. In Mallikarjun Kodagali v State of Karnataka, the Supreme Court treated the victim's appeal as a substantive statutory right and construed the provision in light of the victim's long marginalisation.[17] In Jagjeet Singh v Ashish Mishra, the Court used broader language, holding that victims possess unbridled participatory rights from investigation through appeal and must receive a meaningful opportunity of hearing, including in bail proceedings where their interests are directly affected.[18] The rhetoric is powerful, though 'unbridled' cannot literally mean unlimited. Procedural participation remains shaped by the statute, the court's control of proceedings and the rights of the accused.

The role of victim's counsel illustrates the tension. In Rekha Murarka v State of West Bengal, the Supreme Court held that counsel engaged by the victim may assist the prosecution but cannot conduct a parallel prosecution or independently cross-examine witnesses as of right.[19] The decision preserves prosecutorial coherence, yet it also reveals the limits of a right framed as assistance. A lawyer who receives incomplete information and must communicate through the public prosecutor may be present without being influential. The BNSS retains the same basic formulation rather than legislating a clearer division of functions.

Witness protection developed largely outside the CrPC. In Mahender Chawla v Union of India, the Supreme Court approved the Witness Protection Scheme 2018 and directed its enforcement throughout

13 Hari Singh v Sukhbir Singh (1988) 4 SCC 551, 557–58.

14 Ankush Shivaji Gaikwad v State of Maharashtra (2013) 6 SCC 770, 785–89.

15 Law Commission of India, 154th Report on the Code of Criminal Procedure, 1973 (1996) ch 15; Committee on Reforms of Criminal Justice System, Report (Ministry of Home Affairs 2003) 75–84.

16 Code of Criminal Procedure 1973, ss 2(wa), 24(8) proviso, 357A, 357C and 372 proviso, as amended.

17 Mallikarjun Kodagali (Dead) through LRs v State of Karnataka (2019) 2 SCC 752, 770–81.

18 Jagjeet Singh v Ashish Mishra (2022) 9 SCC 321, 337–40.

19 Rekha Murarka v State of West Bengal (2020) 2 SCC 474, 487–92.

the country until legislation was enacted.[20] Privacy jurisprudence, especially in sexual-offence cases, also expanded. In Nipun Saxena v Union of India, the Court insisted upon strict protection of the identity of rape survivors and issued directions concerning records and reporting.[21] The BNSS thus entered a field already shaped by constitutional adjudication, special statutes and executive schemes. Its contribution must be measured against that accumulated baseline.

5. THE ARCHITECTURE OF VICTIMS' RIGHTS UNDER THE BNSS

Section 2(1)(y) defines a 'victim' as a person who has suffered loss or injury caused by the act or omission of the accused person, and includes the victim's guardian or legal heir.[22] The definition is central because it gives standing to several later provisions. It also reproduces a conceptual difficulty: tying victimhood to the act or omission of 'the accused person' can sound premature where no suspect has been identified or formally accused. A better formulation would attach status to prima facie harm caused by an alleged offence, without prejudging responsibility.

Figure 1: Architecture of victim-facing guarantees under the BNSS, 2023.
Source: Author's synthesis of the BNSS provisions discussed in this article.

5.1 Entry into the criminal process: reporting and registration

Section 173 permits information relating to a cognisable offence to be given to the officer in charge of a police station irrespective of the area in which the offence was committed. It may be communicated orally or by electronic communication; an electronically supplied report must be signed within three days. A copy of the recorded information must be supplied free of cost to the informant **or the victim**.[23] By removing territorial jurisdiction as a threshold objection, the provision gives statutory form to what is commonly described as a Zero FIR. It can reduce delay where an offence occurs during travel, in cyberspace, or far from the victim's residence.

For women alleging specified sexual offences, the information must be recorded by a woman police officer or woman officer. Where the victim is temporarily or permanently mentally or physically disabled, recording must occur at the victim's residence or another convenient place of choice, in the presence of an interpreter or special educator, and be videographed. The police must also arrange recording of the statement by a Magistrate as soon as possible.[24] These are dignity-enhancing measures. They recognise that the place, manner and personnel of first contact can determine whether a victim is able to narrate an offence at all.

[20] Mahender Chawla v Union of India (2019) 14 SCC 615, 628–31; Witness Protection Scheme 2018.
[21] Nipun Saxena v Union of India (2019) 2 SCC 703, 717–27.
[22] Bharatiya Nagarik Suraksha Sanhita 2023, s 2(1)(y).
[23] ibid s 173(1)–(2).
[24] ibid s 173(1), first and second provisos.

The electronic route is potentially transformative, but it is not self-executing. The statute does not prescribe a nationally interoperable filing interface, automatic acknowledgement, language accessibility, accessibility standards for persons with disabilities, or a secure method by which the victim can satisfy the three-day signature condition. Without such rules, an electronic complaint may generate a new dispute about receipt or verification. Rural connectivity, device access and digital literacy will shape who benefits. The technological provision is therefore an procedural entitlement and an infrastructure obligation at the same time.

Section 173(3) authorises a preliminary enquiry, with prior permission of an officer not below the rank of Deputy Superintendent of Police, where the alleged cognisable offence is punishable with imprisonment of three years or more but less than seven years. The enquiry must be completed within fourteen days to ascertain whether a prima facie case exists; alternatively, investigation may commence where a prima facie case is apparent.[25] From the perspective of false or doubtful complaints, supervised screening may appear reasonable. From the victim's perspective, it risks recreating the pre-registration gatekeeping that Lalita Kumari v Government of Uttar Pradesh sought to discipline by making registration mandatory when information discloses a cognisable offence.[26] The provision's legality will depend on a narrow construction: the enquiry should test whether the information reveals a prima facie case, not assess credibility as though conducting a mini-trial.

Where the officer refuses to record information, the aggrieved person may send it in writing to the Superintendent of Police and may thereafter apply to the Magistrate. This retains an escalation structure familiar from the CrPC.[27] Yet escalation assumes literacy, persistence and knowledge. A genuine right of entry requires recorded reasons for refusal, immediate notice of the review route, and institutional tracking of rejected complaints. The BNSS does not expressly require all three.

5.2 Dignity-sensitive investigation and medical process

Section 176 requires the statement of a rape victim to be recorded at her residence or at a place of her choice, as far as practicable by a woman police officer, and permits audio-video electronic means.[28] Section 183(6) strengthens Magistrate-recorded statements for specified sexual offences. A woman Magistrate should record the statement where available; interpreters or special educators must assist persons with disabilities; and an audio-video record may be made. For a temporarily or permanently mentally or physically disabled victim, the Magistrate's statement is treated as examination-in-chief, allowing cross-examination without requiring repetition of the same account at trial.[29] This can reduce secondary victimisation caused by repeated narration.

Section 184 governs medical examination of a woman alleged to have been raped. The police must send the victim to a registered medical practitioner within twenty-four hours of receiving information, with consent, and the report must document specified clinical particulars and the reasons for conclusions.[30] The section is important, but its framing remains medico-legal rather than comprehensively therapeutic. Evidence collection cannot displace informed consent, emergency care, prophylaxis, mental-health support and follow-up. Nor can absence of injury be treated as absence of sexual violence. Judicial training and medical protocols are necessary to prevent old stereotypes from entering a technologically updated file.

The jurisprudence on sexual offences insists that trial courts avoid patriarchal assumptions and degrading conditions. State of Punjab v Gurmit Singh cautioned against an approach that distrusts the testimony of the prosecutrix merely because of the nature of the allegation, while Aparna Bhat v State of Madhya Pradesh prohibited stereotypical bail conditions and directed gender-sensitisation.[31] The BNSS's protective procedures should be interpreted against that constitutional background. Privacy, choice

[25] ibid s 173(3).

[26] Lalita Kumari v Government of Uttar Pradesh (2014) 2 SCC 1, 35–44.

[27] Bharatiya Nagarik Suraksha Sanhita 2023, s 173(4); see also Sakiri Vasu v State of Uttar Pradesh (2008) 2 SCC 409, 415–17.

[28] Bharatiya Nagarik Suraksha Sanhita 2023, s 176(1), second proviso.

[29] ibid s 183(6)(a)–(b).

[30] ibid s 184.

[31] State of Punjab v Gurmit Singh (1996) 2 SCC 384, 403–04; Aparna Bhat v State of Madhya Pradesh (2021) 3 SCC 247, 271–78.

and respectful communication are not courtesies. They are elements of a fair process.

5.3 Information during investigation and disclosure of case papers

A major addition appears in section 193(3)(ii), under which the police officer must, within ninety days, inform the informant or victim of the progress of investigation, including by electronic communication.[32] Information reduces uncertainty, enables a victim to preserve documents or challenge inaction, and signals that the case has not disappeared into a bureaucratic file. The provision also gives a concrete temporal reference. This matters.

Yet its wording is under-specified. 'Within ninety days' may be read as a one-time update rather than a continuing obligation at meaningful milestones. 'Progress' is undefined. The provision does not specify whether the communication should include arrest, non-arrest, forensic submissions, filing of the police report, cancellation or closure recommendations, or delay reasons. It does not identify the remedy for silence. A text message saying 'investigation is underway' may formally comply while conveying almost nothing. Rules should therefore prescribe a minimum information set and periodicity, subject to tailored exceptions where disclosure would endanger a person or prejudice investigation.

Section 230 requires the Magistrate, within fourteen days from production or appearance of the accused, to furnish free copies of the police report, FIR, witness statements, confessions and relevant documents to the accused **and to the victim, if represented by an advocate**.[33] Electronic supply or permitted inspection may satisfy the requirement. This is a notable disclosure right because informed participation is impossible without access to the case that the State proposes to present.

The condition of legal representation is problematic. It generates a circular inequality: a victim needs an advocate to receive the papers most useful to an advocate, but the BNSS creates no universal right to publicly funded victim counsel. The Legal Services Authorities Act 1987 provides legal services to specified eligible categories, including women, children, members of Scheduled Castes or Scheduled Tribes, persons with disability, victims of trafficking and persons meeting income criteria.[34] It does not guarantee representation to every victim solely by reason of victim status. A financially constrained male victim outside the listed categories may therefore possess a disclosure right that is practically inaccessible. The limitation is neither necessary nor proportionate; copies could be furnished directly, with redactions or protective orders where required.

5.4 Participation through counsel and hearing rights

The proviso to section 18(8) permits the court to allow the victim to engage an advocate of choice to assist the prosecution.[35] It carries forward the CrPC position. The right recognises that the public prosecutor represents the State and may not always have time, information or incentives to address the victim's specific concerns. Victim's counsel can organise documents, identify protection needs, communicate procedural developments, suggest questions and make submissions where the court permits.

Still, the word *'assist'* leaves the advocate's role dependent on judicial and prosecutorial practice. Rekha Murarka rejects a parallel prosecution, rightly protecting fairness and coherence, but it also emphasises that the victim's counsel ordinarily acts under the public prosecutor's directions.[36] The BNSS could have clarified matters by listing functions: access to papers, consultation before major prosecutorial decisions, submission of written propositions, participation in bail and sentencing on victim-specific issues, and the ability to bring material omissions to the court's attention. Instead, it leaves much to courtroom culture. In one court assistance may be meaningful; in another it may mean sitting quietly behind the prosecutor.

The strongest express hearing right is the final proviso to section 360. A court cannot permit withdrawal from prosecution without giving the victim an opportunity of being heard.[37] Withdrawal can terminate the case for reasons that may include evidentiary reassessment, public policy or misuse of

[32] Bharatiya Nagarik Suraksha Sanhita 2023, s 193(3)(ii).
[33] ibid s 230.
[34] Legal Services Authorities Act 1987, s 12.
[35] Bharatiya Nagarik Suraksha Sanhita 2023, s 18(8), proviso.
[36] Rekha Murarka (n 19) 488–92.
[37] Bharatiya Nagarik Suraksha Sanhita 2023, s 360, final proviso.

prosecutorial power. A hearing does not give the victim a veto, and should not. It requires the court to confront the victim's objections before determining whether withdrawal serves the administration of justice. This is a real accountability mechanism because it inserts the affected person into a decision otherwise negotiated between prosecutor and judge.

Victims also participate in plea bargaining. The BNSS excludes offences committed against women and children and other notified socio-economic offences from the plea-bargaining chapter. In eligible cases, the court facilitates a mutually satisfactory disposition involving the accused and victim, which may include compensation.[38] Participation can make reparation more immediate and can recognise the victim's preference for closure. However, power imbalance is a serious concern. Consent can be distorted by financial necessity, intimidation or pressure to accept a low amount. Judicial verification must therefore be more than ceremonial, and legal advice should be available on both sides.

At bail, the BNSS does not establish a universal victim-notice rule. Section 483(2) makes the presence of the informant or a person authorised by the informant obligatory at the hearing of bail applications concerning specified serious sexual offences under the Bharatiya Nyaya Sanhita, 2023 ('BNS').[39] Special laws may provide wider participation for particular classes, and Jagjeet Singh supports meaningful victim hearing in appropriate cases. But the general Code remains fragmented. A family threatened after a murder, a survivor of organised violence, or an elderly victim of severe financial abuse may have equally urgent safety information, yet no express general notice entitlement. The classification is under-inclusive.

5.5 Protection, privacy, medical treatment and digital process

Section 398 directs every State Government to prepare and notify a witness protection scheme.[40] Legislative recognition is valuable. It affirms that truthful testimony cannot be expected where the State leaves witnesses exposed to retaliation. It also moves the subject beyond a scheme resting solely on Supreme Court directions.

But section 398 is only one sentence. It provides no minimum categories of threat, emergency application process, confidentiality rule, review standard, relocation power, funding obligation or appeal. States may notify schemes of uneven quality. A victim who is also a witness may face immediate danger while authorities debate jurisdiction or threat classification. The provision would have been stronger had it incorporated core features of the Witness Protection Scheme 2018, including threat analysis and protective measures, while allowing States to add safeguards.[41] Statutory recognition without minimum content risks formal compliance.

Immediate medical treatment is addressed by section 397. Public and private hospitals must provide first aid or medical treatment free of cost to victims of specified sexual offences under the BNS and offences under sections 4, 6, 8 and 10 of the POCSO Act, and must immediately inform the police.[42] The duty is vital and may save life, preserve health and reduce evidentiary delay. Non-compliance is punishable under the substantive criminal law. Yet the coverage is offence-specific. Victims of attempted murder, grievous assault, trafficking-related violence outside the listed provisions, burns not classified as acid attacks, or serious hit-and-run injury may have identical emergency needs. A humane criminal procedure should impose a broader stabilisation duty based on urgent injury, not only offence label.

Privacy protections are distributed rather than expressed as a general victim right. Special recording procedures, in-camera trials, limits on identity disclosure under substantive and special law, and judicial directions operate together. The fragmentation creates gaps for victims of stalking, intimate-image abuse, trafficking, communal violence and other offences where publicity can produce renewed harm. The idea of protection from secondary victimisation should be general, with offence-specific safeguards layered above it.

Section 530 provides that all trials, inquiries and proceedings under the BNSS, including summons and warrant proceedings, examination of complainants and witnesses, recording of evidence and appellate

[38] ibid ss 289–293.

[39] ibid s 483(2); Bharatiya Nyaya Sanhita 2023, ss 65 and 70(2).

[40] Bharatiya Nagarik Suraksha Sanhita 2023, s 398.

[41] Witness Protection Scheme 2018, pts II–VII; Mahender Chawla (n 20) 628–31.

[42] Bharatiya Nagarik Suraksha Sanhita 2023, s 397; Bharatiya Nyaya Sanhita 2023, s 200.

proceedings, may be held in electronic mode.[43] Remote participation can reduce travel, intimidation and repeated disruption. It can enable a vulnerable victim to testify from a protected location. But *'may'* leaves discretion, and the statute does not confer a right to request or oppose remote participation, nor specify privacy, data security, recording access and technical-support standards. A digital hearing conducted from an unsafe household, public service centre or police office may be less protective than physical attendance. Technology changes the room; it does not automatically change power.

5.6 Compensation, rehabilitation and treatment

Sections 395 and 396 reproduce the dual structure of court-ordered compensation and State victim compensation. Under section 395, the sentencing court may apply fine amounts toward specified losses or order compensation even where fine does not form part of the sentence. Section 396 requires every State Government, in coordination with the Central Government, to prepare a scheme for funds to compensate victims or their dependants who suffered loss or injury and require rehabilitation.[44] The District or State Legal Services Authority decides the quantum upon a court recommendation, ordinarily after an enquiry completed within two months. It may order immediate first aid, medical benefits or other interim relief. A victim or dependant may apply where the offender is untraced or unidentified and no trial occurs, while compensation may also be recommended where acquittal or discharge leaves a need for rehabilitation.

The jurisprudence under the corresponding CrPC provisions remains instructive. Ankush Shivaji Gaikwad required reasoned consideration of offender-paid compensation. Suresh v State of Haryana stressed that courts should apply section 357A at an early stage and that interim compensation may be necessary to prevent the scheme from becoming illusory.[45] Under the BNSS, these principles should be treated as part of the continuity of victim-oriented interpretation, subject to section 531's transitional rules.

The architecture nevertheless contains structural weaknesses. *'Adequate'* compensation is not defined nationally. State schemes differ in amounts, categories, evidence requirements and processing practice. An award may not equal payment, and payment may not secure rehabilitation where hospitals, shelters, counselling and livelihood support are absent. The victim has to navigate police records, medical documents and legal-services offices at a moment of trauma. Where officials treat the application as a discretionary benefit, the right becomes a petition for compassion.

Official National Legal Services Authority ('NALSA') data illustrate both administrative effort and continuing pressure. Applications received declined from 29,936 in 2022–23 to 26,917 in 2024–25, while applications decided rose from 20,900 to 27,011. Pending applications stood at 14,129 at the end of 2024–25, down from 17,229 in the previous year. Decisions can exceed new receipts because authorities also clear earlier backlogs.[46]

[43] Bharatiya Nagarik Suraksha Sanhita 2023, s 530.

[44] ibid ss 395–396.

[45] Suresh v State of Haryana (2015) 2 SCC 227, 232–35.

[46] National Legal Services Authority, 'R/O Victim Compensation Schemes Report: April 2022 to March 2023; April 2023 to March 2024; April 2024 to March 2025' https://nalsa.gov.in/r-o-victim-compensation-schemes-report/ accessed 12 July 2026.

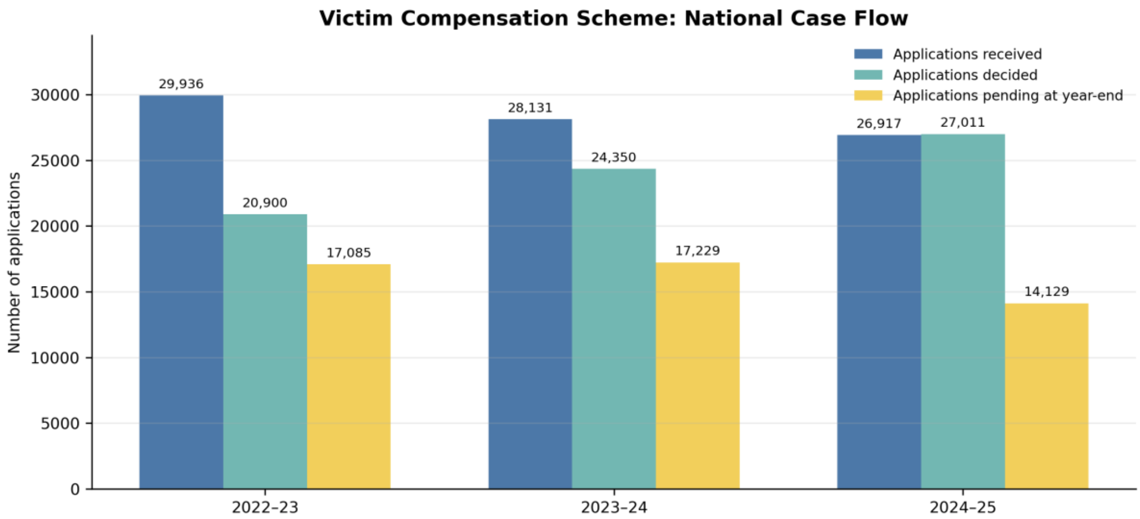

Figure 2: Victim Compensation Scheme — national case flow, 2022–23 to 2024–25.

Source: NALSA national totals, 2022–23 to 2024–25; 'pending' denotes year-end pendency.

The total amount of compensation awarded increased from approximately ₹347.8 crore in 2022–23 to ₹402.9 crore in 2023–24 and ₹484.7 crore in 2024–25.[47] The growth is significant, but should be interpreted cautiously. It may reflect higher awards, disposal of accumulated cases, changed offence mix or improved reporting. The published aggregate describes amounts awarded; it does not by itself establish when funds were actually disbursed, whether the sums met rehabilitation costs, or how outcomes differed by State, gender, disability, caste, offence or rural location.

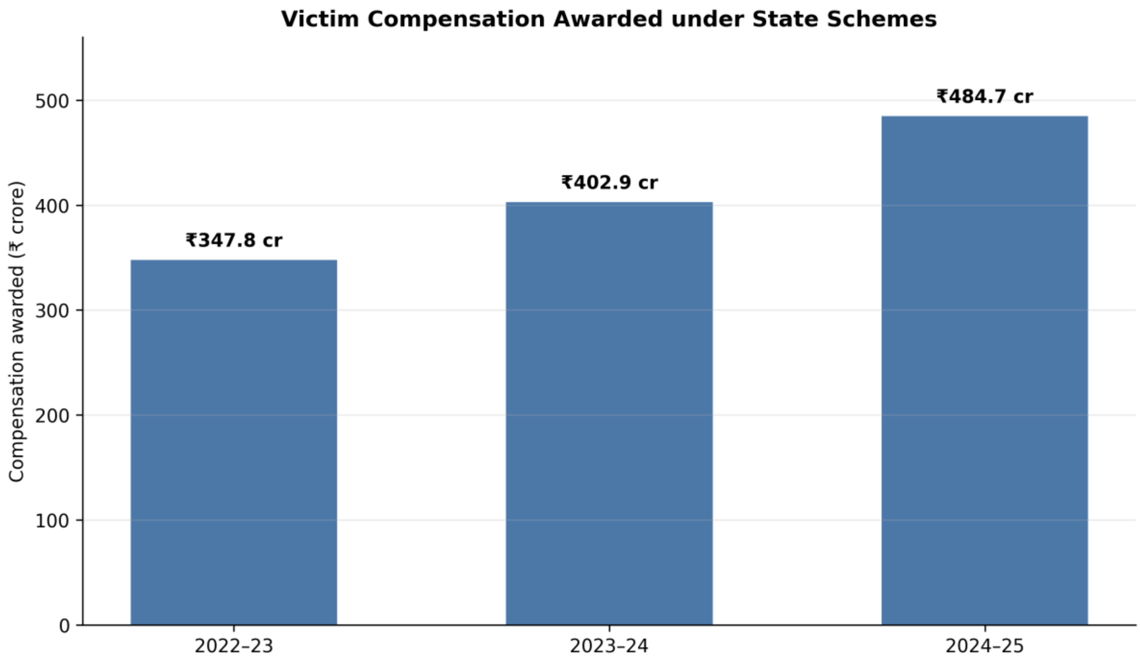

Figure 3: Compensation awarded under State victim-compensation schemes, 2022–23 to 2024–25.

Source: NALSA national totals; amounts converted to ₹ crore and rounded to one decimal place.

[47] ibid. The reported national totals are ₹3,478,037,352 for 2022–23, ₹4,029,006,736 for 2023–24 and ₹4,846,737,631 for 2024–25.

The figures support a restrained conclusion. Compensation machinery is active and the volume of awards has increased. Yet a year-end pendency of more than fourteen thousand applications is incompatible with the urgent character of many claims. A survivor requiring reconstructive surgery, rent after relocation or funeral expenses cannot be made whole by a order that arrives after the need has hardened into debt. The two-month enquiry norm in section 396 should therefore be coupled with automatic interim payments, digital status tracking and consequences for unjustified delay.

5.7 Appeal and continuation of the victim's claim

The proviso to section 413 gives the victim a right to appeal against an order acquitting the accused, convicting for a lesser offence or imposing inadequate compensation, to the court to which an appeal ordinarily lies against the conviction.[48] This is substantially the language of the proviso to section 372 CrPC. It recognises that the State may choose not to appeal even where the victim has a legitimate grievance, and that inadequate compensation affects an interest distinct from the public interest in punishment.

Recent Supreme Court decisions interpreting the CrPC proviso are likely to influence section 413 because the material language is carried forward. In M/s Celestium Financial v A Gnanasekaran, the Court held that a victim who was also the complainant could invoke the victim-appeal proviso without obtaining special leave under the separate complainant route.[49] In Asian Paints Ltd v Ram Babu, it accepted that a corporate owner of intellectual property could fall within the statutory definition of victim and could appeal where the acquittal first arose in appellate proceedings.[50] In Khem Singh v State of Uttaranchal, the Court treated the victim's appellate entitlement as capable of continuation through a legal heir.[51] These decisions indicate an expansive, status-based understanding of victim appeal.

Difficult questions remain. Section 413 does not expressly mention inadequate sentence, except where a lesser offence is involved, while the State retains sentence-appeal powers. The time limit and procedural relationship with other appeal provisions may generate litigation. A legal heir included within the definition may not share the same preferences as the immediate survivor. For acquittals in prosecutions initiated by complaint, overlap between victim and complainant routes requires careful administration even after Celestium. Still, the appeal is one of the clearest examples of a victim right backed by a defined forum and remedy.

5.8 Consolidated rights matrix

Dimension	Principal BNSS provisions	Critical design issue
Status and entry	ss 2(1)(y), 173	Definition linked to 'accused'; electronic and territorial access need operational standards
Investigation and information	ss 176, 183, 184, 193	Sensitive procedures are strong; progress update is vague and remedy-less
Disclosure and participation	ss 18(8), 230, 289–293, 360	Counsel and hearing rights exist, but access is conditional and uneven
Safety and treatment	ss 397–398, 530	Coverage is offence-specific; witness-protection mandate lacks minimum content
Reparation	ss 395–396	State variation, delay, and weak link between awards and rehabilitation
Review	s 413	Strong appeal right, but no general right to challenge all victim-affecting decisions

6. CRITICAL LEGAL ANALYSIS

6.1 A real normative shift, but not a complete break

The BNSS changes the vocabulary of criminal procedure. Express references to the victim appear at consequential stages: receipt of the FIR, investigation progress, supply of documents, prosecutorial withdrawal, compensation and appeal. The cumulative effect is more important than any single clause. A police officer, prosecutor or judge can no longer plausibly describe the victim as legally irrelevant once evidence has been recorded. The statute anticipates

[48] Bharatiya Nagarik Suraksha Sanhita 2023, s 413, proviso.

[49] M/s Celestium Financial v A Gnanasekaran 2025 INSC 804, [8]–[11].

[50] Asian Paints Ltd v Ram Babu 2025 INSC 828, [24]–[38].

[51] Khem Singh (D) through LRs v State of Uttaranchal 2025 INSC 1024, [21]–[30].

continuing communication and, in selected settings, participation.

At the same time, a large portion of the architecture is inherited. The definition, victim's counsel, compensation scheme, medical treatment and appeal substantially reproduce CrPC provisions created between 2008 and 2013. Witness protection had already been made nationally operative by the Supreme Court. Sensitive recording procedures developed through amendments and special laws. The honest account, therefore, is one of consolidation plus incremental change. Calling every renumbered protection 'new' weakens rather than strengthens the case for the BNSS, because it prevents a serious appraisal of what actually changed.

The most important additions are operational: information irrespective of territorial location, electronic communication, a ninety-day progress duty, time-linked disclosure, victim hearing before withdrawal and express State schemes for witness protection. Their value lies in moving rights closer to routine decision points. Yet even these provision often state an obligation without a legal consequence. There is no general clause authorising the Magistrate to issue compliance directions on a victim's application, no exclusionary consequence, no compensatory remedy and no disciplinary reporting duty for repeated breach. A right without a route back to the court remains fragile.

6.2 Fragmented standing and the problem of selective participation

The BNSS does not establish a single principle that a victim is entitled to notice and hearing whenever a decision substantially affects safety, dignity, reparation or termination of proceedings. Instead, it grants specific rights at selected points. The victim is heard before withdrawal from prosecution and may appeal acquittal, but has no express universal right to notice of bail, discharge, quashing, compounding, sentence suspension, parole or remission. Some of these matters are governed by case law or special statutes; others depend on judicial discretion. The result is a patchwork.

A general standing rule need not allow the victim to dominate every hearing. It could require notice and an opportunity to submit information on defined victim interests-risk, intimidation, compensation, privacy and protection-while reserving legal questions and prosecutorial strategy to the appropriate actors. Such a rule would give structure to Jagjeet Singh and avoid the overstated idea that participatory rights are literally *'unbridled'*. The better principle is **relevant participation**: voice proportionate to the decision's effect on the victim.

The absence of universal representation compounds the problem. The victim's advocate may assist the prosecution, but appointment is privately financed unless the victim qualifies under legal-aid legislation or a scheme. Sophisticated parties can retain counsel, obtain papers and attend hearings. Poor and socially marginal victims may not know that a hearing occurred. Formal equality therefore masks material inequality. Article 39A demands more than a theoretical permission to hire a lawyer.

6.3 Prosecutorial independence and fair trial

Victim-centred procedure can be criticised on the ground that it pressures courts toward conviction or harsher punishment. That risk is real where participation is undefined, emotional impact is treated as proof, or political actors mobilise victimhood to erode due process. The solution is not exclusion. It is role clarity.

The public prosecutor must remain an officer of justice rather than counsel for either the government of the day or the complainant. The victim's lawyer should not duplicate examination, suppress exculpatory material or dictate charges. Conversely, prosecutorial independence cannot mean immunity from explanation. Consultation before withdrawal, plea disposition and major concessions can improve the quality of decision-making without giving the victim a veto. Written reasons enable judicial control. A system that protects only prosecutorial discretion may reproduce bureaucratic indifference; a system that surrenders prosecution to private anger threatens equality and fairness. The BNSS does not fully articulate the middle position.

Fair-trial analysis must also recognise that reliable victim participation can assist the accused. Early, accurately recorded accounts, protected communication channels and reduced intimidation can improve evidence quality. Timely disclosure to represented victims may identify factual errors before trial. Clear information reduces disruptive applications based on uncertainty. The rights are not invariably adversarial to the defendant. But safeguards are needed: confidential defence material should not be disclosed improperly, witness coaching must be prevented, and remote evidence must allow effective cross-examination.

6.4 Information without intelligibility

The BNSS's information duties are an advance, yet information is valuable only if understandable and usable. A victim may receive a police report in technical legal language, a digital link that expires, or a notice in a language the person cannot read. The Code contains special interpreter provisions at certain stages but no general communication standard for victims. The EU model, by contrast, treats simple and accessible language as a baseline obligation from first contact.

India's linguistic diversity makes this a major design issue. Notices should be available in the victim's preferred language wherever reasonably practicable, with oral explanation for persons who cannot read. Persons with sensory, cognitive or psychosocial disabilities may need adapted communication. Children require age-appropriate explanation. There should be a right to nominate a trusted person to receive non-confidential updates. Without this, digital efficiency can become bureaucratic distance.

Privacy also matters. An investigation update sent to a shared phone may expose a survivor to family violence. A video statement stored without access controls may be copied. The BNSS accelerates electronic process but does not create a victim-data governance code. Rules should specify authentication, encryption, retention, access logs, consent, redaction and breach notification. Otherwise the same technology that opens the system can enlarge the surface of harm.

6.5 Compensation: federal diversity or unequal justice?

Section 396 relies on State schemes, which permits adaptation to local costs and institutions. It also creates territorial inequality. Victims of comparable harm may receive different maximum amounts, confront different documentary burdens and wait different periods depending on where the offence occurred or application is processed. Minimum national standards would not eliminate federal variation; they would set a floor beneath it.

The statutory language joins compensation to rehabilitation, but scheme administration frequently centres on a one-time monetary amount. Rehabilitation is a process. It may require surgery, trauma care, assistive devices, education, housing, childcare, livelihood replacement, legal help and long-term protection. The authority deciding quantum should undertake a reasoned needs assessment rather than mechanically matching an offence to a tariff. Awards should be revisable where latent injury or continuing treatment becomes apparent.

NALSA's aggregate data show rising awards and reduced pendency in 2024–25, which is encouraging. They also reveal the scale of administration. National totals cannot show whether funds reached applicants promptly or whether particular States generated disproportionate backlogs. Public dashboards should therefore report application date, interim relief, decision time, award amount, payment date and anonymised demographic and offence categories. Data is an accountability mechanism, not merely an annual-report annexure.

6.6 Protection that begins too late

Witness-protection systems often activate only after a formal application and threat analysis. Victims may be most exposed immediately after reporting, before an accused seeks bail, or when police contact becomes visible in the community. Protection must be capable of emergency action. Temporary relocation, safe transport, confidentiality of address and rapid police response should not wait for a full administrative decision.

The BNSS also tends to merge *'victim'* and *'witness'*. Many victims are witnesses, but not all witnesses are victims and not all victims testify. A bereaved dependent, injured child represented through a guardian, or corporate victim may need protection or privacy without being the principal witness. Protection law should be based on risk arising from participation or association with the case, not solely evidentiary status.

A related omission concerns release information. Safety planning may depend on knowing that an accused has obtained bail, escaped custody, received sentence suspension, parole or remission. The Code imposes no comprehensive duty to notify victims of these events. A simple opt-in notification system, with risk-based protection review, would convert abstract safety into practical preparedness.

6.7 Institutional capacity and remedies

Rights are administered by people and systems:

police officers, prosecutors, Magistrates, doctors, legal-services authorities, court staff, translators, counsellors and technology vendors. The BNSS imposes new duties without building a dedicated victim-services profession. Training alone will not solve workload, vacancies, weak infrastructure or conflicted incentives. Every district should have a victim support unit independent enough to explain procedure, coordinate services and document non-compliance.

The absence of an explicit remedy clause is especially serious. Consider a police officer who never sends the ninety-day update, a Magistrate's office that refuses papers to a represented victim, a hospital that delays treatment, or a prosecutor who seeks withdrawal without identifying the victim. Different writ, supervisory, contempt, criminal and administrative remedies may exist, but they are fragmented and expensive. The victim should not need constitutional litigation to enforce a routine statutory duty.

A general enforcement provision could permit the jurisdictional court to issue directions, restore an opportunity of hearing, order immediate disclosure, refer misconduct, award reasonable costs, protect confidential information and, where prejudice cannot otherwise be cured, revisit the affected procedural decision. Not every breach should invalidate proceedings. The remedy should be proportionate to harm and fair-trial consequences. But no remedy at all is not neutrality; it is permission for uneven implementation.

6.8 Transitional duality

Section 531 repeals the CrPC while preserving pending appeals, applications, trials, inquiries and investigations under the old Code.[52] The saving clause is administratively necessary. It also means that lawyers, police and courts must operate two codes, with different numbering and selected substantive differences. Victims may be told that a widely publicised BNSS protection does not apply because their case began before 1 July 2024. Institutions should provide clear transition guides and avoid using the dual regime as a reason to deny equivalent constitutional and judicially recognised protections.

The recent Supreme Court decisions on the CrPC victim-appeal proviso demonstrate how continuity may work. Their reasoning should inform the materially similar BNSS text, but courts must still identify which statute governs the proceeding. Early judgments that casually mix section numbers could create uncertainty. A publicly accessible concordance, coupled with reasoned transitional rulings, would reduce error.

7. INTERNATIONAL BENCHMARKING

The UN Victims Declaration defines victims broadly, including persons who suffer physical or mental injury, emotional suffering, economic loss or substantial impairment of fundamental rights through acts or omissions violating criminal law. Victim status does not depend upon identification, apprehension, prosecution or conviction of the offender.[53] This approach avoids the BNSS definition's awkward reference to the *'accused person'*. It also makes clear that the State's duties begin before guilt is adjudicated.

The Declaration calls for compassionate treatment, access to justice, information about the victim's role and the scope, timing and progress of proceedings, views and concerns to be presented where personal interests are affected, assistance throughout the legal process, protection of privacy and safety, avoidance of unnecessary delay, restitution, compensation and material, medical, psychological and social assistance.[54] The BNSS covers many of these domains, but unevenly. It is strongest on access, specified investigative safeguards, compensation and appeal. It is weaker on continuing assistance, general privacy, release notification, individualised protection and delay remedies.

The EU Victims' Rights Directive offers a more institutional model. It requires information from first contact, access to confidential support services without making support dependent upon a formal complaint, interpretation and translation, reimbursement and protection measures, and an individual assessment to identify specific protection needs.[55] It also recognises indirect victims, including family members of a person whose death was directly caused by a criminal offence. The Directive is not a ready-made answer for India; its administrative setting and supranational enforcement differ. Its operational logic is nevertheless valuable:

[52] Bharatiya Nagarik Suraksha Sanhita 2023, s 531(2)(a).
[53] UN Victims Declaration (n 4) annex, paras 1–2.
[54] ibid paras 4–17.
[55] Directive 2012/29/EU (n 5) arts 4, 8, 9, 18, 22 and 23.

each right is connected to a service, decision-maker and stage.

An individual needs assessment is the most important missing idea. The BNSS largely assigns special measures by offence or predefined disability. Risk and vulnerability do not align perfectly with offence labels. An elderly fraud victim may face severe dependence and intimidation; a male survivor of sexual violence may encounter stigma; a migrant worker may need interpretation and shelter; a journalist targeted by organised violence may need digital and physical protection. A short, revisable assessment at first contact could identify communication, protection, medical, psychological and participation needs without predetermining the merits.

International standards also emphasise remedy and reparation. The United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation identify restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition as distinct forms of reparation.[56] BNSS compensation addresses only part of that spectrum. Return of property, correction of records, apology in appropriate restorative settings, institutional reform and measures preventing recurrence may be equally important. Criminal procedure cannot provide all of them, but it should coordinate rather than reduce reparation to a cheque.

8. REFORM AGENDA

8.1 Enact a justiciable Victims' Rights Charter

Parliament should add a schedule or separate chapter stating baseline rights applicable to every victim: respectful and non-discriminatory treatment; information in understandable form; acknowledgement and registration of reports; notice of significant case events; reasonable access to records; privacy; safety assessment; support services; participation on matters affecting personal interests; restitution and compensation; and review of administrative non-compliance. The Charter should identify responsible institutions and permit proportionate judicial remedies. It need not create a veto over prosecution.

8.2 Replace the definition with a harm-based formulation

Section 2(1)(y) should be amended so that victim status arises from loss or injury caused by an **alleged offence**, irrespective of whether an offender is identified, apprehended, prosecuted or convicted. 'Injury' should expressly include physical or mental injury, emotional suffering, economic loss and substantial impairment of rights. Family members and dependants should be covered according to defined circumstances, with safeguards where interests conflict.

8.3 Create a universal information protocol

Rules under the BNSS should prescribe information at first contact and at later milestones. At minimum, victims should receive a unique case reference, contact point, legal-aid and support information, protection application route, compensation route, and notices of registration, arrest where disclosure is safe, bail hearing and outcome, filing of the final report, cognisance, charge, trial dates, judgment, sentence, appeal, release, escape, parole and remission. Updates should be opt-in where privacy requires and should be available through secure digital and non-digital channels. A victim should not have to chase five offices for one answer.

8.4 Guarantee access to documents independent of private counsel

Section 230 should not condition supply to the victim on representation by an advocate. The victim should receive the FIR, final report and non-confidential documents directly, with redaction and protective orders for privacy, witness safety, ongoing investigation and fair-trial needs. Where full disclosure cannot be made, reasons and a review route should be provided. Accessible formats and translations should be available where necessary.

8.5 Establish publicly funded victim advocates

Every district should maintain a panel of trained victim advocates or support lawyers, funded through legal-services institutions but professionally independent in individual advice. Eligibility should be based on vulnerability, complexity and inability to secure effective participation, not only existing section 12 categories under the Legal Services Authorities

[56] UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation, GA Res 60/147 (16 December 2005) annex, paras 18–23.

Act. The advocate's statutory functions should include explanation, safety and compensation applications, consultation before withdrawal or plea disposition, submissions on victim-specific bail conditions, assistance with impact and loss material, and appeals where authorised.

8.6 Define the victim counsel's role

The BNSS should codify the balance reflected, imperfectly, in Rekha Murarka. The public prosecutor controls the prosecution and owes duties of fairness; victim counsel may access permitted records, confer with the prosecutor, propose questions and evidence, submit written arguments and, with leave, address the court on safety, privacy, compensation, restitution and other personal interests. Where the prosecutor rejects a material request, brief reasons should be recorded and the court may hear a limited application. This prevents both parallel prosecution and empty participation.

8.7 Introduce an individual needs and risk assessment

At first meaningful contact, a trained officer should assess communication needs, disability accommodations, immediate medical and psychological support, risk of retaliation, privacy, childcare, transport and safe participation. The assessment must be revisable as circumstances change and should not be disclosed to the defence beyond what fairness requires. Special statutory measures would remain minimum entitlements; the assessment would address vulnerability that falls outside offence categories.

8.8 Strengthen witness and victim protection legislation

Section 398 should be expanded or supplemented by comprehensive legislation establishing uniform minimum standards, an emergency order mechanism, independent threat analysis, confidentiality, relocation, identity protection, secure transport, communication security, financial assistance, periodic review and appeal. Funding responsibilities between Union and States must be explicit. Protection should cover victims, witnesses, family members and persons at risk because of assistance to the justice process. An independent oversight mechanism should publish anonymised performance data.

8.9 Make compensation timely, needs-based and nationally coherent

The Union, States and NALSA should adopt minimum national compensation floors indexed to costs, while allowing States to exceed them. Interim relief should be presumptively released within a short fixed period upon prima facie proof of qualifying harm. Final decisions should contain a needs assessment and payment schedule. Delay beyond the statutory enquiry period should trigger recorded reasons, supervisory review and interest or additional costs in appropriate cases. Data should distinguish recommended, awarded and actually paid amounts. Rehabilitation services must be funded alongside cash awards.

8.10 Broaden emergency treatment and long-term support

The free-treatment duty should apply to any victim requiring emergency stabilisation because of alleged criminal injury, regardless of offence classification. National protocols should cover consent, forensic choice, mental-health first aid, sexual and reproductive healthcare, disability support, referral and follow-up. Police intimation should not become a condition for life-saving treatment, and healthcare providers should be trained to preserve confidentiality.

8.11 Regulate digital victim justice

Electronic reporting and proceedings require a rights-based technology framework. Systems should support Indian languages, disability access, low-bandwidth channels and offline alternatives. Victims should receive acknowledgement and audit trails. Sensitive files should use strong access controls, encryption, retention limits and breach notification. Courts should decide remote participation after considering safety, voluntariness, privacy, ability to communicate with counsel and the accused's right to effective cross-examination. Technology should expand choice, not impose a single mode.

8.12 Provide a general enforcement clause

A victim alleging breach of an express BNSS right should be able to apply to the jurisdictional Magistrate or court through a simple, time-bound procedure. Available orders should include disclosure, information, protection, restoration of a missed hearing, referral for disciplinary action, costs and any other proportionate direction. The court should consider prejudice to the accused and integrity of proceedings before setting aside an order. This clause would turn a catalogue into law.

8.13 Build accountable institutions

Each district should have a multidisciplinary victim support unit linked to, but operationally distinct from, police investigation. It should include legal, social-work and psychological capacity; maintain referrals; assist with compensation; and coordinate protection. Police, prosecutors, judges, medical personnel and legal-services staff need continuing training evaluated through outcomes rather than attendance certificates. Annual reports should publish compliance with FIR copies, progress updates, document-supply timelines, protection applications and compensation payments.

9. CONCLUSION

The BNSS does not inaugurate victims' rights in India. It inherits decades of constitutional adjudication, CrPC amendments, special legislation, committee recommendations and administrative schemes. Its achievement is different: it gathers the victim into the ordinary grammar of general criminal procedure more frequently and more visibly than before. Entry can be territoriality-neutral and electronic; investigation must communicate progress; represented victims can receive police papers; counsel may assist; withdrawal requires a hearing; compensation and treatment are recognised; States must notify protection schemes; and the victim retains an appellate route.

These changes constitute a genuine normative shift. Yet the shift remains incomplete. The Code confers rights selectively, often without specifying content, support or remedy. It does not establish universal notice at decisions affecting safety and case termination. It conditions some participation upon private representation, treats protection through a thin delegation, links special measures largely to offence categories, and relies on variable State compensation systems. Digitalisation is embraced more quickly than digital equality and privacy. In this sense, the BNSS is not yet a comprehensive victim-rights code; it is a platform upon which one may be built.

The appropriate objective is neither victimless procedure nor victim-controlled prosecution. It is a constitutional model of bounded, informed and supported participation: one that treats the victim with dignity, allows relevant voice, secures safety and reparation, preserves prosecutorial fairness, and protects the accused from conviction except through lawful proof. Rights must work at the police station, hospital, legal-services office and courtroom-not only in a bare-act commentary. The next phase of reform should therefore move from recognition to enforceability. Without that movement, the promise will remain uneven. With it, Indian criminal procedure can become fairer to all of its participants, not just more modern in name.

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