

Victim-Centric Justice and the Rights of the Accused

Achieving Constitutional Balance in Criminal Proceedings

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Abstract

This Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, marks a paradigm shift in the Indian Criminal Justice System (CJS) by shifting the focus from merely accused-centric justice to a more restorative and victim-centric approach. This change is supported by statutory provisions including the statutory right of the victim to be heard before a prosecution is dropped (Section 360) and the inclusion of State-funded Victim Compensation Schemes separate from a criminal conviction (Section 396). This paper, however, discusses how the balance between the expanding victim empowerment and the basic rights of the accused under Article 21 of the Constitution of India is likely to be a conflict of interest. The analysis is based on official national statistics and shows a huge penal crisis, with 73% of the prison population being pre-trial detainees. However, structural inadequacies in the law enforcement capacity and judiciary system remain a danger to constitutional balance, with some progressives arguing for more liberal detention criteria for first offenders, such as those proposed in Section 479 of the BNSS. This paper brings to a close the debate on balancing victim-centricity and the presumption of innocence without holistic capacity development and statutory remedies for wrongful prosecution.

Keywords: Victim-Centric Justice, Bharatiya Nagarik Suraksha Sanhita (BNSS), Rights of the Accused, Undertrial Prisoners, Victim Compensation Scheme (VCS), Pre-trial Detention, Fast Track Special Courts (FTSCs), Restorative Justice

1. Introduction

The Indian criminal justice system had traditionally been accused-centric with strong influence of the Anglo-Saxon jurisprudential 'innocent till proven guilty' presumption. The concept of 'right to life' and 'personal liberty' is enshrined in the Constitution of India, which lays down comprehensive procedural safeguards to prevent arbitrary action by the State under Article 21. But the emphasis on the rights of the culprit tended to leave the main victim of the crime—victim out of the picture. The victims for decades have been treated as witnesses to the prosecution, her suffering not even addressed by the formal state apparatus, and resulting in the deep inequality in the state system.

Institutional shift towards victim centric approach started gaining momentum after the United Nations declaration of basic principles of justice for victims of crime and abuse of power (1985) and Malimath committee report on reforms of criminal justice system (2003)⁷⁷ respectively. The Malimath Committee, in particular, highlighted the fact that the system was so focused on the rights of the accused, that there was a need for an overhaul to take into account the victim's participation, protection and compensation as fundamental components of the justice delivery system⁷⁸. This paradigm shift has culminated into the enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) that will replace the Code of Criminal Procedure, 1973 (CrPC). The BNSS not only seeks to rectify the longstanding problem of undertrial detention by redefining bail matrices, it also brings about sweeping changes in the legislative framework that explicitly make the rights of the victim a core part of the process, including a new compensation regime, rights against withdrawal of prosecution without a hearing and mandatory progress reviews⁷⁹.

This study solely focuses on core statistical data provided by government agencies, such as the National Crime Records Bureau (NCRB), Bureau of Police Research and Development (BPR&D), National Legal Services Authority (NALSA), and the Department of Justice (DoJ) to assess the

⁷⁷ e-PG Pathshala, "Criminal Justice Administration: Victims of Crime" (2026).

⁷⁸ "Malimath Committee on Victim Rights", *Scribd* (2003).

⁷⁹ Drishti Judiciary, "Victim Compensation Scheme" (2024).

balance between the rights of the accused and victim-centric justice. Moreover, it offers a comparative study of the mechanisms of victim compensation in the U.S. and the U.K., and a detailed account of the changing legal framework in India.

2. Systemic Pressures: Crime Trends and Law Enforcement Capacity

It is essential to examine the enormity of the criminal workload and the ability of the police to handle it in order to appreciate the conflict between the rights of the accused to a speedy trial and the right of the victim to get justice.

2.1 National Crime Patterns: NCRB Data (2023–2024)

The National Crime Records Bureau (NCRB) released its 'Crime in India 2024' report in 2024, which reported 58.85 lakh cognizable cases in the country, down 6.0% from the 62.41 lakh cases registered during 2023. The national crime rate of 418.9 per one lakh population is lower than the 448.3 recorded in 2023 and is the lowest since 2019. But this statistical drop is a complicated one to interpret. The overall reported dip is largely because of the implementation of Bharatiya Nyaya Sanhita (BNS), 2023, where the simple hurt offence has been declared as non-cognizable, which resulted in a 30.58% artificial deflation in crime figures in the category overall in the country⁸⁰.

Thefts and robberies, which are traditional property offences, have dropped by 9.8% and 13% respectively, whereas crimes against vulnerable populations and infrastructure such as computer systems have increased. The most disturbing trend in the data for 2024 is the continued surge in digital offences, which jumped by 17.9% to surpass the previous one-lakh record, with 1,01,928 cases reported⁸¹. Fraud continued to be the main reason for conducting a cyber offence (72.6%)⁸².

⁸⁰ Drishti IAS, "NCRB's Crime in India 2024 Report" (2024).

⁸¹ *Id.*

⁸² Shankar IAS Parliament, "Crime in India 2024" (2024).

The alarming rate of crimes targeting certain vulnerable groups highlights the urgent need for victim-oriented approaches:

- **Crimes against Women:** Slightly reduced by 1.5 per cent to 4.41 lakh in 2024, the crime rate has remained high at 64.6 per lakh female population. Almost 42% of these cases included the word "cruelty" and meant "by husband or relatives."
- **Crimes Against Children:** The number of such cases rose by 5.9% to 1.87 lakh. Kidnapping and abduction made up 40% of these offences and 7% did so under the Protection of Children from Sexual Offences (POCSO) Act. The number of children who went missing also went up by 7.8%.
- **Senior Citizens and Marginalized Communities:** Increase in crimes against senior citizens (+16.9 %), led by theft and fraud crimes. Senior citizens (+16.9 %): crimes against senior citizens increased, with theft and fraud being the main types of crime. On the other hand, the crime against the Scheduled Tribes (STs) has declined sharply by 23.1% (9,966 cases) and the crime against the Scheduled Castes (SCs) fell by 3.6% (55,698 cases).

The national picture is further complicated by the state-wise variations. The highest per capita crime rate was in Uttar Pradesh (7.4) and the lowest in Nagaland (1.7). The states with the greatest charge-sheeting rates under IPC and BNS were Kerala (94.5%), Puducherry (91.0%) and West Bengal (90.6%).

2.2 Law Enforcement Density and Resource Deficits

The efficiency of investigating these 58.85 lakh crimes becomes important both for the victim's access to justice and the accused's right to speedy justice. The BPR&D's *Data on Police Organizations (DoPO)* report emphasizes the significant structural weaknesses of the policing system.

The total sanctioned strength of police personnel in the states and UTs was 26,23,225 while the actual police strength was 20,91,488 and a huge gap of 5,31,737 was left in the police force.

Population Per Police Person (PPP) ratio has been tight at 511.81 and the Police Population Ratio (PPR) is 195.39 police personnel per lakh population⁸³. Likewise, the gender representation in the force is still not adequate with only 10.30% (2,15,504 personnel) of the actual Civil Police Force, resulting in limited capability of the system in dealing with the 4.41 lakh crimes registered against the women with required sensitivity⁸⁴.

The government has been quick to scale up its digital policing infrastructure within the framework of Indian Cyber Crime Coordination Centre (I4C), which tackled the rising 17.9% cybercrime rate. As per January 2024, the number of dedicated Cyber Crime Police Stations has increased from 169 in 2020 to 459. In Uttar Pradesh, the cyber stations were increased from 2 to 75 and Gujarat from 4 to 39, which is indicative of a state-specific institutional shift towards combating digital victimisation⁸⁵.

3. The Rights of the Accused: Liberty, Arrest, and the Overcrowding Crisis

The working conditions in the Indian prisons are a severe test of the fundamental right to liberty. The presumption of innocence is all but destroyed by the sheer number of undertrial convicts who spend many years in police custody before cases are settled and trials can be conducted in a timely manner, which is directly contributed to the police vacancies of 5.3 lakh and the lag in investigations and trials.

3.1 Demographics of Detention: Prison Statistics India 2023–2024

Overcrowding of prisons is structural, and is mainly because of pre-trial detention, according to data published by the NCRB for Prison Statistics India (PSI). As of 31/12/2024, there were 1,333 jails in the country with a sanctioned physical capacity of 4.53 lakh inmates, but 5.11 lakh inmates

⁸³ Press Information Bureau, "Bureau of Police Research & Development (BPR&D) Releases Data on Police Organizations as on 01.01.2020" (2020).

⁸⁴ Plutus IAS, "NCRB Released Its Flagship Crime Report 2024" (2024).

⁸⁵ Ministry of Home Affairs, Government of India, "Lok Sabha Unstarred Question No. 1497" (2025).

were actually housed in these jails, resulting in an occupancy rate of 112.7% across the country. This is a slight decrease from the levels of occupancy recorded during the pandemic (131.4% in 2022 and 120.8% in 2023), but is still significantly higher than the capacity of the infrastructure⁸⁶.

The ratio between undertrials and convicts is the most telling parameter of the imbalance in the system. The ratio of convicted prisoners to undertrials decreased to 26.6% to 73% in 2024. This equates to almost 75% of those without a formal conviction whose freedom of movement has been restricted or curtailed.

Table 1: National Prison Occupancy and Population Metrics (2024)

National Prison Occupancy and Population Metrics (2024)	Statistic
Total Jails Operational	1,333
Sanctioned Inmate Capacity	4.53 Lakh
Actual Inmate Population	5.11 Lakh
National Occupancy Rate	112.7%
Proportion of Undertrials	73%
Undertrials Confined > 5 Years	9,028 individuals (2.4%)
Women Prisoner Population	4.14% (Only 34 dedicated women jails)

Source: <https://www.drishtiias.com/daily-updates/daily-news-analysis/prison-statistics-india-report-2024>

⁸⁶ Drishti IAS, "Prison Statistics India Report 2024" (2024).
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Systemic flow bottlenecks are evident from regional disparities. Delhi had the highest rate of prison occupancy at 194.6%, followed by Meghalaya (163.5%), Jammu & Kashmir (148.3%) and Madhya Pradesh (147.1%) in 2024. The proportion of undertrials was more than 87% in the states of Delhi and Bihar. States, such as Chhattisgarh, however, managed to reduce the overcrowding in prisons by a wide margin because of specifically targeting capacity expansion and implementing bail reforms that brought the population down from 234% in 2015 to 127.6% in 2024⁸⁷.

Further scrutiny of social composition of the undertrial population based on PSI 2023 data shows that communities facing marginalisation are disproportionately affected by incarceration. The socio-economic distribution of the 3,89,910 category-wise reported undertrials in 2023 shows overwhelming presence of socio-economically disadvantaged groups, indicating a disproportionate impact of not being able to get bail, which essentially amounts to criminalization of poverty⁸⁸.

Table 2: Major States: Undertrial Population by Social Category (As of Dec 31, 2023)

Major States	SC	ST	OBC	Others	Total
Uttar Pradesh	20,534	3,489	31,596	17,872	73,491
Bihar	8,549	1,514	26,411	10,055	46,529
Punjab	7,389	2,134	3,659	11,321	24,503
Madhya Pradesh	4,385	4,891	9,279	4,409	22,964
National Total (Selected Reporting)	80,192	38,987	1,37,665	1,00,628	3,89,910

⁸⁷ *Id.*

⁸⁸ Shubhra Ranjan, "India's Prison Overcrowding Crisis: A Growing Concern" (2024).

Source: https://sansad.in/getFile/loksabhaquestions/annex/187/AU2398_xVf817.pdf?source=pqals

3.2 Regulatory Mechanisms for Arrest: Section 35 of the BNSS

In order to limit arbitrary arrests that directly feed into the undertrial population, Section 35(3) of the BNSS (now replaced by Section 41A of the CrPC) has laid down a strict “notice of appearance” criterion. If the offence is cognizable and carries a maximum imprisonment of 7 years or less, it is not mandatory to arrest the accused. In its place, a notice is required to be issued by the law enforcement calling for the accused to appear and co-operate in the investigation⁸⁹.

Under the current legal structure, there must be a two-stage threshold satisfaction for arrest to be carried out without a warrant:

- Reason to believe the person committed the offence and credible information.
- Objective necessity of arrest – to prevent further offences, to ensure proper investigation, to prevent evidence being tampered with or to prevent witnesses being led or induced.

In the 2026 judgment of the Supreme Court interpreting Section 35(3) of the BNSS (Satender Kumar Antil vs CBI), the Court once again reiterated that, giving notice is the rule and arrest is absolute exception⁹⁰. The Court ruled that officers have to document reasons for an arrest if it is absolutely necessary, adding to the constitutional and statutory oversight of police discretion. The Court explained that it was not an automatic right for arrest for non-compliance with a notice under Section 35(6); the police must make an independent assessment based on fresh material.

3.3 The Default Bail Matrix: Analysis of BNSS Section 479

The legislature addressed the figure that 73% of prisoners are undertrials by passing Section 479 of the BNSS (replacing section 436A of the CrPC) which sets the maximum time an undertaking prisoner can be detained. The Court shall set a person free on bail under subsection (1) of Section

⁸⁹ LawSikho, "Section 35(3) BNSS: When Police Must Give Notice Before Arrest" (2026).

⁹⁰ K&K Advocates, "BNSS Section 35 Arrest Rules: Supreme Court on Notice Requirement" (2026).

479, if he has been detained for a period not exceeding the maximum period of imprisonment provided for any offence (other than offences for which life imprisonment or death sentence are provided)⁹¹.

An important new statutory provision in Section 479 is the exception for "first time offenders". If an undertrial is without any previous conviction, he/she is entitled to be released on bond after serving one-third of the maximum sentence. Moreover, Section 479(3) stipulates that the burden of applying for liberty shall be on the State and not on the indigent prisoner and imposes a statutory obligation on the Jail Superintendent to make the application to the Court once the one-half or one-third threshold has been reached. The Ministry of Home Affairs (MHA) has strived to implement it through the national E-Prisons Portal to enable automatic flagging of eligible inmates based on calculations of sentences. The Supreme Court also directed that the provisions of the section 479 which are beneficial to the accused should be applicable in the prior pending proceedings as well, which were registered prior to July 2024⁹².

The liberal intent of Section 479(1) is offset by a tough stipulation in Section 479(2) of the BNSS. It lays down that relief of statutory bail shall not be available in the case of "an investigation, inquiry or trial in more than one offence or in multiple cases"⁹³. This results in a heavy burden on the courts. A single First Information Report (FIR) is usually drafted to incorporate several sections of the Indian penal code to address different offences relating to the same incident, as is customary in police practices. A literal reading of the words "more than one offence" effectively bars the overwhelming majority of the undertrial population from claiming the benefits of the one-third or one-half rule⁹⁴. Legal commentators say it has the effect of a chilling effect on the right to default

⁹¹ Ministry of Home Affairs, Government of India, "Prison Reforms" (2025).

⁹² *Id.*

⁹³ The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 479.

⁹⁴ LiveLaw, "When Exceptions Swallow the Rule: The Problem with Section 479 BNSS" (2024).

bail, which was an intention of the legislature to defuse prisons by ensuring that the mere fact that one has multiple offences means they cannot be granted bail⁹⁵.

4. Victim-Centric Jurisprudence and Procedural Empowerment

The rights of the victim of the crime to a fair investigation and trial are as much part of the right to life as the rights of the accused under Article 21 of the constitution. In the 154th, 226th, 268th and 277th Reports of the Law Commission of India, the marginalization of victims in the past has been heavily criticized⁹⁶. The 226th Report in particular examined the terrible nature of acid attacks and the inadequacies in the definition of 'grievous hurt' under the penal code, which did not suffice to reflect the impact of these attacks on victims' physical, financial and psychological lives and resulted in targeted amendments of the definition for compensation and rehabilitation purposes⁹⁷.

4.1 Procedural Rights under the BNSS

BNSS clearly shifts the victim from the passive role as a "tool" of evidence to that of an active participant in the justice process. There are some statutory provisions that implement this empowerment:

- **Mandatory Updates and Transparency (Section 173/193):** Police officers must now inform the victim/informant of the investigation progress within 90 days of the incident/offence – this is now a statutory obligation under Section 173/193 of the Act, to be done by electronic communication⁹⁸. Moreover, there is a provision to provide the copies of police report, FIR and recorded statements in 14 days for both the accused and victim of the crime, providing transparency⁹⁸.

⁹⁵ Crime and Justice Blog, "One Accusation Too Many: The Chilling Effect of BNSS Section 479(2)" (2025).

⁹⁶ e-PG Pathshala, "Criminal Justice Administration: Victims of Crime" (2026).

⁹⁷ Law Commission of India, *Report No. 226: The Inclusion of Acid Attacks as Specific Offences in the Indian Penal Code and a Law for Compensation for Victims of Crime* (2009).

⁹⁸ Press Information Bureau, "Procedures of Judicial System" (2024).

- **Victim's Right to be Heard on Withdrawal (Section 360):** The Victim's Right to be Heard on Withdrawal (Section 360): In the past, Public Prosecutors were allowed to withdraw prosecutions under Section 321 of the CrPC on the basis of vague executive discretion or for the nebulous reason of 'administration of justice'⁹⁹. In the third place, the BNSS does nothing less than change this power balance, by adding an important clause at its end: "No Court shall withdraw prosecution without affording an opportunity of being heard to the victim."
- **Zero FIR Institutionalization (Section 173):** Under section 173, registration of a "Zero FIR" is statutorily made without taking into account the area in which the offence occurs, which means that in the initial period of reporting, the victims of cognizable offences are not lost due to jurisdictional technicalities¹⁰⁰.

4.2 The Efficacy of Fast Track Special Courts (FTSCs)

To redress the long pending cases that cause secondary victimisation, especially for women and children, the Department of Justice launched a Centrally Sponsored Scheme for setting up Fast Track Special Courts (FTSCs) with substantial funding from the Nirbhaya Fund¹⁰¹. The scheme has been extended till March 2026 with financial allocation of ₹1,952.23 crore, with 60:40 share between the Centre and States (90:10 for Northeastern and hilly states)¹⁰².

As on December 31, 2024, 745 functional FTSCs (404 of which are exclusive POCSO courts) were functioning in 30 States and UTs. These specialized courts prove there is a degree of success in the delivery of justice in an expeditious manner in the local context.

⁹⁹ SCC Online, "Withdrawal from Prosecution: Prosecutorial Discretion and Victim Rights" (2025).

¹⁰⁰ Central Academy for State Judicial Administration, "Key Provisions of Bharatiya Nagarik Suraksha Sanhita" (2024).

¹⁰¹ GS SCORE, "Fast Track Special Courts (FTSCs)" (2024).

¹⁰² Press Information Bureau, "Swift Justice, Safer Society: The Impact of Fast Track Special Courts" (2024).

The following table shows the 2024 performance data for the FTSC. FTSC Performance Data (2024):

Table 3: FTSC Performance Data (2024)

FTSC Performance Data (2024)	Metric
Total Functional FTSCs	745
New Cases Instituted in FTSCs (2024)	88,902
Cases Disposed by FTSCs (2024)	85,595
Implied Disposal Rate	96.28%
Cumulative Cases Disposed To Date	3,06,604

Source; <https://iasscore.in/current-affairs/fast-track-special-courts-ftscs>

But, the inequality in judicial outcomes is still significant at the local level. Data reveal that conviction rates are inconsistent across the states, with some having high rates and others having low rates, despite the relatively high number of disposals at FTSCs. For example, the conviction rate of 47.19%, 40.5% and 45% respectively in Punjab, Haryana and Meghalaya in 2024 were very good. In comparison, conviction recorded in Maharashtra (6.07%) and Telangana (7.0%) were languid while that in Karnataka was 8.1%.

Table 4: State/UT-wise Details of Conviction Rate in FTSCs during 2023 and 2024

Sl. No.	States/UTs	Conviction Rate (%) 2023	Conviction Rate (%) 2024
1	Andhra Pradesh	3.97	5.19
2	Assam	16.7	35

3	Bihar	17.29	14.51
4	Chandigarh	67	16.915
5	Chhattisgarh	16.88	23.69
6	Delhi	24.94	8.59
7	Goa	39	9.69
8	Gujarat	7.42	9.53
9	Haryana	15.52	40.5
10	Himachal Pradesh	25.04	8.24
11	J&K	6	4.5
12	Jharkhand	21.2	14.78
13	Karnataka	12.54	8.1
14	Kerala	9.9	13
15	Madhya Pradesh	27.45	14.5
16	Maharashtra	10.55	6.07
17	Manipur	21.86	7
18	Meghalaya	58.49	45
19	Mizoram	14.14	33.5
20	Nagaland	24	25
21	Odisha	13.32	10.63

22	Puducherry	17	17.94
23	Punjab	12.46	47.19
24	Rajasthan	22.6	18.29
25	Tamil Nadu	28.5	25.82
26	Telangana	7.12	7
27	Tripura	6.87	5.3
28	Uttar Pradesh	26.49	25.11
29	Uttarakhand	22.42	22.5
30	West Bengal	1	2

Note: *As per details provided by the High Courts.*

Source: https://sansad.in/getFile/annex/269/AU2191_tt1dJf.pdf?source=pqars¹⁰³

This difference illustrates that judicial time limits are not enough if the investigators are not efficient, witnesses are hostile and forensic facilities are lacking. Out of 18,457 child kidnapping and abductions cases charge-sheeted in 2024, only 104 cases have been convicted during the same year, a data from NCRB shows, while 91% of the cases were pending¹⁰³.

5. The Architecture of Victim Compensation in India

Restorative justice is most often manifested in financial compensation. Civil remedies for damages have been available throughout history, but were, until now, virtually unavailable to financially strapped crime victims with long years of litigation. This has transformed with the introduction of

¹⁰³ IndiaSpend, "DataViz: India Registered 512 Crimes Against Children Every Day in 2024" (2024).

Section 357A of the CrPC (now Section 396 of the BNSS) which introduced compulsory Victim Compensation Schemes (VCS) in the state¹⁰⁴.

5.1 The Architecture of Section 396 BNSS

Section 396 of the BNSS encourages and obliges all State Governments, working in collaboration with the Central Government, to provide state-level payments for the compensation of loss or injury of a victim or dependant that requires long term rehabilitation¹⁰⁵.

Some of the essential operational elements are:

- **Independent of Conviction or Offender Identification:** “The link between the accused's conviction and the victim's right to state support is broken by Section 396(4) which also empowers the victim to seek compensation even if the offender is not traced or identified, or a trial even occurs¹⁰⁶.”
- **Time-Bound Enquiry:** Statutory obligation of the District Legal Services Authority (DLSA) or State Legal Services Authority (SLSA) to make enquiry and provide compensation within two months of receipt of an enquiry application and/or a court recommendation¹⁰⁷.
- **Interim Relief:** Immediate First-aid/medical benefits ordered free of cost pursuant to Section 396(6) on certificate of police officer for critical rapid response support¹⁰⁸.”

5.2 Implementation by Legal Services Authorities (NALSA/SLSA)

The National Legal Services Authority (NALSA) is the apex body for standardisation of disbursement of these funds and carries out large scale law services operation. Legal aid reached

¹⁰⁴ Debasis Chakraborty and Abhay Singh, "Victim Rights and Participation in Criminal Proceedings", 3(1) *International Journal of Advanced Research in Science, Communication and Technology* 741–745 (2023).

¹⁰⁵ Drishti Judiciary, "Victim Compensation Scheme" (2024).

¹⁰⁶ Amoghvarta, "Victim Compensation Under Various Indian Laws: A Critical Study" (2024).

¹⁰⁷ *Id.*

¹⁰⁸ The Bharatiya Nagarik Suraksha Sanhita, 2023, s. 396.

more than 44.22 lakh people in India from 2022-2023 to 2024-2025, with a total of 23.58 crore cases being settled via Lok Adalats. Legal Aid Defence Counsel System (LADCS) was rolled out in 668 districts, with an outlay of ₹998.43 crore, for quality representation¹⁰⁹.

In 2018, the Supreme Court directed NALSA to draw up a uniform "Compensation Scheme for Women Victim/Survivor of Sexual Assault/other Crimes" with a significant support of ₹200 Crore Central Victim Compensation Fund (CVCF). State Legal Services Authorities customise these guidelines on a state-specific basis to ensure maximum outreach¹¹⁰.

5.3 Micro-Analysis: State-Level Implementations

The functional realities of compensation can be gained by examining State Legal Services Authorities, which offer a key insight into how it is implemented on the ground.

- **Punjab State Legal Services Authority (PULSA):** Highly structured matrices are provided in cases of Punjab State Legal Services Authority (PULSA) under the Punjab Victim or Their Dependents Compensation Scheme. PULSA guarantees that compensation, particularly for minors, is maintained in a fixed deposit up until the age of majority, with the ability to make exceptional withdrawals only for educational or medical needs. State authorities have the right to go after the compensated money from the accused after conviction¹¹¹.
- **Jharkhand State Legal Services Authority (JHALSA):** JHALSA has adopted an active and community-led outreach strategy through community-based outreach programmes (CBOs) known as "Legal Empowerment Camps", and training of Para-Legal Volunteers (PLVs). In a single year, JHALSA disposed of 1,32,859 cases (including 77,008 Pre-Litigation cases in Lok Adalats), organized 34 Legal Empowerment Camps benefiting 25.18 lakh people and launched targeted programmes such as "Vidyalaya Chale Chalaye

¹⁰⁹ Press Information Bureau, "National Legal Services Day" (2024).

¹¹⁰ National Legal Services Authority, "Victim Compensation" (2024).

¹¹¹ *Victim v. State of Punjab*, Punjab and Haryana High Court (2019).

Abhiyan" for tackling dropouts from school and ensuring that 52,990 individuals got admission in SC/ST scholarship programs. They were unique in combining legal awareness pamphlets and court summons and warrants with an awareness of their right to get free legal services¹¹².

- **Andhra Pradesh State Legal Services Authority:** Andhra Pradesh State Legal Services Authority is a testament to the tremendous outreach of alternative dispute resolution: 2,46,592 cases were settled in four National Lok Adalats with a paltry settlement and compensation of ₹758.22 Crores¹¹³.

The Punjab State Legal Services Authority Victim Compensation Scheme provides compensation as per the following table for the various types of crimes. The Compensation Limits under the Punjab State Legal Services Authority Victim Compensation Scheme are as follows:

Table 5: Crime-wise Compensation Limits under the Punjab State Legal Services Authority Victim Compensation Scheme

Crime Category	Punjab SLISA Compensation Matrix Limits
Acid Attack (Disfigurement of face)	₹7 Lakh (Minimum) to ₹8 Lakh (Maximum) ⁴⁹
Acid Attack (Injury > 50%)	₹3 Lakh to ₹5 Lakh ⁴⁹
Rape	₹3 Lakh (Base) ⁴³
Rape of a Minor (<14 years)	₹4.5 Lakh (Base + 50% increase) ⁴⁸
Murder with Rape	₹4 Lakh ⁴³
Rehabilitation for Human Trafficking	₹1 Lakh ⁴³

¹¹² S3WaaS, *Annual Report 2020–2021* (2021).

¹¹³ S3WaaS, "Legal Aid for All" (2024).

Partial Disability (40% to 80%)	₹1 Lakh ⁴³
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Source: <https://ijcrt.org/papers/IJCRT2603536.pdf>

6. Comparative Jurisprudence: Global Models of Victim Compensation

It is important to compare this with the international statutory frameworks, which in the US and UK reflect two different philosophies on the source of compensation funds, namely the Section 396 BNSS model for India.

6.1 The United States: The Crime Victims Fund (CVF)

The Crime Victims Fund (CVF), which is managed by the Office for Victims of Crime (OVC), is the U.S. model. The CVF differs from India's model, which is state funded from the State's consolidated revenue account (taxpayer money), in that the entire CVF is funded by federal criminal fines, forfeited bail bonds, and special assessments, in order to fund the recovery of victims in a way that is directly connected to the money paid by the offenders¹¹⁴.

Theoretically it is a good idea that when someone commits a crime they have to pay for it, but this results in a lot of fiscal volatility. Of the 45% of all CVF deposits, 45% were from 12 corporate defendants, all of them large. A recent drop in deferred prosecutions and large federal prosecutions has left the amount of state victim assistance grants drastically reduced from a high of \$3.3 billion in 2018 to \$779 million in 2024, which represents a 77% cut and led to cuts across the state. By early 2026, the total fund balance has declined from more than \$13 billion in 2018 to \$3.6 billion. In 2022, state compensation programs paid an estimated \$234.7 million for services for 208,000 victims and their families for medical, mental health, and dental services, despite the volatility. Legislative measures were taken to help stabilize the fund, such as bills like the VOCA Fix Act

¹¹⁴ Council of State Governments Justice Center, "Victim Services Funding: State Solutions Amid Federal Victims of Crime Act (VOCA) Uncertainty" (2025).

(2021) to funnel non-prosecution agreement money into the CVF, which is still not guaranteed like fixed-budget systems¹¹⁵..

6.2 The United Kingdom: Criminal Injuries Compensation Authority (CICA)

The UK model is closer to the Indian system, which is a state funded executive agency sponsored by the Ministry of Justice. The Criminal Injuries Compensation Authority (CICA) is responsible for claims in England, Wales and Scotland if you've be a victim of violent crime. During the 2024-2025 financial year, CICA has processed more than 42,000 claims, with over 35,000 claims finalised and awarded direct compensation to victims of £164 million¹¹⁶.

The budgetary stability of the UK scheme is different to the US CVF, as it is set in the Ministry of Justice's Resource Departmental Expenditure Limits (DEL). In 2024–25, CICA has an operational outturn of £163.3m, compared to budget t¹¹⁷. The UK's National Audit Office noted a provision for £365m to cover outstanding compensation claims under the 2012 tariff scheme, despite the funding being constant, suggesting a huge backlog of outstanding claims to be assessed¹¹⁸..

6.3 Structural Insights on the Indian Framework

India follows a 'mixed model' with its Section 396 BNSS. It will shift the main responsibility for the cost of restitution from the offender to the State Government (taxpayer funded, ensuring stability like the UK)¹¹⁹.

The stability of the Indian system should, in theory, follow the same path as that of the UK, but is plagued by serious underutilization because of the lack of legal literacy and the bureaucracy. However, a population of 67 million in the UK has settled 35,000 claims, whereas Indian DLSAs

¹¹⁵ National Association of Victim Assistance Administrators, "Victims of Crime Act" (2025).

¹¹⁶ Ministry of Justice, Government of the United Kingdom, *Annual Report and Accounts 2024–25: Performance* (2025).

¹¹⁷ Ministry of Justice, Government of the United Kingdom, *Annual Report and Accounts 2024–25: Annexes* (2025).

¹¹⁸ National Audit Office, *Ministry of Justice Accounts 2024–25* (2025).

¹¹⁹ Amoghvarta, "Victim Compensation Under Various Indian Laws: A Critical Study" (2024).

are having trouble in disbursing funds proportionately to the enormous crime rate of 58.85 lakh per year. Even with state funds (plus the Central Victim Compensation Fund), lack of knowledge of the process, delayed judicial recommendations, and difficulties in getting timely medical certifications are major obstacles at the grassroots to the availability of compensation¹²⁰..

7. The Unaddressed Paradigm: Wrongful Prosecution and the Legal Void

The BNSS is designed to uphold the rights of the true victim and the true accused, but it does not have a category for the victim of wrongful prosecution. People who spend years in a pre-trial prison without being convicted of a crime or wrongful charges are left without a legal remedy when they get out.

The Law Commission of India had made its 277th Report in 2018 which had a detailed discussion regarding “Wrongful Prosecution (Miscarriage of Justice): Legal Remedies.” The report emphatically urged for bringing in amendments in the CrPC for setting up special courts and compensation for wrongful arrest including loss of health, income, and livelihood, emotional trauma etc. But, these forward-thinking suggestions were notably absent from the BNSS 2023.

Courts continue to express profound helplessness regarding this legislative gap. In a 2024 ruling by the Allahabad High Court, where a man was acquitted after 13 years of imprisonment for a dowry-death case due to retracted witness statements and faulty application of evidence laws, the Court lamented: *"The appellant has already undergone about 13 years of imprisonment... for no fault on his part for which he is entitled to heavy compensation from State, but due lack of statutory framework, we are helpless"*¹²¹. Without a statutory compensation mechanism, victims of wrongful prosecution are forced to rely on the discretionary, expensive, and arduous public law remedy of

¹²⁰ Ministry of Home Affairs, Government of India, "Compensation to Acid Attack Victims" (2024).

¹²¹ LawBeat, "Government Rarely Accepts Recommendations of Law Commission: Allahabad High Court" (2024).

writ jurisdictions under Article 32 or 226 of the Constitution, making true rehabilitation an elusive rarity¹²².

8. Conclusion

The introduction of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, is a significant and pivotal moment in the history of Indian criminal jurisprudence and will contribute to the shift from a bygone system wherein the victim was merely a witness in government prosecutions. The codification of restorative mechanisms – the state-funded Victim Compensation Scheme in section 396 – effectively breaks the link between identification of the offender and the rehabilitation of the victim, enabling the legal services authorities to focus on the rehabilitation of the victim. In addition, procedural empowerments, like ensuring victims receive the required case progress reports and that they have a statutory right to be heard prior to the withdrawal of a case under Section 360, firmly place the victim in the procedural lifecycle. But a real balance in the constitution necessitates that these improvements in the rights of the victim should not be accompanied by a corresponding denial of the rights of the accused, to life, liberty, and speedy trial. The working reality of the Indian penal system is clearly tilted in favour of the presumption of innocence with 73 per cent of prison inmates being convicted but not yet sentenced undertrials. The legislature has tried to remedy this by a provision in the BNSS, Section 479, which provides for bail on a conditional basis for first time offenders who have completed one-third of the maximum term of imprisonment prescribed for the offence. However, the narrow exceptions to bail's availability in the BNSS make it difficult to see how this provision will achieve its decongestive purpose. Finally, statutory rephrasing should not be a standalone solution to the profound systemic pressures. Although there are several initiatives such as Fast Track Special Courts (FTSCs) where 96.28% of all cases have been disposed of in the case of particular vulnerable groups, there are investigative bottlenecks because of a shortage of more than 5.3 lakh

¹²² "Travesty of Justice: Consequences of Wrongful Prosecution and Incarceration", *International Journal of Law Management & Humanities* (2022).

police personnel across the country. Balancing the State's ability to provide rapid and targeted compensation to victims with its absolute duty to avoid the arbitrary and unnecessary indefinite retention of persons in legal custody is a constitutional challenge that must be addressed. In the absence of the state's action to fill these capacity gaps and formally fill the legislative gaps about the rights of victims of wrongful prosecution, the Indian criminal justice system will continue to tread a precarious middle ground between the interests of the true victim and the true accused.

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