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Preface

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Description

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A STUDY OF VICTIM PARTICIPATION, SENTENCING, COMPENSATION AND THE NEED FOR A STRUCTURED FRAMEWORK UNDER THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

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Abstract:

The criminal justice system should not only focus on punishing offenders but also ensure that victims receive fair treatment, meaningful participation and appropriate compensation. The Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) recognizes victims' rights to participate in criminal proceedings, seek legal assistance, receive compensation and exercise appellate rights. However, the effective implementation of these rights, particularly in sentencing and access to timely compensation, remains a concern.

Historically, Indian criminal law primarily focused on the State and the accused, while victims had a limited role in criminal proceedings. The Code of Criminal Procedure, 1973 (CrPC), along with judicial developments, gradually strengthened the recognition of victims' rights. The BNSS, 2023 continues this development by providing a legal basis for victim participation and compensation. Nevertheless, the absence of a sufficiently clear and uniform mechanism raises concerns about the consistent protection of victims' interests.

The research problem lies in the gap between the legal recognition of victims' rights and their effective implementation. Despite the existing provisions, questions remain regarding meaningful victim participation, consideration of victims' experiences during sentencing, and the timely and effective delivery of compensation. These concerns require an examination of whether the present legal framework adequately addresses victims' needs.

The hypothesis of this study is that although the BNSS, 2023 recognizes victims' rights, gaps in implementation and the absence of a comprehensive, structured framework may limit their effective realization. A clear and victim-centered mechanism is therefore necessary to

strengthen victims' participation, ensure fair consideration of their interests and improve access to compensation.

The aim and objectives of this research are to examine the legal provisions relating to victim participation, sentencing and compensation under the BNSS, 2023; analyze the relevant judicial decisions and identify gaps in the existing framework; assess the challenges affecting the implementation of victims' rights; and explore the need for a structured mechanism to protect victims' interests. The study also considers possible reforms, including victim impact statements, timely compensation, legal aid, awareness and rehabilitation, to promote a more consistent and victim-centred approach to criminal justice.

Keywords: *Victim Participation, Sentencing, Victim Compensation, Bharatiya Nagarik Suraksha Sanhita, 2023, Criminal Justice System, Victim-Centered Framework.*

Introduction:

However, the criminal justice system does not focus only on whether the accused is guilty or not, but it has to consider the rights, dignity, and needs of the individual who has become a victim of the crime committed against him or her. Historically speaking, the criminal proceeding in India has focused on being a trial between the State and the accused with the victim playing a relatively minor role. However, after the judicial evolution and legal reform, the victim is now recognized as an integral part of the criminal process.

The passing of the Bharatiya Nagarik Suraksha Sanhita, 2023, effective from 1 July 2024, marks a major development within the criminal procedure law in India. The BNSS includes provisions which recognize several interests of the victims such as their participation in the proceedings, provision of legal assistance, and compensation. In particular, Sections 395 and 396 relate to the issue of compensation from the Court and the victim compensation scheme, respectively. The Section 396 also covers cases where the offender cannot be traced and immediate medical/interim relief can be granted. Victim participation is important because the consequences of crime may extend beyond the immediate physical injury and may involve emotional, psychological, social and financial harm. Meaningful participation can therefore provide victims with an opportunity to be heard and to remain informed about proceedings affecting their interests. At the same time, participation in criminal proceedings must be balanced with the rights of the accused and the principles of a fair trial.

The present research therefore focuses on the relationship between victim participation,

sentencing and compensation under the BNSS, 2023. It seeks to examine whether the existing provisions provide sufficient opportunities for victims to participate meaningfully in criminal proceedings and whether the available compensation mechanisms adequately respond to their needs. The study further examines the extent to which victims' interests can be considered at the sentencing stage while maintaining the principles of a fair and impartial criminal trial.

Historical Background:

There has been a gradual change in the role of the victim within the criminal justice system from being a passive actor to becoming a stakeholder in criminal justice processes. Traditionally, the law on crime in India has always concentrated on the State-Accused dynamic with very little scope for the role of the victim who remained only a complainant or a witness. The issue of the loss incurred by the victim, participation, and rehabilitation began to become an essential part of criminal justice reforms. Section 357 of the Code of Criminal Procedure, 1973 gave some recognition to victims through its provision that gave courts the authority to compensate the victims out of fines awarded to offenders. A major amendment to the Code of Criminal Procedure through the Code of Criminal Procedure (Amendment) Act, 2008 added Section 357A wherein every state government in consultation with the Central Government was to draw up schemes for compensating victims or their dependents suffering loss or injury requiring rehabilitation.

Judicial decisions also played an important role in expanding the recognition of victims' rights. The Supreme Court emphasized that compensation is an important component of justice and that victims should not be ignored after the conclusion of criminal proceedings. The development of the victim's right to participate, obtain legal assistance and seek compensation reflected a gradual movement towards a more victim-oriented criminal justice system.

The enactment of the Bharatiya Nagarik Suraksha Sanhita, 2023, replacing the CrPC with effect from 1 July 2024, represents the next stage of this development. The BNSS retains and reorganizes important provisions concerning victim compensation, legal assistance and participation in criminal proceedings. Its compensation framework, particularly Sections 395 and 396, recognizes compensation and rehabilitation as important components of criminal justice.

Therefore, the historical development from the CrPC, 1973 to the BNSS, 2023 provides the foundation for examining whether the present law adequately addresses the three central concerns of this research and victim-centric framework to ensure that victims receive

meaningful participation, fair consideration and effective remedies within the criminal justice system.

Present Status

Presently, the law on the position of the victim with regard to the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) indicates that there is a move towards recognition of the victim as an important party in the process of criminal proceedings. The BNSS came into effect from 1 July 2024 replacing the Code of Criminal Procedure, 1973. The BNSS grants certain important rights to the victims. According to Section 18(8), the Court may allow the victim to have his/her own lawyer to help the prosecution. This ensures the involvement of the victim in the prosecution process even though this right does not make the victim an independent prosecutor. Compensation is a significant part of the present framework. Chapter XXIX of the BNSS specifically deals with the judgment and includes Section 395 on payment of compensation and Section 396 on the victim compensation scheme. The framework is intended to provide financial assistance and rehabilitation to victims who have suffered loss or injury as a result of an offence.

The BNSS also gives victims an important appellate remedy. Under the proviso to Section 413, a victim can appeal against an order acquitting the accused, convicting the accused for a lesser offence, or imposing inadequate compensation. This represents an important recognition of the victim's interest in the final outcome of criminal proceedings.

Therefore, the present status under the BNSS, 2023 can be understood as a significant statutory recognition of victim rights, particularly in relation to participation, legal assistance, compensation and appellate remedies, but with continuing scope for a more structured framework concerning sentencing, victim participation and effective implementation of compensation.

CONCEPT OF THE VICTIM IMPACT STATEMENT

Meaning

A Victim Impact Statement is a written or oral statement through which a victim explains the consequences of a criminal offence. It may address physical injuries, psychological effects, emotional suffering, financial loss, medical expenditure, loss of income, disability, impact on family members and rehabilitation needs. The precise contents depend upon the legal system. The essential feature is that the statement is impact-oriented. It should not duplicate the

prosecution evidence concerning whether the accused committed the offence. Its principal purpose is to help the court understand the consequences of the offence for the person affected.

VIS and Witness Statement: The Difference

Aspect	Witness Statement	Victim Impact Statement
Primary focus	Facts surrounding the offence	Consequences of the offence
Usual stage	Investigation/trial	Primarily after conviction and before/at sentencing
Purpose	To establish relevant facts/evidence	To inform the court about harm and rehabilitation needs
Subject matter	What happened	What the crime caused
Role in sentencing	May provideevidentiary background	May assist the court in understanding impact
Punishment recommendation	Not its primary purpose	May be restricted depending on jurisdiction; the court retains sentencing authority

VIS, Victim Impact Report and Compensation

These concepts should not be treated as identical. A VIS is generally a statement made by or on behalf of the victim. A Victim Impact Report may be prepared by a legal services authority or another professional body after inquiry. Compensation proceedings focus on monetary rehabilitation and may require documentary proof of expenditure, disability, income loss and other economic consequences. A well-designed Indian framework may use a combination of these tools: the victim's narrative statement, an objective impact report where necessary, and a separate compensation assessment.

Indian Legal Framework Under The Bharatiya Nagarik Suraksha Sanhita, 2023

Definition of Victim – Section 2(1)(y)

Section 2(1)(y) BNSS defines "victim" as a person who has suffered loss or injury by reason of

the act or omission of the accused and includes the guardian or legal heir of such victim. This definition is important because it recognizes not only the directly injured person but, in appropriate circumstances, guardians and legal heirs.

Sentencing and the Accused's Right to be Heard – Section 258

Section 258(2) BNSS requires the Court of Session, after conviction, to hear the accused on the question of sentence before passing sentence, unless the court proceeds under the probation provision. This statutory hearing is an important fair-trial safeguard. Any Indian VIS model must operate alongside, and not displace, the accused's right to be heard.

Compensation – Sections 395 and 396

Section 395 BNSS concerns compensation ordered by the court. Section 396 provides for a victim compensation scheme through State Governments in coordination with the Central Government. The scheme is intended for victims or dependents who have suffered loss or injury and require rehabilitation. Where compensation under Section 395 is inadequate for rehabilitation, or where a case ends in acquittal or discharge and the victim requires rehabilitation, the trial court may recommend compensation under Section 396. VIS provides the victim a structured voice concerning the broader impact of the offence Victim's Right of Appeal – Section 413

Section 413 BNSS contains a significant victim-oriented provision. The appeal lies to the court to which an appeal ordinarily lies against the conviction order of the relevant court.

JUDICIAL DEVELOPMENT IN INDIA

Mallikarjun Kodagali v. State of Karnataka[1]

In Mallikarjun Kodagali (Dead) represented through Legal Representatives v. State of Karnataka, the Supreme Court examined the victim's statutory right of appeal under the proviso to Section 372 CrPC. The Court emphasized the evolving recognition of victims as an important component of social justice and the rule of law. It was held that the victim's right of appeal was independent and did not depend upon the State's decision to appeal.

The case in research is significant for the present study because it reflects a broader jurisprudential movement: the victim is not merely an evidentiary witness but a participant whose interests may independently require recognition. Although the case concerned appellate

[1] Mallikarjun Kodagali (Dead) v. State of Karnataka, (2019) 2 SCC 752, 760–65.

rights rather than VIS, its reasoning supports the development of meaningful victim participation.

Jagjeet Singh v. Ashish Mishra[2]

In Jagjeet Singh & Ors. v. Ashish Mishra, the Supreme Court considered the victim's right to be heard in the context of bail. The Court held that a victim cannot be required to wait until trial before asserting participation and stated that the victim has a legally vested right to be heard at every step after the occurrence, extending through investigation and proceedings up to appeal or revision, subject to the legal context.

The decision is important because it frames victim participation as a substantive legal right rather than merely a discretionary courtesy. For sentencing, this reasoning supports the proposition that a victim should have a meaningful opportunity to place relevant information before the court. However, participation does not mean control over the judicial outcome.

Karan v. State (NCT of Delhi): Victim Impact Report[3]

The Delhi High Court's decision in Karan v. State (NCT of Delhi) provides a particularly relevant practical model. The Court directed that a Victim Impact Report be prepared by the Delhi State Legal Services Authority in criminal cases after conviction and considered at sentencing. The Court also developed a format covering matters such as physical harm, emotional harm, property loss, medical expenditure, disability and loss of income.

This development is important because it demonstrates how victim impact information can be collected through an institutional process rather than relying entirely upon an emotionally difficult oral statement by the victim. It also introduces an element of professional assessment and documentary verification.

At the same time, a judicially created local procedure is not identical to a nationwide statutory VIS framework. It illustrates a model that could inform legislative or rule-based reform.

Ankush Shivaji Gaikwad v. State of Maharashtra[4]

Ankush Shivaji Gaikwad v. State of Maharashtra, the Supreme Court discussed the importance of compensation to victims and emphasized that compensation is intended, among other things,

[2] Jagjeet Singh v. Ashish Mishra, (2022) 9 SCC 321, 329–31.
[3] Karan v. State (NCT of Delhi), 277 (2021) DLT 195, 222–24.
[4] Ankush Shivaji Gaikwad v. State of Maharashtra, AIR 2013 SC 2454, 2461–64.

to reassure the victim that he or she has not been forgotten by the criminal justice system. The judgment supports the principle that sentencing should not be viewed solely through the lens of punishment of the offender.

For VIS purposes, this case reinforces the importance of obtaining information about the victim's actual loss and rehabilitation requirements. Compensation, however, remains legally distinct from punishment and from the victim's personal narrative.

Gaps and Challenges in the Existing BNSS Framework

The **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** represents an important development in recognizing the interests of victims within criminal procedure. However, recognition of rights in legislation does not necessarily result in their effective exercise. The present framework still leaves certain areas insufficiently structured, particularly in relation to meaningful victim participation, sentencing, compensation and uniform implementation. These gaps are important to examine because they directly support the research problem and hypothesis of this study.

Lack of a Comprehensive Victim-Centric Framework

The BNSS recognizes a victim as a person who has suffered loss or injury because of the act or omission of the accused and includes the victim's guardian or legal heir. The statute also provides several victim-related safeguards. However, these provisions are spread across different stages of criminal proceedings rather than being consolidated into a comprehensive framework defining the victim's rights from investigation through trial, sentencing, compensation and appeal.

The Supreme Court has previously observed that victim-rights jurisprudence has developed gradually and that, despite considerable progress, a cohesive policy concerning victims has been lacking. In *Mallikarjun Kodagali v. State of Karnataka*, the Court specifically noted the need to bring victim's rights to the center of criminal justice and recognized that more remained to be done. This historical judicial observation remains relevant when assessing whether the BNSS has created a sufficiently structured framework.

Absence of a Clearly Structured Victim Impact Statement Mechanism

One of the significant areas connected with this research is the victim's role at the sentencing stage. Sentencing traditionally focuses on factors relating to the offence and offender, while

the consequences suffered by the victim may not always be presented through a formally structured mechanism.

The Supreme Court in *Mallikarjun Kodagali* expressly observed that meaningful victim rights should include serious consideration of giving the victim a hearing while awarding sentence and stated that a victim impact statement or victim impact assessment should receive due recognition.

This is particularly relevant to the present research because the BNSS does not establish a detailed, general statutory mechanism equivalent to a formal victim impact statement procedure for all criminal cases. Therefore, there is scope for examining whether victims should have a structured opportunity to communicate the physical, psychological, financial and social consequences of the offence before sentencing.

Challenges Relating to Compensation

Compensation constitutes an important component of victim justice. **Section 395 BNSS** deals with an order to pay compensation, while **Section 396** provides for a victim compensation scheme. Under Section 396, State Governments, in coordination with the Central Government, are required to prepare schemes for providing funds for compensation to victims or their dependants who have suffered loss or injury and require rehabilitation[5]. The statutory framework is therefore significant, but the existence of a compensation provision does not automatically guarantee timely, adequate and accessible compensation. Practical difficulties may arise regarding awareness of the scheme, application procedures, determination of quantum, processing by the competent Legal Services Authority and actual disbursement.

Section 396 also places responsibility for determining the quantum of compensation, where a court makes a recommendation, upon the **District Legal Services Authority or State Legal Services Authority** under the applicable scheme This creates a multi-stage process involving the court and legal services institutions. The effectiveness of this mechanism consequently depends not only upon the statutory provision but also upon its implementation.

Research Problem Analysis

The **Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)** represents a significant development in Indian criminal procedure by giving greater statutory recognition to the

[5] The Bharatiya Nagarik Suraksha Sanhita, of 2023, section 395–396.

interests of victims. The present framework recognises the victim's role in criminal proceedings, provides for assistance through an advocate, establishes mechanisms for compensation and rehabilitation, and provides an appellate remedy in specified circumstances. For example, the BNSS permits the victim to engage an advocate to assist the prosecution, while its compensation provisions provide mechanisms for compensation and rehabilitation through the State or District Legal Services Authorities.

However, statutory recognition of victim rights does not necessarily amount to meaningful participation. The first issue examined by this research is the extent to which a victim can participate in criminal proceedings. The victim may engage an advocate to assist the prosecution, but the victim's role remains distinct from that of the Public Prosecutor. This raises an important research question regarding whether the existing mechanism provides victims with a sufficiently clear and effective opportunity to communicate their concerns and protect their legitimate interests during the proceedings.

The second major issue concerns victim participation at the sentencing stage. Sentencing primarily determines the consequences to be imposed upon the offender, but the offence may cause substantial physical, psychological, social and financial consequences to the victim. The Supreme Court has previously emphasised the importance of adequate representation of victims and observed that victim rights are an evolving area of criminal justice. It has also discussed the significance of considering mechanisms such as victim impact statements or assessments. The research therefore examines whether the BNSS provides a sufficiently structured mechanism through which the victim's experience and the consequences of the offence can be placed before the court at the sentencing stage.

The third issue is compensation and rehabilitation. The BNSS provides a statutory compensation mechanism, including circumstances where compensation awarded by the court is inadequate for rehabilitation and circumstances where the offender is not traced or identified. Section 396 also provides for immediate first-aid, medical benefits or other interim relief in appropriate cases, and requires the State or District Legal Services Authority to complete the enquiry within two months after receiving the relevant recommendation or application. Nevertheless, the research problem is whether the existence of these statutory mechanisms ensures actual, timely and accessible compensation for victims in practice.

research also considers the need to balance victim participation with the accused's right to a fair trial. the Strengthening victim participation should not result in replacing the role of the prosecution or compromising principles of impartiality and due process. The objective is

therefore not to give the victim unrestricted control over the prosecution, but to determine an appropriate and clearly defined level of participation within the existing criminal justice structure.

Need for a Structured Victim-Centric Framework

The BNSS 2023, has strengthened the legal recognition of victims' rights by providing mechanisms relating to participation, legal assistance, compensation and appellate remedies. However recognition of thus rights does not by itself ensure their effective implementation. A structured victim-centric framework is therefore necessary to provide clarity, consistency and accessibility at different stages of the criminal justice process. Such a framework should include the following:

1. **Formal Mechanism for Victim Participation**

   There is a need for a clearly defined mechanism specifying when and how a victim may participate in criminal proceedings. The victim should receive timely information regarding important stages of the case, including investigation, trial, bail, judgment and appeal. Clear procedural guidelines would reduce uncertainty regarding the scope of victim participation[6].

2. **Victim Impact Statements**

   A formal provision for Victim Impact Statements (VIS) may be introduced. Such a statement would allow the victim or the victim's family to place before the court the physical, emotional, psychological, social and financial consequences of the offence. The Supreme Court has recognized the importance of considering victim impact in developing victim-oriented criminal justice mechanisms[7].

3. **Clear Sentencing-Stage Participation**

   The victim needs a chance to be heard before the sentence, especially concerning the effects of the crime and any compensation. This does not imply that the victim controls the sentencing but would allow the court to take into consideration the interests of the victim while deciding on the sentence.

4. **Simplified Compensation Procedure**

   The compensation mechanism should be made simple, accessible and victim-friendly. Application requirements should be reduced wherever possible, and victims should be

[6] Rekha Murarka v. State of West Bengal, (2020) 2 SCC 474, 480–83.
[7] Mallikarjun Kodagali (Dead) v. State of Karnataka, (2019) 2 SCC 752, 757.

clearly informed about their eligibility, procedure and available remedies. Coordination between courts and Legal Services Authorities should also be strengthened.

5. **Time-Bound Compensation**

   The compensation process should take place in a defined and reasonable period of time, especially the victim needs urgent treatment or rehabilitation. Compensation that is delayed could lessen the effectiveness of the relief available, especially to those in difficult financial situations.

6. **Effective Legal Assistance**

   Victims should have effective access to qualified legal assistance and should be informed of their rights in simple and understandable language. Legal aid mechanisms should ensure that vulnerable victims are not prevented from exercising their rights merely because they cannot afford private legal representation.

7. **Rehabilitation and Counselling**

   The Victim justice should extend beyond monetary compensation. A structured framework should provide access to medical treatment, psychological counselling, rehabilitation, social support and, where appropriate, assistance for economic rehabilitation. This would recognise that the consequences of crime may continue even after the conclusion of the criminal trial.

8. **Uniform Judicial Guidelines**

   Clear guidelines should be developed concerning victim participation, victim impact statements, sentencing-stage hearing and compensation. Uniform guidelines would help reduce differences in judicial practice while preserving judicial discretion in individual cases.

9. **Monitoring and Implementation Mechanism**

   An effective framework requires continuous monitoring. Appropriate authorities should maintain data regarding applications for compensation, orders passed, amounts awarded, actual

Hypothesis Examination

The hypothesis of this research is examined by assessing whether the **BNSS, 2023**, despite strengthening the statutory recognition of victims' rights, provides an adequate and comprehensive mechanism for their effective implementation. The study focuses on three central areas victim participation, sentencing and compensation which form the foundation of

the hypothesis.

First, the research examines victim participation by analysing the extent to which victims can participate in criminal proceedings and obtain legal assistance. It considers whether the existing provisions provide a sufficiently clear role for victims and their advocates, or whether their participation remains limited and dependent upon judicial discretion.

Second, the research examines the role of victims in sentencing. It considers whether victims have a structured opportunity to place before the court the physical, emotional, social and financial consequences of the offence. The absence of a comprehensive statutory mechanism for victim impact statements is examined as a potential gap in ensuring meaningful consideration of the victim at the sentencing stage.

Third, the research evaluates the compensation mechanism under the BNSS. It examines the provisions relating to court-ordered compensation, victim compensation schemes, interim relief and rehabilitation, while considering whether procedural requirements, lack of awareness or implementation difficulties can affect timely and adequate compensation.

Finally, the research examines whether a structured victim-centric framework can strengthen the existing BNSS system without compromising the accused's right to a fair trial. The study therefore tests the proposition that the BNSS has advanced recognition of victim's rights, but a more comprehensive and structured framework is necessary to translate those legal rights into meaningful participation, fair consideration during sentencing and effective compensation.

Finding: The Hypothesis is Proved

The above analysis supports the hypothesis that although the BNSS, 2023 has strengthened the recognition of victims' rights, the absence of a comprehensive and structured framework limits their effective implementation in participation, sentencing and compensation. Therefore, the hypothesis is **proved/supported** by following points:

1. Victim Participation:

   Examine the BNSS provisions relating to the victim's participation and assistance through an advocate. Assess whether these provisions provide a clearly defined and meaningful role or leave important aspects dependent on judicial discretion.

2. Sentencing:

   Examine whether the BNSS provides a structured opportunity for victims to present the impact of the offence before sentencing. The absence of a comprehensive statutory victim impact statement mechanism can be analysed as an important gap.

3. Compensation:

   Analyse the BNSS provisions on compensation and rehabilitation, particularly Sections 395 and 396, and examine whether the existing mechanism ensures compensation that is accessible, timely and adequate in practice.

4. Judicial Interpretation:

   Study Supreme Court decisions such as *Mallikarjun Kodagali v. State of Karnataka* to demonstrate how courts have recognised and interpreted victims' participation and rights.

5. Implementation Gap:

   Compare the rights provided by law with the practical mechanisms through which those rights are exercised. Identify issues relating to awareness, accessibility, procedural delays and consistency of implementation.

6. Need for Structured Framework:

   Based on these findings, determine whether the existing provisions sufficiently address participation, sentencing and compensation or whether clearer procedures, victim impact statements, time-bound compensation and uniform guidelines are required.

Findings And Suggestions

The present resuarch examined the position of victims under the Bharatiya Nagarik Suraksha Sanhita, 2023, with particular emphasis on victim participation, sentencing, compensation and the need for a structured victim-centric framework. The analysis of statutory provisions, judicial decisions and the existing mechanisms indicates that the BNSS represents an important development in recognising the interests of victims within the criminal justice process. However, statutory recognition alone does not necessarily ensure meaningful and uniform implementation. The following findings emerge from the study:

1. Strengthening of Victim Rights under the BNSS

   The study finds that the BNSS has strengthened the legal recognition of victims by giving greater statutory importance to their participation, assistance and access to remedies. Section 18(8) recognises the victim's right to engage an advocate of choice to assist the prosecution. The BNSS also provides mechanisms relating to compensation and rehabilitation of victims. Further, the victim has an appellate remedy in specified circumstances, including against acquittal, conviction for a lesser offence and inadequate compensation.

Thus, the position under the BNSS reflects a movement from a purely State-centred criminal prosecution towards a system in which the interests and rights of victims receive greater statutory recognition. However, the extent to which these rights become meaningful depends upon their practical implementation.

2. Victim Participation is Recognised but Not Sufficiently Structured

   The research finds that although the BNSS provides recognition to victim participation, it does not establish a single comprehensive mechanism explaining how and at which stages the victim should participate in criminal proceedings.

   The provision permitting the victim to engage an advocate to assist the prosecution is significant, but judicial interpretation has clarified that such assistance does not ordinarily permit the victim's advocate to take over the role of the Public Prosecutor. In *Rekha Murarka*

   v. State of West Bengal, the Supreme Court emphasised the distinction between assisting the prosecution and independently conducting the prosecution.

   Therefore, there remains a need to clearly identify the victim's procedural rights at different stages, including investigation, supply of information, trial, examination of witnesses, arguments, sentencing and appeal.

3. Victim's Position at the Sentencing Stage Requires Greater Clarity

   The research indicates that the victim's perspective is important at the stage of sentencing because the consequences of an offence may extend beyond the determination of guilt. Physical injury, psychological trauma, financial loss, social consequences and long-term rehabilitation requirements may be relevant to understanding the impact of the offence.

   However, the BNSS does not establish a detailed and uniform statutory procedure for a separate victim impact statement or a comprehensive victim hearing specifically at the sentencing stage. The absence of such a structured mechanism may result in differences in practice.

   Accordingly, victim participation at sentencing should be formally recognised through a procedure allowing the victim to communicate the consequences of the offence to the court, while the final determination of sentence remains with the court and the accused's right to a fair hearing remains protected.

4. Compensation Mechanism has been Strengthened but Accessibility Remains Important

   The BNSS contains significant provisions concerning victim compensation. Section

395 provides for compensation in specified circumstances, while section 396 provides for a victim compensation scheme. The scheme also addresses situations where compensation may be required for rehabilitation and circumstances where the offender is not traced or identified. It further permits immediate first-aid, medical benefits and other interim relief in appropriate cases.

Thus, the legislative framework acts as a more secure basis for victim compensation and rehabilitation. However, the success of the compensation process will depend on a number of things like awareness, access to the procedure, paperwork, amount of money, processing and payment.

The research therefore finds that the existence of a statutory compensation mechanism does not by itself guarantee effective compensation.

5. Time-Bound Implementation is Necessary

   The study finds that delay can substantially reduce the effectiveness of victim compensation and rehabilitation. Compensation is intended to address the consequences of an offence and assist the victim in rehabilitation; therefore, excessive procedural delay may defeat this purpose.

   Importantly, section 396(5) requires the State or District Legal Services Authority, upon the relevant recommendation or application in the circumstances covered by the provision, to complete the enquiry within two months. The provision also permits immediate first-aid, medical benefits or other interim relief under section 396(6).

   The finding, therefore, is that the legal framework contains time-oriented mechanisms, but effective monitoring of compliance is necessary to ensure that statutory timelines translate into actual relief.

6. Gaps in the Existing Framework

   The study identifies the following principal gaps:

   1. Absence of a comprehensive victim participation framework: The rights of victims are distributed across different provisions rather than being consolidated into a clear procedural framework.
   2. Limited clarity regarding the role of the victim's advocate: Although assistance to the prosecution is recognised, the precise procedural boundaries of such assistance may require greater clarity.
   3. Absence of a detailed victim impact statement mechanism: There is no comprehensive statutory procedure requiring a standardized victim impact

statement before sentencing.

4. Limited structure for sentencing-stage participation: The victim's opportunity to communicate the impact of the offence at sentencing requires clearer procedural recognition.
5. The Accessibility of compensation: Victims may face practical difficulties relating to awareness, applications, documentation and access to authorities.
6. Implementation and monitoring concerns: The effectiveness of statutory compensation depends upon timely enquiry, decision-making and disbursement.
7. Need for uniformity: Differences in judicial and administrative practice may result in unequal experiences for similarly situated victims.
8. These gaps support the central research problem that statutory recognition of victim rights does not necessarily amount to a comprehensive and structured victim-centric system.

9. Need to Balance Victim Rights and Accused Rights

   The study does not suggest that strengthening victim participation should diminish the accused's right to a fair trial. Victim-oriented reforms must operate within the principles of natural justice, due process and the presumption of innocence.

   The Supreme Court in *Mallikarjun Kodagali (Dead) v. State of Karnataka* recognised the importance of giving victims an adequate voice in criminal proceedings while also emphasising the need to maintain fairness in the criminal justice process. The appropriate approach is therefore to create meaningful participation for victims without converting the victim into an independent prosecutor or compromising the procedural rights of the accused.

SUGGESTIONS

Based on the above findings, the following reforms are suggested:

1. Creation of a Structured Victim Participation Mechanism

   A clear procedural framework should specify the victim's rights at different stages of criminal proceedings. It should provide for appropriate notice, access to relevant information, opportunity to be heard, legal assistance and participation at significant stages of the proceedings.

2. Introduction of Victim Impact Statements

   A formal mechanism for written or oral victim impact statements should be developed. Such statements may address the physical, psychological, financial and social consequences of the offence and the victim's rehabilitation needs.

   The statement should assist the court in understanding the consequences of the offence without giving the victim an unrestricted power to determine the sentence.

3. Formal Recognition of Sentencing-Stage Participation

   The victim should be given a clearly defined opportunity to make submissions before sentencing. Appropriate procedural guidelines should specify when and how such submissions may be made, while preserving judicial discretion and the accused's right to respond.

4. Simplification of Compensation Procedures

   The compensation process should be made accessible through simple application procedures, assistance from Legal Services Authorities and clear information regarding eligibility, documentation and available remedies.

   Where possible, victims should not be required to repeatedly approach different authorities for relief arising from the same offence.

5. Time-Bound Disbursement and Interim Relief

   Time limits should be effectively monitored so that compensation is not merely awarded on paper but actually reaches the victim within a reasonable period. Interim medical and financial assistance should be made available in appropriate cases where immediate assistance is necessary.

6. Strengthening Legal Assistance

   Victims who cannot afford private representation should have access to competent legal assistance through the legal services system. Victim-oriented legal assistance should include explaining procedural developments, available remedies and compensation mechanisms in language understandable to the victim.

7. Rehabilitation Beyond Monetary Compensation

   A victim-centric framework should recognise rehabilitation as broader than financial compensation. Depending upon the circumstances of the case, rehabilitation may include medical treatment, psychological counselling, social support, educational assistance and economic rehabilitation.

8. Uniform Judicial Guidelines

   Appropriate judicial guidelines should be developed concerning victim participation, victim impact statements, sentencing-stage submissions and consideration of compensation. Such guidelines would promote consistency while preserving judicial discretion according to the facts of individual cases.

9. Monitoring and Accountability

   A monitoring mechanism should be developed to assess applications for compensation, orders passed, amounts awarded, actual disbursement and delays. Periodic review by appropriate legal services authorities can help identify implementation difficulties and improve access to remedies.

10. Victim-Centric Approach with Fair Trial Safeguards

    Any future framework should maintain a balance between victim rights and the rights of the accused. The objective should not be to replace the State's prosecutorial function with private prosecution, but to ensure that victims have a meaningful voice, access to information, legal assistance, compensation and rehabilitation within a fair criminal justice process.

Achievement of Aim

The research aimed to examine the legal framework relating to victim participation, sentencing and compensation under the Bharatiya Nagarik Suraksha Sanhita, 2023 and to assess the need for a structured victim-centric framework. The study achieved this aim by analysing the relevant provisions, judicial approach and existing mechanisms. It finds that the BNSS has strengthened the recognition of victims' rights, but gaps remain in ensuring uniform and effective implementation.

Achievement of Objectives

1. Examination of Legal Provisions: The study examined the BNSS provisions relating to victim participation, legal assistance, sentencing, compensation and appellate remedies.
2. Assessment of Victim Rights: The research found that the BNSS provides greater statutory protection to victims, but effective realization depends upon proper implementation and accessibility.
3. Identification of Gaps: The study identified gaps relating to structured victim participation, sentencing-stage involvement, victim impact statements, accessibility

and timely compensation.

4. Need for Structured Framework: The research established the need for a structured mechanism providing formal victim participation, simplified and time-bound compensation, legal assistance, rehabilitation and uniform guidelines.
5. Overall Finding: The objectives were achieved by establishing that the BNSS provides a stronger legal foundation for victim rights, but further procedural and institutional measures are required for their meaningful and effective realization.

The Aim and Objectives has been achieved under this seminar paper.

Conclusion

The present research examined the legal framework relating to victim participation, sentencing and compensation under the Bharatiya Nagarik Suraksha Sanhita, 2023, with particular emphasis on whether the existing framework is sufficient to ensure the effective protection and realization of victims' rights.

The study finds that the BNSS marks an important development in Indian criminal procedure by strengthening the statutory recognition of victims through provisions relating to participation, legal assistance, compensation, rehabilitation and appellate remedies. The provisions relating to compensation under Sections 395 and 396 further demonstrate the recognition of the victim's need for financial assistance and rehabilitation.

However, the research also establishes that legal recognition does not necessarily result in meaningful implementation. The existing framework does not provide a single and comprehensive mechanism governing victim participation at every stage of criminal proceedings. In particular, the absence of a clearly structured statutory mechanism for victim impact statements and sentencing-stage participation leaves scope for greater clarity and uniformity. Similarly, although compensation mechanisms exist, their effectiveness depends upon accessibility, awareness, timely processing and actual disbursement.

The judicial approach has been of immense help in the development of victim oriented criminal justice in India by acknowledging the fact that victims should not merely act as passive participants in the process. Some of the judicial decisions in this regard have been seen in cases like Mallikarjun Kodagali v. State of Karnataka, Rekha Murarka v. State of West Bengal and Ankush Shivaji Gaikwad v. State of Maharashtra.

Hence, it can be stated on the basis of research conducted that the hypothesis which states that while the BNSS, 2023 has certainly been of great help in terms of recognizing the rights of the

victims, there has been a lack of a proper structure which leads to the ineffective implementation of the rights of the victims regarding participation, sentencing and compensation. Thus, there is a need for a proper victim-centric structure.

In essence, victim-centric criminal justice is not supposed to imply the violation of the rights of the defendant. The goal here is to strike a proper balance, in which case the victim gets a chance to speak and to have justice done to them, while the defendant remains entitled to his/her fair trial. In this regard, the implementation of the proper framework within the BNSS is able to enhance not only the protection of the victim, but the entire criminal justice process.

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