

Review of Victims' Rights in Criminal Justice: from Marginalization to Recognition and Participation

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Abstract: *The position of victims within criminal justice systems has undergone a significant conceptual transformation during the last several decades. Traditionally, criminal proceedings were largely structured around the relationship between the State and the accused, while victims were frequently treated as complainants, witnesses, or sources of evidence rather than independent rights-holders. Contemporary victimology and criminal justice scholarship increasingly challenges this offender-centred model by emphasizing victims' rights to information, protection, participation, legal assistance, compensation, restitution, privacy, and psychological support. This review examines the evolution of victims' rights from marginalization toward recognition and meaningful participation, with particular attention to developments between 2010 and 2025. The review considers international standards, comparative criminal justice systems, restorative justice, victim impact mechanisms, and developments in India.*

Keywords: Victims' Rights, Victimology, Criminal Justice, Victim Participation, Victim-Centred Justice, Compensation, Restorative Justice.

I. INTRODUCTION

The criminal justice system has historically been organized primarily around the State's responsibility to investigate crime and prosecute offenders. Within this structure, victims were often positioned at the periphery of proceedings. Their experiences, material losses, psychological injuries, and expectations of justice received comparatively less institutional attention than the rights of accused persons and the objectives of punishment. The development of modern victimology and the international victims' rights movement, however, has progressively challenged this imbalance. Contemporary scholarship increasingly views victims not simply as witnesses but as individuals possessing legitimate legal, procedural, restorative, and social rights.

The movement toward victim recognition is connected to the broader development of human-rights-based criminal justice. International standards increasingly emphasize access to justice, fair treatment, restitution, compensation, assistance, protection, and participation. The European Union Victims' Rights Directive, for example, expressly seeks to ensure information, support, protection, and participation in criminal proceedings and requires victims to be treated respectfully and without discrimination. Similarly, United Nations materials emphasize that victims should have access to justice and be supported in participating effectively in justice processes while minimizing secondary victimization.

The transformation is particularly important because victim participation is not synonymous with simply allowing a victim to testify. Participation may include receiving information about proceedings, expressing views and concerns, presenting evidence where legally permitted, participating in sentencing, challenging certain decisions, obtaining legal assistance, seeking compensation, and engaging voluntarily in restorative processes. Recent systematic research demonstrates that empirical literature uses the concept of victim participation in diverse ways, with victim views, concerns, and victim impact statements among the most frequently examined mechanisms.



This review therefore examines the transition from marginalization to recognition and participation, focusing on developments from 2010 to 2025 and giving particular attention to India within the broader international context.

II. CONCEPTUAL EVOLUTION OF VICTIMS' RIGHTS

The contemporary understanding of victims' rights emerged from a gradual movement away from a purely offender-oriented conception of criminal justice. The traditional model regarded crime principally as an offence against public order or the State. Consequently, once the State assumed control of prosecution, the victim's direct procedural role became limited. The victim's evidence was important, but the victim's preferences concerning prosecution, punishment, compensation, and restoration were often secondary.

The victims' rights movement challenged this model by asserting that criminal justice should respond not only to the wrongdoing but also to the harm suffered by the individual. Research on victim satisfaction has shown that victims evaluate justice through both procedural and outcome-related dimensions, including whether they are treated fairly, listened to, informed, and respected. A systematic review of victim satisfaction literature found that satisfaction is influenced by multiple procedural and outcome factors rather than by case outcomes alone.

During the 2010–2025 period, this conceptual transformation became increasingly visible through legislation, judicial decisions, victim-support systems, and academic scholarship. Victims gradually came to be understood as rights-bearing participants rather than merely passive witnesses. Braun's comparative examination of ten criminal justice systems demonstrates that victim participation can extend across investigation, pre-trial decisions, trial, sentencing, appeals, parole, and post-trial processes, although the scope varies significantly between legal systems.

Thus, the evolution can be represented as:

Marginalized victim → recognized victim → protected victim → participating victim → rights-bearing victim

This progression does not mean that marginalization has disappeared. Rather, it reflects an ongoing institutional transition.

III. MAJOR DIMENSIONS OF VICTIMS' RIGHTS

Victims' rights can be organized into several interconnected categories. These rights should not be considered independently because effective participation depends upon information, protection, legal support, and access to remedies.

Dimension of Victims' Rights	Major Components	Significance
Right to information	Information about investigation, prosecution, hearings and decisions	Enables informed participation
Right to be heard	Opportunity to express views and concerns	Recognizes victim agency
Right to protection	Protection from intimidation, retaliation and secondary victimization	Ensures safe participation
Right to privacy	Protection of identity and personal information	Protects dignity and security
Right to legal assistance	Legal advice and representation where available	Reduces procedural inequality
Right to compensation	State or offender-based financial assistance	Addresses material consequences
Right to restitution	Restoration of property or losses	Provides direct remedy
Right to support	Psychological, medical and social services	Addresses non-legal consequences
Right to review	Review of certain decisions such as non-prosecution	Provides procedural accountability
Right to restorative justice	Voluntary dialogue and resolution mechanisms	Promotes repair and recognition



Right to participate in sentencing	Victim impact information/views where legally permitted	Makes harm visible during sentencing
Right to rehabilitation	Long-term social and psychological assistance	Supports recovery

The EU Victims' Rights Directive provides a useful comparative model because it connects information and support with participation, protection, compensation, legal aid, and restorative justice. It recognizes the right of victims to be heard and to provide evidence, while also addressing review of non-prosecution decisions.

IV. FROM WITNESS TO ACTIVE PARTICIPANT

One of the most important changes in victim justice has been the movement from viewing victims primarily as witnesses toward recognizing them as participants. Historically, a victim could enter the criminal justice process principally through reporting an offence and later providing testimony. Contemporary approaches increasingly provide opportunities for victims to receive procedural information, communicate their concerns, and influence certain aspects of proceedings.

Englebrecht's study of victim participation demonstrates that victim participation is shaped by courtroom rules and institutional practices rather than simply by formal legal rights. This distinction is critical. A right written in legislation may have limited practical value if victims do not understand it, cannot afford legal assistance, face intimidation, or encounter institutional resistance.

Recent systematic research by Holder and Englezos reviewed 58 empirical studies of victim participation and found considerable variation in how participation is defined and implemented. Most studies focused on domestic criminal justice systems, particularly common-law jurisdictions, while victim views and concerns and victim impact statements were among the most common forms of participation.

Participation therefore should be understood substantively rather than symbolically. Merely allowing victims to appear in court does not necessarily constitute meaningful participation. Meaningful participation requires that victims have accessible information, an opportunity to communicate their views, protection from retaliation, appropriate legal assistance, and a reasonable expectation that their concerns will be considered.

V. PROTECTION AGAINST SECONDARY VICTIMIZATION

A major concern in contemporary victim-centred justice is secondary victimization. Victims can experience additional psychological or social harm as a result of insensitive police questioning, repeated interviews, delays, hostile courtroom environments, public exposure, intimidation, or inappropriate treatment by justice officials.

International victim-support standards emphasize the need to design justice procedures in ways that minimize such harms. UNODC materials specifically identify secondary victimization as harm that may arise from investigation, prosecution, or public dissemination of details concerning the case.

The EU framework provides several protective mechanisms, including minimizing unnecessary interviews, protecting privacy, avoiding unnecessary questioning about private life, and providing special procedures for victims with particular protection needs. Such measures are especially important for children, survivors of sexual violence, victims of domestic violence, persons with disabilities, and victims facing threats or retaliation.

Protection and participation are consequently complementary rather than competing principles. A victim cannot meaningfully participate when participation exposes them to intimidation or renewed trauma.

VI. COMPENSATION, RESTITUTION AND REHABILITATION

Recognition of victims requires more than procedural participation. Crime may generate medical expenses, loss of income, psychological trauma, property loss, social exclusion, and long-term rehabilitation needs. Compensation and restitution therefore constitute central elements of victim-centred justice.



Modern systems increasingly recognize both offender-based restitution and state-supported compensation. The EU Victims' Rights Directive, for example, establishes rights concerning compensation decisions and reimbursement of certain expenses associated with active participation.

The Indian context demonstrates the importance of this development. Research on Indian victim rights identifies compensation, restitution, assistance, and access to justice as central components of victim protection. The evolution of Indian law has also been influenced by judicial intervention and statutory reforms concerning victim compensation and participation.

However, compensation should not be treated as a substitute for justice. Financial assistance can address economic consequences, but it cannot independently resolve psychological trauma, social stigma, loss of dignity, or the need for recognition. An effective victim-centred model therefore integrates compensation + rehabilitation + participation + protection.

VII. RESTORATIVE JUSTICE AND VICTIM PARTICIPATION

Restorative justice represents another important dimension of the transition from marginalization to participation. Unlike conventional criminal proceedings, restorative approaches may provide victims and offenders with opportunities for dialogue, acknowledgement of harm, apology, restitution, and agreement regarding ways of repairing damage.

The EU Victims' Rights Directive defines restorative justice in terms of voluntary active participation by victims and offenders in resolving matters arising from the offence through an impartial third party. It also emphasizes informed consent, appropriate safeguards, and confidentiality.

Restorative justice can provide victims with forms of recognition that conventional proceedings may not provide. Victims may want answers about why the offence occurred, acknowledgement of harm, an apology, or assurances concerning future behaviour. Nevertheless, restorative justice must remain voluntary and victim-sensitive. It should never become a mechanism for pressuring victims to forgive offenders or accept inadequate remedies.

VIII. VICTIMS' RIGHTS IN INDIA

The Indian criminal justice system provides an important example of the gradual transition toward victim recognition. Historically, the criminal process was strongly prosecution-oriented, leaving victims with relatively limited control over proceedings. However, statutory amendments, judicial decisions, victim compensation mechanisms, legal-aid institutions, and broader victim-rights scholarship have contributed to an expanded conception of victim participation.

Recent scholarship describes the Indian trajectory as gradual and uneven. The development of victim participation has been associated with reforms following the Malimath Committee recommendations and subsequent amendments to criminal procedure. Research examining India comparatively concludes that although the Supreme Court and Law Commission have increasingly recognized the importance of victims, concrete and enforceable participatory rights remain limited in practice.

The transition has also continued through India's new criminal-law framework introduced in 2023 and implemented in 2024. Contemporary scholarship has examined whether these reforms strengthen victims' procedural position and whether recognition is sufficiently supported by enforceable mechanisms.

The Indian experience illustrates an important distinction between formal recognition and effective participation. The existence of legal provisions does not automatically guarantee accessibility. Victims may still encounter delays, inadequate awareness, procedural complexity, institutional insensitivity, financial barriers, intimidation, and inconsistent implementation.

IX. COMPARATIVE REVIEW OF THE LITERATURE, 2010–2025

The literature published during 2010–2025 reveals several dominant themes.

Period	Major Research Emphasis	Key Development
2010–2013	Victim participation and	Increasing attention to victim voice and



	satisfaction	procedural fairness
2014–2017	Protection, support and restorative justice	Greater focus on secondary victimization and victim services
2018–2020	Comparative participation rights	Examination of victims' roles across different legal systems
2021–2023	Evidence-based victim participation	Systematic evaluation of participation mechanisms
2023–2025	Victim-centred reforms and new criminal laws	Greater emphasis on enforceability, digital access, compensation and meaningful participation

Research has increasingly moved from asking whether victims should have rights to examining how those rights operate in practice. Braun's comparative research emphasizes differences among legal systems, while Holder and Englezos demonstrate that empirical research still lacks consistent definitions and measurements of participation. The literature also identifies a persistent tension between victim participation and the rights of the accused. Doak, Henham, and Mitchell observe that adversarial structures can make expanded victim participation difficult because increased procedural rights for victims may raise questions concerning due process and the public character of criminal proceedings.

This tension should not be resolved by returning to victim exclusion. Instead, procedural systems should distinguish between legitimate victim participation and control over prosecution. Victims can receive rights to information, protection, representation, expression of views, compensation, and review without eliminating prosecutorial independence or compromising the accused's fair-trial rights.

X. MAJOR CHALLENGES IN ACHIEVING MEANINGFUL PARTICIPATION

Despite significant progress, several challenges remain.

First, formal versus substantive rights remains a central problem. A statutory right has limited value when victims lack awareness, resources, or institutional access.

Second, secondary victimization continues to discourage participation. Repeated testimony, insensitive questioning, delays, and public exposure may cause additional harm.

Third, socioeconomic inequality affects access to justice. Wealthier victims may obtain legal advice, psychological assistance, and procedural support more easily than economically disadvantaged victims.

Fourth, institutional discretion can weaken victim participation. Police, prosecutors, courts, and other authorities may interpret participatory rights differently.

Fifth, procedural delay can undermine both justice and rehabilitation. Long criminal proceedings can prolong uncertainty and emotional distress.

Sixth, victim diversity requires individualized approaches. Children, women facing gender-based violence, persons with disabilities, migrants, elderly victims, and victims of organized crime may have substantially different needs.

Seventh, measurement problems remain within academic research. Holder and Englezos found that the literature employs diverse and sometimes unclear definitions of victim participation, making comparisons difficult.

X. DISCUSSION

The review demonstrates that victims' rights have developed from a marginal concern into an increasingly important component of criminal justice. However, recognition should not be confused with empowerment. The contemporary challenge is to transform legal recognition into meaningful participation.

A genuinely victim-centred criminal justice system should be based on five interconnected principles:

$$VJ = I + P + R + C + A$$



Where:

1. VJVJ = Victim-centred justice
2. II = Information
3. PP = Protection and participation
4. RR = Restitution and rehabilitation
5. CC = Compensation
6. AA = Access to justice

Meaningful participation can similarly be understood as:

$$MP = L + I + V + S - B$$

Where MP represents meaningful participation, L represents legal recognition, I represents information, V represents voice and representation, S represents safety and support, and B represents institutional and socioeconomic barriers.

These conceptual formulations emphasize that participation cannot be measured simply by the presence of a victim in court. A victim who is technically permitted to participate but lacks information, protection, representation, or meaningful opportunities to communicate concerns cannot be regarded as fully empowered.

XI. CONCLUSION

The review of literature from 2010 to 2025 demonstrates a significant transformation in the position of victims within criminal justice. Victims have increasingly moved from being marginalized participants and passive witnesses toward recognition as rights-bearing individuals entitled to information, protection, participation, compensation, restitution, support, and dignity. International frameworks and comparative scholarship demonstrate that victim participation is now an established component of contemporary criminal justice discourse.

Nevertheless, the transformation remains incomplete. The principal challenge is no longer merely the recognition of victims' rights but the effective implementation of those rights. Research shows that participation varies substantially across legal systems and that formal rights may be weakened by institutional practices, socioeconomic inequality, procedural delays, and insufficient support.

In India, legislative and judicial developments have progressively expanded the victim's role, but important gaps remain between normative recognition and practical participation. The future of victim-centred criminal justice therefore depends on moving beyond symbolic recognition toward enforceable, accessible, safe, and meaningful participation. The objective should not be to replace offender rights with victim rights, but to establish a balanced justice system in which the rights of victims, accused persons, and society are simultaneously protected. Such an approach can transform criminal justice from a predominantly punitive institution into a more inclusive system grounded in fairness, dignity, participation, accountability, restoration, and human rights.

REFERENCES

1. Braun, K. (2019). *Victim participation rights: Variation across criminal justice systems*. Palgrave Macmillan.
2. Deshmukh, A. (2020). Victim rights in Indian criminal justice system: A comparative study. *Research Journal of Humanities and Social Sciences*, 11(2), 157–163.
3. Doak, J., Henham, R., & Mitchell, B. (2018). Victims and the sentencing process: Developing participatory rights? *Legal Studies*.
4. Englebrecht, C. M. (2012). Where do I stand? An exploration of the rules that regulate victim participation in the criminal justice system. *Victims & Offenders*, 7(2), 161–184.
5. European Parliament and Council of the European Union. (2012). Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. *Official Journal of the European Union*.



6. Holder, R. L., & Englezos, E. (2024). Victim participation in criminal justice: A quantitative systematic and critical literature review. *International Review of Victimology*, 30(1).
7. United Nations Office on Drugs and Crime. (2019). *Crime prevention and criminal justice module 11: Access to justice for victims*. United Nations.
8. United Nations Office on Drugs and Crime. (2024). *Handbook on justice for victims: On the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. United Nations.
9. Goyal, S. (2025). Repositioning the victim: A critical analysis of victim centric justice in India. *Indian Journal of Legal Review*, 5(11), 499–510.
10. Pal, R. (2025). Victim advocacy in India's criminal justice system: From marginalisation to meaningful participation. In *Criminal Justice System: An Introduction to the Criminal Justice System in India* (pp. 186–200). Bharti Publications.
11. Puri, V., & Gour, S. (2025). Victims' rights and participation in criminal justice: A victim-centred legal approach. *International Journal of Engineering Science & Humanities*.

