

Evolution 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 substantial transformation from marginalization and passive involvement toward recognition as rights-bearing participants. Historically, criminal proceedings were primarily structured around the State and the accused, while victims were frequently treated as witnesses whose principal function was to provide evidence. During the period 2010–2025, however, legislative reforms, judicial developments, international human-rights standards, restorative justice approaches, and victimological scholarship increasingly emphasized victims' rights to information, protection, participation, compensation, restitution, legal assistance, privacy, and rehabilitation.*

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

I. INTRODUCTION

Criminal justice traditionally developed around the prosecution of offenders and the protection of public order. Within this conventional structure, the State assumed responsibility for investigating crime, prosecuting the accused, and determining punishment. The victim was frequently positioned outside the central legal relationship between the State and the accused. Although victims were essential as complainants and witnesses, their personal interests, emotional needs, financial losses, and expectations concerning justice were often inadequately represented.

The emergence of modern victimology challenged this offender-centred orientation. The contemporary understanding of criminal justice increasingly recognizes that crime creates not only an offence against the State but also physical, psychological, economic, social, and dignitary harm to individuals and communities. Consequently, the criminal process should address the legitimate interests of victims alongside the rights of accused persons and broader societal interests.

During 2010–2025, this transformation became particularly visible in international and domestic legal developments. The European Union's Directive 2012/29/EU established minimum standards concerning victims' rights, support, protection, information, and participation in criminal proceedings. It expressly requires victims to be recognized and treated with respect, sensitivity, professionalism, and without discrimination. Similarly, United Nations materials emphasize access to justice, appropriate responses to victims' needs, participation, and victim-support services.

Academic research has also moved from asking whether victims should participate toward examining the forms, consequences, and effectiveness of participation. Holder and Englezos (2024), in a systematic quantitative and critical review of 58 empirical studies, found that victim participation has been studied through various mechanisms, particularly the expression of victims' views and concerns and victim impact statements.

The Indian criminal justice system provides an important example of this evolution. Research tracing the development of Indian victim rights identifies gradual movement from a predominantly witness-oriented role toward informational, participatory, and restitution-related rights, although the authors conclude that concrete rights have developed only to a

limited extent. The introduction of India's new criminal laws has further renewed debate concerning the position of victims in criminal trials.

This research paper therefore examines the evolution of victims' rights between 2010 and 2025, with specific emphasis on the transition from marginalization to recognition and meaningful participation.

II. OBJECTIVES OF THE STUDY

The major objectives of the research are:

1. To examine the historical marginalization of victims within criminal justice systems.
2. To analyse the evolution of victims' rights between 2010 and 2025.
3. To examine the development of victims' procedural participation.
4. To analyse the relationship between victim participation and procedural justice.
5. To examine compensation, restitution, protection, and rehabilitation as components of victim-centred justice.
6. To examine contemporary developments in Indian victim-rights law.
7. To identify continuing challenges to meaningful victim participation.
8. To suggest measures for strengthening victims' rights while protecting accused persons' due-process rights.

III. RESEARCH METHODOLOGY

This study adopts a doctrinal, qualitative, and analytical research methodology. The research is based primarily on secondary sources published or developed during the period 2010–2025, including peer-reviewed journal articles, books, international legal instruments, institutional publications, and legal scholarship.

The study follows a thematic approach. Literature was examined under the following themes:

- Historical marginalization;
- Recognition of victims as rights-holders;
- Informational rights;
- Participation rights;
- Victim impact statements;
- Protection against secondary victimization;
- Compensation and restitution;
- Restorative justice;
- Procedural justice;
- Victim satisfaction;
- Developments in India.

Recent systematic research is particularly useful because Holder and Englezos (2024) reviewed 58 empirical studies and identified significant concentrations and gaps in research on victim participation.

The analysis is therefore not based on primary interviews or surveys but on a structured review and interpretation of existing legal and academic literature.

IV. HISTORICAL MARGINALIZATION OF VICTIMS

The historical criminal justice model largely conceptualized crime as an offence against society or the State. Once criminal prosecution became a public function, victims lost much of the direct control they might previously have exercised over responses to wrongdoing. The prosecution was increasingly controlled by public authorities, and victims became sources of evidence rather than central participants.

This arrangement produced an institutional imbalance. The accused possessed recognized procedural safeguards, while the victim often had no comparable right to information, representation, participation, or compensation. Victims could report an offence and provide testimony but might have limited influence over decisions concerning investigation, prosecution, plea arrangements, sentencing, or post-conviction processes.

The modern victim-rights movement sought to correct this imbalance. The contemporary conception of victim justice recognizes that a criminal process cannot be considered fully responsive if it protects the rights of the accused but systematically overlooks the dignity, safety, interests, and recovery of victims.

UNODC identifies participation as an important component of access to justice for victims and recognizes that victims may enter criminal justice processes through reporting, providing statements, giving evidence, appearing before authorities, and other forms of involvement.

V. EMERGENCE OF VICTIMS AS RIGHTS-HOLDERS

The most significant conceptual change has been the movement from viewing victims as objects of criminal proceedings toward recognizing them as holders of legal and human rights.

Contemporary victims' rights can broadly be divided into five categories:

$$VR = I + P + R + C + S$$

Where:

- VRVR = Victims' Rights
- II = Information
- PP = Participation and protection
- RR = Restitution
- CC = Compensation
- SS = Support and rehabilitation

The modern approach therefore extends beyond participation in the courtroom. It encompasses the entire victim journey, beginning with reporting and continuing through investigation, trial, sentencing, compensation, rehabilitation, and post-trial processes.

The EU Victims' Rights Directive provides a significant comparative example. Its objective is to ensure that victims receive appropriate information, support, and protection and are able to participate in criminal proceedings. It also requires respectful and non-discriminatory treatment.

This development reflects an important philosophical shift: justice should not only determine what happens to the offender; it should also recognize what has happened to the victim.

VI. DEVELOPMENT OF THE RIGHT TO INFORMATION

Information is one of the most fundamental victims' rights because participation is impossible without knowledge of the criminal process.

Victims increasingly have claims to information concerning:

- The progress of investigations;
- Decisions to prosecute or not prosecute;
- Court dates;
- Procedural rights;
- Available support services;
- Release or parole decisions where applicable;
- Compensation procedures;
- Restorative justice opportunities;
- Final judgments.

The importance of information derives from procedural fairness. A victim who does not understand what is happening cannot meaningfully communicate concerns or exercise available legal rights.

The EU framework explicitly links victim recognition with access to information and participation. Research on India similarly identifies informational rights as one of the principal themes in the evolution of victim justice.

Thus, the right to information should be considered the foundation upon which other participatory rights are built.

VII. EVOLUTION OF VICTIM PARTICIPATION

Victim participation represents perhaps the clearest indicator of the transition from marginalization to recognition.

Participation may occur through:

1. Reporting an offence;
2. Providing information to investigators;
3. Submitting evidence;
4. Attending court;
5. Expressing views and concerns;
6. Making victim impact statements;
7. Communicating with prosecutors;
8. Participating through legal representatives;
9. Providing views concerning sentencing;
10. Participating in restorative justice;
11. Making submissions in certain post-conviction processes.

Holder and Englezos (2024) found that the most frequently examined forms of victim participation in the empirical literature were victims' views and concerns, followed by victim impact statements and attendance at proceedings. Their review also found that 63% of the studies assessed victim participation as having a positive effect on the outcome under investigation.

This evidence demonstrates that participation is not a single legal event. Rather, it consists of multiple opportunities for victims to communicate information, express concerns, seek recognition, and engage with criminal justice institutions.

VIII. VICTIM IMPACT STATEMENTS AND SENTENCING PARTICIPATION

Victim impact statements represent one of the most visible mechanisms through which victims can communicate the consequences of crime.

Such statements may describe:

- Physical injuries;
- Psychological consequences;
- Financial losses;
- Disruption to family life;
- Social consequences;
- Continuing fear;
- Emotional suffering.

Their principal significance lies in making the consequences of crime visible within sentencing processes.

However, victim participation in sentencing must be carefully balanced with judicial independence and the accused's right to a fair trial. The victim's views should inform the court without automatically determining the punishment.

Holder and Englezos (2024) identify victim impact statements as one of the most frequently examined forms of participation in empirical research. This suggests that sentencing participation has become an important area through which criminal justice systems attempt to incorporate victim experiences without transforming victims into substitute prosecutors.

IX. PROTECTION FROM SECONDARY VICTIMIZATION

Recognition of victims' rights also requires protection against secondary victimization.

Secondary victimization occurs when victims experience additional harm through interactions with criminal justice institutions or society. Examples include:

- Insensitive police questioning;
- Repeated interviews;
- Unnecessary disclosure of personal information;
- Intimidation;
- Hostile courtroom treatment;
- Excessive delays;
- Inappropriate questioning;
- Media exposure;
- Inadequate protection.

The EU Victims' Rights Directive explicitly promotes respectful, sensitive, individualized, professional, and non-discriminatory treatment.

UNODC similarly emphasizes victims' needs and participation within criminal justice while recognizing the importance of appropriate institutional responses.

Consequently, participation without protection can become counterproductive. A victim may technically possess a right to participate but may avoid participation if the process causes additional trauma or exposes them to threats.

X. COMPENSATION AND RESTITUTION

The consequences of crime frequently extend beyond psychological injury. Victims may experience:

- Medical expenses;
- Loss of employment;
- Property damage;
- Loss of income;
- Long-term disability;
- Rehabilitation costs;
- Relocation expenses.

Compensation and restitution therefore constitute important components of victim-centred justice.

Restitution generally seeks to restore the victim to the extent possible by requiring the offender to repair financial or material losses. Compensation, in contrast, may involve financial assistance provided through state mechanisms where appropriate.

Indian scholarship identifies restitution and compensation as significant dimensions of the evolution of victim rights. The development of Indian victim justice has been gradual, with reforms progressively expanding the victim's position within criminal procedure.

However, financial compensation should not be treated as a complete substitute for justice. Victims may require psychological counselling, medical support, legal assistance, protection, and social rehabilitation in addition to monetary assistance.

XI. RESTORATIVE JUSTICE AND VICTIM RECOGNITION

Restorative justice represents an important alternative or complementary approach to conventional criminal justice.

The restorative model asks:

Who was harmed, what are their needs, and who has obligations to repair that harm?

This differs from a purely punitive model that primarily asks:

What law was violated and what punishment should be imposed?

Restorative justice can provide victims with opportunities to:

- Communicate the consequences of the offence;
- Ask questions;

- Receive acknowledgement;
- Obtain an apology;
- Negotiate restitution;
- Participate voluntarily in repairing harm.

The approach is particularly significant because it can provide forms of recognition that conventional proceedings may not always deliver.

Nevertheless, restorative justice must be voluntary, informed, safe, and carefully regulated. Victims should never be pressured to meet offenders, forgive them, or accept inadequate remedies.

XII. PROCEDURAL JUSTICE AND VICTIM SATISFACTION

Victim satisfaction is increasingly connected with procedural justice rather than simply with conviction or punishment.

Victims may evaluate criminal justice according to whether:

- They were treated respectfully;
- Their concerns were heard;
- They received adequate information;
- Authorities were neutral and fair;
- They were given opportunities to participate;
- Decisions were explained;
- They felt safe.

This demonstrates that justice is also an experience, not merely an outcome.

Holder and Englezos (2024) found that procedural justice, rights enforcement, victim satisfaction, and psychological or emotional benefits were among the important outcomes examined in the victim-participation literature.

A victim may therefore be dissatisfied even when an offender is convicted if the victim felt ignored, uninformed, or disrespected during the process.

XIII. COMPARATIVE DEVELOPMENT OF VICTIMS' RIGHTS, 2010–2025

Period	Major Development	Victim-Centred Emphasis	Key Literature/Source
2010–2012	Expansion of victimology and procedural justice scholarship	Recognition, fairness and participation	Englebrecht (2012)
2012	EU Victims' Rights Directive	Information, protection, support and participation	European Parliament & Council of the EU (2012)
2013–2016	Growth of restorative and participatory approaches	Victim voice and procedural involvement	Holder & Englezos (2024)
2017–2019	Comparative research on victim participation	Legal status and participatory mechanisms	Braun (2019)
2019	UNODC educational framework on access to justice	Victim participation and support	UNODC (2019)
2020–2022	Increased empirical examination of victim participation	Victim satisfaction, rights and outcomes	Holder & Englezos (2024)
2023	Systematic review of victim participation literature	Evidence-based understanding of participation	Holder & Englezos (2024)
2023–2024	Renewed Indian debate concerning victim participation	Participation under new criminal laws	Indian legal scholarship
2024	Human dignity and victim participation scholarship	Rights, dignity and meaningful participation	Holder & Dearing (2024)

2025	Continuing movement toward victim-centred criminal justice	Meaningful participation and implementation	Recent Indian scholarship
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The table demonstrates that the period 2010–2025 represents a shift from theoretical recognition toward greater attention to implementation and measurable outcomes.

XIV. VICTIMS' RIGHTS IN THE INDIAN CRIMINAL JUSTICE SYSTEM

India provides a particularly important case for examining the transition from marginalization to participation.

Research tracing the Indian experience identifies a gradual development from limited compensation-oriented provisions toward broader recognition of informational rights, participation rights, and restitution. The authors conclude that Indian courts and legal institutions have recognized the importance of victims, but concrete participatory rights have developed only to a limited extent.

The recent transformation of India's criminal law framework has renewed discussion about the victim's position. Scholarly analysis of the new criminal laws examines victim participation as part of a broader movement toward inclusive and procedurally fair criminal trials.

The Indian experience can therefore be understood through three stages:

Witness → Rights-holder → Participant

The challenge is ensuring that the third stage is implemented consistently across different regions, institutions, and categories of victims.

XV. MAJOR CHALLENGES

Despite significant progress, victims continue to face several barriers.

1. Gap Between Law and Practice

A formal statutory right does not necessarily guarantee practical access. Institutional procedures, limited awareness, and administrative barriers may prevent victims from exercising their rights.

2. Lack of Legal Awareness

Many victims are unfamiliar with available compensation, legal-aid, participation, and protection mechanisms.

3. Procedural Delays

Long trials may increase psychological stress and reduce victims' willingness to remain engaged with the justice system.

4. Secondary Victimization

Insensitive treatment by police, lawyers, courts, or media can compound the original harm.

5. Socioeconomic Inequality

Victims with greater financial resources may be better able to obtain lawyers, counselling, transportation, and other forms of assistance.

6. Institutional Discretion

The practical scope of participation may depend heavily on decisions made by police officers, prosecutors, and courts.

7. Balancing Victim and Accused Rights

Victim participation must not eliminate the presumption of innocence, right to counsel, impartial adjudication, or other due-process protections.

8. Lack of Standardized Measurement

Holder and Englezos (2024) found considerable variation in how victim participation is defined and measured in empirical studies, demonstrating a need for clearer conceptual and methodological frameworks.

XVI. CONCLUSION

The evolution of victims' rights between 2010 and 2025 demonstrates a fundamental transformation in criminal justice philosophy. The victim is no longer appropriately understood merely as a witness whose function is to assist the prosecution. Contemporary criminal justice increasingly recognizes victims as individuals possessing rights to information, dignity, protection, support, compensation, restitution, and participation.

The international framework represented by the EU Victims' Rights Directive emphasizes information, support, protection, respectful treatment, and participation. UNODC likewise treats victim participation as an important component of access to justice. Empirical scholarship demonstrates that participation can take many forms, including expression of views and concerns, victim impact statements, attendance, consultation, and legal representation.

The Indian experience reflects the same broad movement but also demonstrates the continuing gap between legal recognition and practical implementation. Indian scholarship identifies considerable progress in informational, participatory, and restitution-related rights, while also concluding that concrete rights remain limited in practice. The newer criminal-law framework has further intensified discussion concerning meaningful victim participation.

Ultimately, the evolution from marginalization to participation should not be understood as a replacement of the rights of accused persons with those of victims. Rather, it represents an effort to construct a more balanced criminal justice system in which victim dignity, offender due process, and public justice coexist. The next stage of reform should therefore focus on converting formal recognition into meaningful, accessible, safe, and effective participation.

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