



## VICTIM-CENTRIC PROVISIONS IN THE BHARTIYA NAGRIK SURAKSHA SANHITA: A PATH TOWARD HOLISTIC JUSTICE

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Dhanvi Choubey\*

### ABSTRACT

*While the Sanhita is a beginning, more focus needs to be on the victims of crime and ensuring that their experience within the Indian criminal justice system brings about substantial change (Bhartiya Nargik Suraksha Sanhita 2023). Victims have been challenged for too long without proper assistance, often forgotten by much of the system. However, the BNSS also suggests some actual steps forward — an obligation to timely updates on a case, access to vital documents in legal civil proceedings, and a more formalised approach around compensation and rehabilitation. These changes seek to establish a more empathetic and supportive atmosphere for victims, which ultimately provides them with more power overall along with making the system more adaptable according to their requirements. However, while these areas have made their own step toward BNSS implementation, there are still challenges. The continued awareness and education of victims' rights, as well as appropriately disseminating resources across multiple communities still poses a challenge. Cultural stigma and procedural delays can also undermine the legislation's aspirations for some of its most vulnerable groups. This paper assesses their efficacy and speculates how they may transform justice in India. In addition, it discusses the ways in which the BNSS could continue to develop to address existing barriers and establish a more accessible and victim-centred legal environment.*

**Keywords:** Victim Compensation, Vulnerable Group, BNSS Implementation.

### INTRODUCTION

The BNSS reflects an important change in the Indian justice system in terms of eradicating the long-standing injustices experienced by the victims. In the past, law enforcement agencies had employed a counter-tactical approach that involved the arrest of criminals, as a means of

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\*BA LLB, THIRD YEAR, BENNETT UNIVERSITY.

protecting the citizens' right to freedom and justice. Instead, the BNSS aims for an alternative system that aligns with the principles presented by such organizations as the Law Commission of India 154th report and the Malimath Committee in which the author of the paper finds common ground in their arguments. Under this transformed architecture, sufferers are at the centre of every justice process as active members and their rights and voices have to be duly weighted in all phases of a trial course of action.

To support victims' rights more substantially, Sections 357 and 357A of the Criminal Procedure Code (CrPC) empower both courts and Legal Services Authorities to offer compensation. This provision reflects a movement toward restorative justice that seeks to actively address the harm suffered by victims, offering them a pathway to recovery. In addition, the BNSS expands victims' access to critical case information, mandating that police give copies of FIRs without delay, regularly update on investigation status and disclose essential case documents so that victims can participate effectively. However, these developments do not fully overcome the fact that the exercise of some rights under Clauses 193(3) and 230 currently remains contingent upon a litigant possessing funding for their own lawyer, which has a substantial impact on economically disadvantaged people.

Also, a big stride towards providing access to justice is the requirement under BNSS to register FIRs without jurisdictional limitations thereby formally institutionalizing Zero FIR provision. But the problems of non-registration of FIRs, as pointed out in landmark decisions such as *Lalita Kumari v. Government of Uttar Pradesh* continue to rear their ugly head because enforcement of this rule is inconsistent.. This inconsistency suggests the need for enhanced judicial oversight and cultural shifts within law enforcement to uphold victims' rights more effectively.

To summarise, while there is a slight improvement in the perception of the support given to the victims, it is still rather inadequate in respect of psychosocial help, rehabilitation, and the provision of long-term compensation. One of them which is particularly relevant due to recent cases like *Mallikarjun Kodagali v. State of Karnataka* which demonstrate that this coverage is necessary for these victims.

Establishing a more robust framework for victim assistance—covering legal aid, counseling, and emotional support—remains essential to achieving a truly victim-centered system.

This paper explores the extent to which the BNSS has succeeded in integrating victim-centric provisions into India's criminal justice system. The goal of this research is to identify the extent and nature of the existing reforms and determine whether the provided reforms constitute part of the justice system of countries and its practice.

### **DESCRIPTION OF THREE RIGHT**

The Amending Act introduced significant participatory rights for victims in criminal proceedings, defining "victim" broadly and allowing appeals against acquittals or inadequate sentences. It permits victims to engage legal counsel and mandates privacy protections for sexual offense cases. Sections 357 and 357A CrPC empower courts and Legal Services Authorities to grant compensation. BNSS further enhances victim rights by requiring victims to be heard before case withdrawals under Cl.360, addressing a key CrPC gap.

The BNSS expands victims' right to information in three main ways: providing free access to the FIR, requiring police updates on investigation progress within 90 days, and ensuring access to case documents for meaningful participation. However, Cls.193(3) and 230 rights are limited to victims with legal representation, restricting access for those unable to afford an advocate. Without a system of free legal aid, these rights remain inaccessible to many. Additionally, BNSS has not amended CrPC s.157(2) to extend investigatory updates to victims, though judicial interpretations may bridge this gap.

The BNSS formalizes the right to register Zero FIRs under Cl.173, prohibiting police from refusing FIR registration due to jurisdiction issues, a safeguard previously mandated by government advisories and judicial rulings. Despite precedents like *Lalita Kumari v. government of Uttar Pradesh*<sup>1</sup>, non-registration of FIRs remains problematic. Although the judiciary has recognized victims' right to compensation and the need for rehabilitation (e.g. *Mallikarjun Kodagali v. state of Karnataka*<sup>2</sup>), the BNSS lacks provisions for consistent compensation or victim rehabilitation support, such as psychosocial assistance and counselling.

### **KEY VICTIM-CENTRIC PROVISIONS IN THE BNSS**

**Section 193(3)(ii) BNSS/Section 173 CrPC-** The police officer is to inform the victim or informant of the investigation's progress within ninety days, via any method, including

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<sup>1</sup> Lalita Kumari v. Government of Uttar Pradesh AIR 2014 SUPREME COURT 187.

<sup>2</sup> Mallikarjun Kodagali v. State of Karnataka (2019) 2 SCC 752.

electronic communication. Recently Bombay HC in the case of *Nirmala Bhavesh Parma v. state of Maharashtra and Ors*<sup>3</sup>. Mandated that according to sec. 193 of BNSS the police officer must inform the progress of investigation to informant or victim. Further Bombay HC noted that Section 173, which required investigating officers to provide the complainant with the chargesheet or action taken report, is now replaced by Section 193(3)(ii) and (iii) of the Bhartiya Nagarik Suraksha Sanhita (BNSS). The bench, comprised of Justices Revati Mohite-Dere and Prithviraj Chavan, confirmed that a state-issued circular on August 23 mandates strict enforcement of this new BNSS provision. Consequently, the court disposed of the petition, ordering the police to supply the petitioner with a copy of the chargesheet within a week.

Similarly, the Karnataka High Court recently instructed police authorities to ensure the complainant is informed of the final report, as per the previous CrPC provisions. (Benwal, 2024)

**Section 230 BNSS/ section 207 CrPC**-Section 207 of the Criminal Procedure Code (CrPC) mandates that an accused be provided with copies of all relevant documents to ensure they can adequately defend themselves, supporting the right to a fair trial under Article 21 of the Indian Constitution<sup>4</sup>. Specifically, Section 207 requires that, without delay, The magistrate must furnish the accused with copies of the police report, the FIR, witness statements, confessions, and any other pertinent documents. This provision intends to make the accused fully aware of the evidence against them, enabling them to prepare their defence.

The section includes three provisos allowing exceptions: (1) The magistrate may decide not to supply certain witness statements if deemed necessary under public interest; (2) For voluminous records, rather than providing a copy, the magistrate may permit the accused or their lawyer to inspect them in court. (3) the magistrate may opt for inspection over copies for very large records, and Supply of documents in electronic form shall be considered as duly furnished.

In *Dharambir v. CBI*<sup>5</sup>, it was held that the CrPC distinguishes between witness statements and other documents submitted with the charge sheet. Police officers may withhold parts of witness statements under Section 173(6) if deemed in the public interest, but these statements should otherwise be provided for fair disclosure. Furthermore, in *Siddhartha Vashisht @ Manu*

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<sup>3</sup> Nirmala Bhavesh Parmar v. state of Maharashtra and Ors (Criminal Writ Petition (Stamp) No. 16212 of 2024).

<sup>4</sup> INDIA CONST. art. 21.

<sup>5</sup> Dharam Bir v. CBI 148(2008) DLT289.

*Sharma v. State (NCT of Delhi) (Jessica Lal murder case)* the Supreme Court emphasized that the criminal justice system in India aims to protect the accused's right to a fair trial by ensuring transparency and fairness.<sup>6</sup>

Documents that can be given to the accused and victims are the police report, a copy of the FIR, the statement recorded, the confessions and any other document or relevant extract.

In conclusion, Section 207 CrPC safeguards an accused's right to a fair trial by mandating complete disclosure of all evidence to be used against them. Non-compliance with these provisions can undermine the fairness of the trial. (I BLOG PLEADER, 2022)

**Section 360 (Proviso)BNSS / 321 Crpc.** Grants public prosecutors the power to withdraw from prosecution before the judgment is pronounced, with the court's consent. This provision is intended to balance public interest and the principles of justice, ensuring cases are not pursued unnecessarily. The prosecutor must provide justifiable reasons, such as insufficient evidence or changes in circumstances, for the court to consider the withdrawal. Judicial oversight ensures that the provision is applied responsibly and that decisions to withdraw are not arbitrary. Moreover, in *Sheonandan Paswan v. State of Bihar*,<sup>7</sup> the Supreme Court stressed that this power must be exercised judiciously, and in *State of Kerala v. K. Ajith*<sup>8</sup>, the court highlighted that withdrawals should align with public policy and justice considerations.

**Section 321** has issues, especially when withdrawals seem to be driven by politics or outside pressures, highlighting the necessity for court review. Suggested reforms include clearer rules for prosecutors and more transparency to avoid abuse. In contrast, in places like the United States, prosecutors have wide latitude to drop cases, but this power can be reviewed by courts, providing important lessons for enhancing Section 321 in India. In summary, this provision is vital for the legal system, supporting fairness and justice, while needing careful use and strict oversight.

**Section 395 BNSS/section 357 CrPC** deals with the compensation of the victims in a criminal case. The relevant provision provides that compensation may be awarded by the court against the convict to be paid to the victim or his family. The compensation section thus serves the punitive and rehabilitative purposes of the criminal justice system. The aim is to compensate

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<sup>6</sup> Siddhartha Vashisht @ Manu Sharma v. State (Nct Of Delhi) AIR 2010 SUPREME COURT 2352.

<sup>7</sup> Sheonandan Paswan v. State of Bihar 1983 AIR 194.

<sup>8</sup> State of Kerala v. K. Ajith AIR 2021 SUPREME COURT 3954.

directly the victim for the losses resulting from his victimization, as punishment alone might not help rectify the damage meant to him. Provisions under Section 395 BNSS detail the original CrPC guidelines in greater detail. The section, broadly, elaborates on compensation ordered for personal injuries or death and financial support to dependents if the victim is dead. It also incorporates rehabilitation funds for victims and asks for state-level funds for victim compensation. This suggests a more restorative model of justice that considers the needs of victims and their families, since they would be the main beneficiaries to be helped for recovery and reintegration into society.

**Section 396: Victim Compensation Scheme** The Supreme Court has recently issued an important directive regarding victim compensation in cases involving bodily harm, especially sexual assault cases involving minors or women. The Court has mandated that in such cases, Sessions Courts should order victim compensation under Section 357-A of the Code of Criminal Procedure (CrPC).

The Court observed that the lack of a compensation order by the Sessions Court often leads to delayed benefits for the victims. To address this issue, the Court has directed that the order for victim compensation be implemented swiftly by legal services authorities and has emphasized the need for the provision of interim compensation where appropriate.

The specific case involved an appellant who had been convicted under Sections 376 IPC / 70(1) BNSS 354 IPC/74 BNS, and Section 4 of the Protection of Children from Sexual Offences (POCSO) Act. The appellant had been sentenced to 20 years in prison and a fine. The appellant had challenged the dismissal of his bail application in the Bombay High Court, and the Supreme Court has now granted him bail, noting that he has served over 50% of his sentence and there is no likelihood of the sentence being enhanced.

Importantly, the Supreme Court has directed that a copy of its order be circulated to all High Courts, with the aim of ensuring that Principal District Judges pass on the directive to Sessions Judges. The Court has emphasized that session judges are expected to mandate victim compensation as necessary in similar cases. Additionally, in the current case, the Court has recommended that the High Court consider granting interim compensation to the victim under the relevant POCSO Rules.

The Court has recorded its appreciation for the assistance provided by the Amicus Curiae in addressing the crucial issue of victim compensation. With these observations and directions,

the Supreme Court has aimed to ensure that victims of such crimes receive timely and adequate compensation, which is a crucial aspect of ensuring justice and support for survivors<sup>9</sup>. (shrivastatva, 2024)

**Section 397: Treatment of Victims** within the criminal justice system, ensuring that victims get humane and respectful treatment while in the courses of legal procedures. This aspect of respecting victims while considering their trauma and vulnerability arising from a crime gives weight to requiring a sensitive approach in treating victims with dignity and due recognition. This humane treatment of victims of crime seeks to restore the balance of agency and dignity lost to those affected by crime, unlike the depersonalizing aspect of criminal processes.

One of the most vital features of this provision is the advocacy of victims' rights, ranging from respect and dignity to the listenership of their voices and non-transcendence during judicial processes, hence making legal processes fairer and more balanced. Victim's rights also tend to postulate justice, not just as the punishment of the offender but also honour the experiences and needs of those affected by crime.

Section 397 specifically explains that the treatment of victims from the interface with authorities and their engagement in judicial processes should be ensured. This includes mental and physical well-being and safety measures, not allowing them to further suffer or be traumatized during a trial. Such a section emphasizes how, in creating an environment for recovery, judicial integrity must also be ensured by reducing the possibilities of re-traumatization.

Legal authorities, such as policemen, magistrates, and judges, are responsible for the enforcement of victim treatment standards. The idea of supporting and protecting victims to respect dignity and compassion is treatment with courtesy, full information regarding the case, and protection from intimidation or secondary victimization-resulting from insensitive questioning or exposure to the accused.

Support services: Counselling, medical assistance, and legal aid. In section 397, I would include support services for victims to be empowered, facing their trauma head-on. Counselling gives a victim an opportunity to experience their past with professionals to process their experiences. Medical assurance ensures the overall well-being of the body. Legal aid services

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<sup>9</sup> Saibaj Noormohammad v. State of Maharashtra & Anr. 2024 LiveLaw (SC) 860.

are powerful services that give an opportunity for the victim to have a say and actively partake in the justice-making process.

Despite this, victim treatment remains not as intended by the provisions. Many others remain insensitive to victims due to inadequate training among the authorities concerned. Solution strategies may be normal regular training activities that target offering sensitivities and awareness on the respectful treatment of victims. This effort would consolidate a victim-centered approach to the criminal justice service.

In a nutshell, Section 397 restates how victims are handled. Judicial processes are characterized by compassion, respect, and safety. Through this recognition of the role of the victim in the journey to justice, this section reiterates the importance of healing and justice and underscores the role of both legal authorities and support services in arriving at meaningful justice for the victims.

## **CONCLUSION**

Thus, BNSS represents a big step toward victim-centered improvement in India's criminal justice system. BNSS takes steps toward establishing victims' rights to information, participation, compensation, and respectful treatment by increasing consensus, which strengthens provisions for mandatory case progress updates, access to vital documents, Zero FIR, and a stronger focus on victim compensation. All these measures are designed to make the experience of a victim more supportive and less cruel, compatible with international standards of rights of victims and conducive to a shift toward restorative justice. Those reforms, however, are not uncovered to the challenges of limited free legal representation for many victims, cultural stigma, or procedural delays that may impact efficient participation by and protection of the victims. Improvement of awareness of the rights of victims and, consequently provision of enough resources for legal aid, counselling, and all means of support shall enhance the benefits that accrue on account of the provisions to all the victims, especially in marginalized communities. BNSS acts as the bulwark for an all-embracing justice system that respects and strengthens the dignity of victims. For this purpose, sustained reviews and reforms of these provisions, along with a mass campaign of public education and professional training, would be critical to breaking down the barriers to creating an insularly victim-centered criminal justice environment in India.