



Legislative Protection of Victims in Criminal Justice Systems

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Abstract— This paper presents a conceptual, comparative review of legislative protection for victims in criminal justice systems, focusing on the contemporary shift from symbolic recognition of victims' rights to their effective implementation. Drawing on recent scholarship, official legal instruments, and comparative policy materials, the article analyses victim-protection frameworks through five interrelated dimensions: rights recognition, procedural participation, protection from secondary victimisation, compensation and restitution, and accountability for implementation. The review finds that many jurisdictions now recognise core entitlements to information, support, participation, privacy, safety, and compensation; nevertheless, empirical and doctrinal research consistently shows that effective protection depends less on formal rights language than on institutional design, independent oversight, legal representation, coordinated services, and trauma-informed practice. Comparative evidence from the European Union, the United Kingdom, the United States, India, South Africa, and Australia illustrates both convergence and divergence: convergence in the spread of

victim charters and codified procedural entitlements, divergence in enforceability, remedies, access to specialist support, and the role granted to victims in adversarial proceedings. The article identifies a key research gap in the literature: while rights proliferation is well documented, fewer studies integrate doctrinal comparison with implementation evidence across jurisdictions and vulnerable victim groups. In response, the paper proposes an analytical framework for evaluating victim-protection legislation according to recognition, accessibility, procedural integration, service coordination, and accountability. It concludes that victim-centred criminal justice requires legislation that is not only rights-affirming, but also operational, monitored, and responsive to victims' differentiated needs.

Keywords— Victims' rights; criminal justice; legislative protection; victim participation; compensation; restorative justice; comparative law



INTRODUCTION

Victims were historically marginal to orthodox criminal procedure, which largely constructed crime as a wrong against the state and treated the injured person primarily as a witness rather than a rights-bearing participant. Contemporary victimology and human-rights scholarship, however, have reframed this position by arguing that victims have legitimate interests in information, protection, recognition, participation, compensation, and dignified treatment. Recent literature suggests that the field has entered a new phase: the core question is no longer whether victims should have rights, but how those rights are implemented, enforced, and experienced in practice (Holder et al., 2021; Holder & Englezos, 2024).

This question is especially important because legislative reform has accelerated across jurisdictions. The European Union's Directive 2012/29/EU established minimum standards on victims' rights, support, and protection and has strongly influenced both scholarship and national reforms. England and Wales now combine the Victims' Code with the Victims and Prisoners Act 2024; the United States federal system continues to rely on the Crime Victims' Rights Act and the Victims' Rights and Restitution Act; India's BNSS 2023 preserves victim appeal and compensation provisions; South Africa's Victims' Charter articulates a service-rights model; and Australian state systems combine charters with commissioners and support schemes. Yet official and academic assessments consistently show that implementation remains uneven, particularly for victims of sexual violence, domestic violence, children, migrants, and other vulnerable groups.

This article undertakes a conceptual and comparative review of legislative protection of victims in criminal justice systems. It argues that publication-ready analysis in this field should integrate doctrinal and policy comparison with implementation-focused victimology. The paper therefore examines not only what legal instruments say, but also what recent empirical and systematic studies reveal about whether those instruments create meaningful protection.

LITERATURE REVIEW

Recent scholarship on victims' rights can be grouped into five themes. The first concerns **legal frameworks and rights articulation**. Here, the literature traces the movement from broad rights claims to more structured legislative guarantees.

Holder, Kirchengast, and Cassell (2021) argue that victims' rights are transitioning from "myth" to operational reality, while Holder and Dearing (2024) link participation to human dignity and show how state ownership of criminal wrongs still constrains victim agency. EU-focused work by Dearing and Huxtable (2021), O'Driscoll (2023), and Soletto et al. (2024) demonstrates how supranational law has normalised standards of support, participation, and compensation, but also how national implementation remains fragmented and uneven.



The second theme addresses **procedural protections and victim participation**. Holder and Englezos (2024) identify participation as a growing field, but also note conceptual and methodological fragmentation in the literature. Studies of victim impact statements suggest that participatory mechanisms can enhance voice, agency, and symbolic recognition, yet evidence on downstream legal effects remains mixed. Kunst et al. (2021) conclude that it is still too early to draw firm cross-jurisdictional conclusions about the effect of victim impact statements on legal decision-making, while Kragting et al. (2024) show that these statements may also matter because they support agency and social recognition rather than merely influencing sentence severity. This literature's strength lies in its attention to lived experience; its limitation is that it often

studies isolated mechanisms rather than the larger legislative ecosystem in which those mechanisms operate.

The third theme focuses on **implementation, enforcement, and institutional mediation**. This literature is one of the most valuable recent developments in the field. Holmberg et al. (2021) show that victim rights may serve institutional objectives as much as victim interests when translated through police practice. Elbers et al. (2022) and Carroll (2022) demonstrate that victims' lawyers can be crucial intermediaries, particularly for compensation claims, access to files, and mitigation of secondary victimisation. Holm (2022) and Holder and Kirchengast's work on commissioners highlight that administrative oversight, complaint systems, and independent intermediaries matter because rights without routes to review remain weak. A key strength of this body of work is its realism about implementation; a limitation is that it remains concentrated in a relatively small number of well-studied jurisdictions.

The fourth theme concerns **victim participation and restorative justice**. Recent scholarship no longer treats restorative justice only as an alternative paradigm; it also asks how legislation frames restorative processes and how those processes affect victims psychologically and procedurally. Nascimento, Andrade, and de Castro Rodrigues (2023) find overall positive psychological effects for many victims who participate in restorative practices, although results vary by context and design. Romero-Seseña (2025) shows that the EU victim-rights framework has influenced how national restorative justice policies are framed, often pushing them towards a more explicitly victim-centred model. The strength of this literature is that it expands the meaning of protection beyond courtroom participation; its limitation is that the quality of programmes, safeguards, and case selection varies substantially across systems.

The fifth theme involves **special populations and substantive contexts**, especially sexual violence, domestic violence, and vulnerable victims. Erbaş (2021) distils European Court of Human Rights standards for effective domestic-violence investigation, emphasising due diligence and investigative adequacy. Rockowitz et al. (2024) show in East Africa that sexual-violence survivors face systemic barriers to medico-legal justice and prosecution, with limited evidence on initiatives designed to improve criminal justice responses.

Soletto et al. (2024) reveal that compensation for victims of sexual violence remains difficult to access even where legislative rights exist, and official EU and national materials repeatedly underline concerns about vulnerable victims' needs, communication barriers, and secondary victimisation. This literature is analytically rich and policy relevant, but it also demonstrates that legislative protection must be differentiated: uniform rights language does not generate equal protection across victim groups.

Overall, the literature reveals important trends: a drift from recognition to implementation, a turn towards comparative analysis, and a stronger focus on compensation, participation, dignity, and trauma-informed support. However, there remains a gap between doctrinal comparison and empirical implementation research. Much work either maps legislation without showing how it functions institutionally, or studies institutional practice without situating it inside broader legislative design. The present paper addresses this gap by synthesising legal instruments and implementation-oriented scholarship within a single comparative framework.

RESEARCH GAP

The principal research gap lies in the insufficient integration of three strands of scholarship: doctrinal analysis of victims' rights instruments, empirical work on implementation, and comparative evaluation across procedural traditions and victim groups. Existing studies often focus on one jurisdiction, one mechanism, or one category of victim. As a result, the field has rich evidence on discrete issues such as victim impact statements, compensation, or legal counsel, but fewer synthetic accounts of which **legislative features** most consistently promote effective protection across systems.

A second gap concerns enforceability. There is abundant discussion of victim rights as norms or standards, but less sustained comparative analysis of how complaint systems, commissioners, review rights, legal representation, and statutory duties transform rights into practice. This paper addresses that gap by treating legislative protection not merely as a list of entitlements, but as a broader governance problem involving translation, monitoring, institutional cooperation, and remedies.

OBJECTIVES

This paper has four objectives. First, it synthesises recent scholarship and official legal materials on legislative protection of victims in criminal justice systems. Second, it identifies the main thematic dimensions of victim protection: recognition, participation, protection, support, compensation, and accountability. Third, it compares how these dimensions are operationalised across exemplar jurisdictions. Fourth, it proposes a conceptual framework for assessing whether victim-protection legislation is merely declaratory or meaningfully effective.

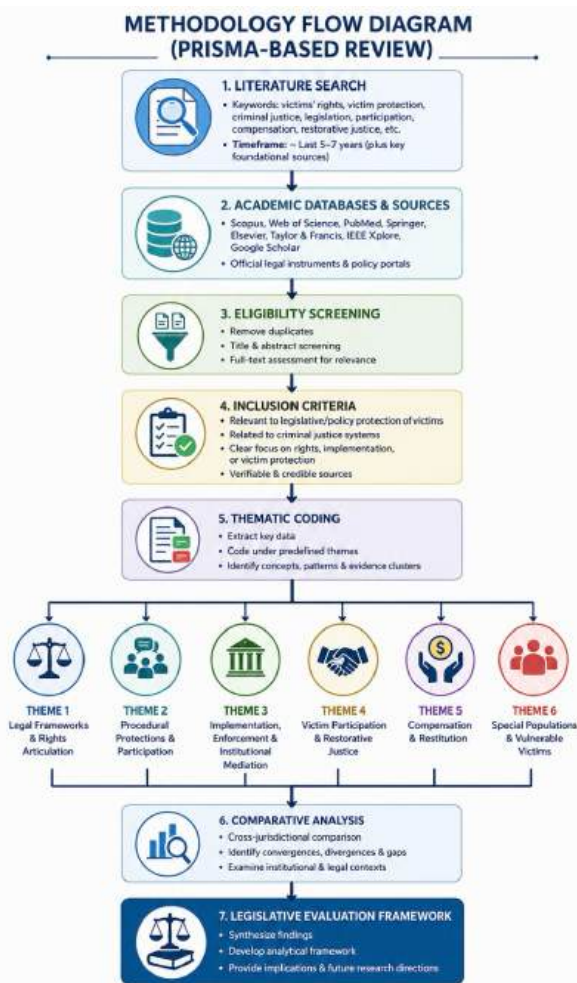
METHODOLOGY

This article is a **conceptual and review-based paper** and does not present original empirical findings. It adopts a **comparative doctrinal-scoping review** methodology. The review logic follows the purpose of scoping reviews, namely to map the main concepts, evidence clusters, and knowledge gaps in a heterogeneous field; reporting assumptions are aligned with the PRISMA-ScR framework, while overall selection and synthesis transparency follow the broader logic of PRISMA 2020.

The search strategy, as specified by the user, prioritised recent English-language scholarly literature and official legal or policy materials from approximately the last five to seven years, while allowing a small number of foundational older sources where necessary for conceptual grounding. The search focused on combinations of the terms *victims' rights*, *victim protection*, *criminal justice*, *legislation*, *victim participation*, *compensation*, *restorative justice*, *domestic violence*, *sexual violence*, *due diligence*, *victims' lawyers*, and *comparative*. Sources were selected from reputable academic publishers, institutional repositories, and official legal portals. Inclusion criteria were: relevance to legislative or policy protection of victims; clear relation to criminal justice systems; and sufficient bibliographic verifiability. Exclusion criteria were: non-verifiable sources, purely descriptive non-scholarly commentary, and materials without clear relevance to rights, implementation, or victim protection.

The analysis used thematic synthesis. Selected materials were coded under the headings of legal frameworks and rights, procedural protections, implementation and enforcement, victim participation and restorative justice, compensation and restitution, and special populations. Comparative interpretation

then considered how these themes interacted with institutional features such as complaint systems, legal counsel, commissioners, and support-service coordination. Because the geographic scope was unspecified, the study proceeds on a global-comparative basis but uses exemplar jurisdictions where reliable academic and official sources were most robustly available. This also constitutes a limitation: the evidence base remains more developed for Europe and other high-income jurisdictions than for many parts of the Global South.



DISCUSSION

The comparative evidence suggests that legislative protection is strongest where four elements coexist: **recognition**, **procedural integration**, **service capacity**, and **accountability**. Recognition alone is insufficient. Many jurisdictions now define the victim in law

and enumerate rights to information, support, privacy, compensation, and participation. Yet the literature repeatedly demonstrates that rights framed only as aspirational standards are vulnerable to under-enforcement. This is visible in the gap between formal EU rights and uneven national implementation, in empirical concerns about police practice in Denmark, in compensation barriers for sexual-violence victims, and in administrative limits of charter-style systems.

Procedural integration is the second decisive element. Victims are better protected where law does more than acknowledge their interests abstractly and instead creates concrete procedural positions: rights to be heard, rights to submit a personal or impact statement, review rights, access to files, legal aid or counsel, or independent rights of appeal. The BNSS's preservation of victim appeals in India, the federal CVRA's rights to notice, attendance, consultation, and restitution, and the Victims' Code's victim statement and review mechanisms in England and Wales all reflect this logic. Nevertheless, scholarship warns that procedural rights must be structured carefully: unmanaged participation may disappoint victims or operate unevenly across offence types and court cultures.

A third insight is that legislative protection depends heavily on **intermediary institutions**. Victims' lawyers, commissioners, ombudsman-style complaint routes, and specialised support services frequently determine whether rights become usable. The Dutch and Swedish studies are particularly illuminating: they show that legal counsel helps victims access files, articulate compensation claims, understand procedure, and avoid revictimisation. Likewise, commissioner models in Australia and strengthened oversight in England and Wales show that monitoring bodies matter because they create institutional memory, receive complaints, produce recommendations, and make rights visible within bureaucratic systems.

The evidence also indicates that **protection from secondary victimisation** should be treated as a core legislative objective rather than a peripheral welfare consideration. South Africa's Charter expressly links privacy-respecting practice to prevention of secondary victimisation. Sweden's victim-counsel literature shows that relational support and informed navigation are central to reducing revictimisation. Research on domestic and sexual violence further demonstrates that investigative delay, poor communication, inadequate privacy,

and disbelief can themselves become forms of institutional harm. A victim-protection statute should therefore be assessed not only by whether it expands participation, but by whether it structures professional conduct in ways that minimise retraumatisation.

Compensation remains one of the clearest tests of whether legal rights are genuinely effective. O'Driscoll's doctrinal work and Soletto et al.'s comparative study both show that compensation law often appears generous on paper while remaining procedurally inaccessible, underfunded, or fragmented in practice. India's statutory compensation scheme and South Africa's compensation provisions show that compensation can be built into criminal procedure, while EU law and various national systems show persistent difficulties in obtaining fair and adequate redress. Legislative design should therefore address not only eligibility, but also timing, evidentiary burdens, interim relief, accessibility, and assistance with enforcement.

Finally, the literature suggests that a genuinely victim-centred legislative framework should be **differentiated, not merely universal**. Uniform rights language does not account for profound differences in victims' circumstances. Children, victims of sexual violence, domestic-violence survivors, migrants, persons with disabilities, and victims facing language barriers often require specialist rights implementation, not just general procedural equality. Official codes and charters increasingly recognise this point through enhanced rights, accessible communication duties, specialist services, and vulnerability assessments. The challenge for future reform is to preserve fairness to defendants while making victim protection more responsive, trauma-informed, and practically enforceable.

CONCLUSION

Legislative protection of victims in criminal justice systems has developed substantially, but recent scholarship shows that the field's central challenge is no longer norm creation alone. It is the transformation of norms into day-to-day institutional practice. Across the jurisdictions reviewed, effective victim protection depends on whether legislation creates clear procedural rights, accessible support pathways, realistic compensation routes, and oversight mechanisms capable of monitoring compliance and responding to failure. Rights that

remain uncoupled from remedies, intermediaries, and service capacity are unlikely to alter victims' lived experience of criminal justice.

This paper has argued for an evaluative framework centred on recognition, accessibility, procedural integration, service coordination, and accountability. Such a framework helps explain why some victim-protection regimes appear progressive in statutory language but weak in operation, while others achieve a more meaningful balance between rights declaration and institutional delivery. Future empirical work should test this framework comparatively, especially in understudied jurisdictions and among vulnerable victim populations, but the current literature already supports a clear conclusion: victim-centred legislation must be operational, monitored, and adapted to differentiated needs if it is to provide real protection rather than symbolic reassurance.

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