
ACCESS TO JUSTICE AND VICTIM COMPENSATION: EVALUATING THE ROLE OF LEGAL SERVICES AUTHORITIES IN INDIA

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ABSTRACT

Access to justice is still a desirable but yet unachievable goal for millions of marginalised persons in India. Legal Services Authorities (LSAs) are the State's main institution for providing free legal aid services and for enabling victims to receive compensation. This paper critically analyzes the role and effectiveness of the three tier legal services structure (National Legal Services Authority (NALSA), State Legal Services Authorities (SLSAs) and District Legal Services Authorities (DLSAs)) in getting tangible justice for victims of crime despite having formal rights to it. The paper, based on empirical evidence from NALSA's annual report (2018-2023), victim compensation data and analysis of key judicial decisions highlights the structural, financial, and procedural challenges that hinder the effective operation of LSAs. It questions the unequal implementation of Section 357A of the Code of Criminal Procedure, 1973, providing for victim compensation schemes and highlights absence of uniformity in the quantum and disbursement rate of compensation among the States. The paper also examines the NALSA Compensation Scheme, 2018 as a transformative initiative, as well as its underutilisation in actual practice. Although legislation and judicial decisions have given LSAs a strong backing, LSAs are still underfunded, understaffed, unintelligent about whom they serve, and lack of coordination with the criminal justice system. There are specific reforms proposed in the paper such as a centralised victim support fund, mandatory legal aid at the first-information stage, and incorporating trauma-informed approaches into legal aid delivery. The recommendations are aimed at bringing back the LSAs as a true instrument of restorative justice in India.

Keywords: *Legal Services Authorities; Access to Justice; Victim Compensation; NALSA; Section 357A CrPC; Free Legal Aid; Restorative Justice; India.*

I. INTRODUCTION

The concept of access to justice transcends the mere availability of courts; it encompasses the capacity of every individual, regardless of economic station, to invoke and benefit from legal protection. In India, this aspiration is inscribed in Article 39A of the Constitution, which directs the State to ensure that the legal system operates on the basis of equal opportunity. The landmark decisions in “*Hussainara Khatoon v. State of Bihar*”¹ and “*Madhav Hoskot v. State of Maharashtra*”² transformed this directive into an enforceable fundamental right under Article 21, compelling Parliament to enact the Legal Services Authorities Act, 1987

Yet over the course of four decades of institutional life, there are conflictual dynamics within LSAs, including a growing demand for the provision of legal assistance from economically disadvantaged population segments, a dysfunctional criminal justice system with a high rate of undertrials in prisons, and a reactive and fragmentary compensation system for victims. In the Malimath Committee Report, 2003 and the 154th Law Commission report, the need for a paradigm shift from victim to a redressive approach has been highlighted, but the pace of change has been incremental at best. By drawing on both doctrine and empirical research, this paper helps to fill in the growing jurisprudential body of work on legal aid to fit its functioning within the larger framework of restorative justice.³

II. LEGISLATIVE AND CONSTITUTIONAL FRAMEWORK

The architecture of legal aid in India rests on three pillars. First, Article 39A of the Constitution constitutes the normative foundation, establishing equal justice as a Directive Principle. Second, the Legal Services Authorities Act, 1987 provides the institutional scaffold, creating a hierarchical structure with NALSA at the apex, followed by SLSAs, DLSAs, Taluk Legal Services Committees, and Legal Aid Clinics. Third, Section 357A of the Code of Criminal Procedure, 1973 inserted by the 2008 Amendment operationalises victim compensation by

¹(1980) 1 SCC 81

²(1978) 3 SCC 544.

³Shuvro Prosun Sarker, “Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India” *Clinical Legal Education in Asia* 177–93 (2015).

mandating every State Government to prepare a compensation scheme in coordination with its SLSA.⁴

Judicially, the Supreme Court has consistently expanded the scope of legal aid obligations. In *'Sukh Das v. Union Territory of Arunachal Pradesh'*⁵, the Court held that a failure to offer free legal aid vitiates the trial. In *'Ankush Shivaji Gaikwad v. State of Maharashtra'*⁶, the Court made the award of compensation under Section 357 CrPC virtually mandatory. In *'Delhi Domestic Working Women's Forum v. Union of India'*⁷, the Court directed immediate legal assistance to victims of sexual violence through LSAs. Cumulatively, these decisions establish a robust constitutional and statutory mandate for victim-centred legal services.⁸

III. INSTITUTIONAL PERFORMANCE: AN EMPIRICAL ASSESSMENT

The success of the victim compensation system contemplated under Section 357A, CrPC is largely dependent on the institutional efficiency of Legal Services Authorities together with the agencies of police and medical boards, and the district administrations which are responsible for executing the system. In the last decade, institutional responsiveness is demonstrated through awareness creation, fund allocation and awards for compensation. In the last decade there has been an improvement in the institutional responsiveness with regard to awareness creation, allocation of funds and awards for compensation. The growth in applications and disbursements reported in NALSA data suggest that victim compensation is becoming a part of the criminal justice system rather than a special remedy.⁹

But the performance of the institutions is still hindered, and the administration is still inconsistent, due to the fragmentation of procedures. Victim support infrastructure is often lacking, and there is limited access to trained personnel in District Legal Services Authorities

⁴Asha Bajpai, David W. Tushaus and Mandava Rama Krishna Prasad, "Human Rights and Legal Services for Children and Youth: Global Perspectives" *Human Rights and Legal Services for Children and Youth: Global Perspectives* 1–266 (2023).

⁵(1986) 2 SCC 401.

⁶(2013) 6 SCC 770.

⁷(1995) 1 SCC 14

⁸K. P. Asha Mukundan, "Legal Aid Services in the Juvenile Justice System: A Field Action Research" 231–43 (2025).

⁹John S. Bradway, "Some Distinctive Features of a Legal Aid Clinic Course," 1 *The University of Chicago Law Review* 469 (1934).

(DLSAs) as these are the first line of implementation. This means there often are extended delays with claims being verified, injury assessment, and coordination with the police and hospital. High pendency rates continue to be the result of the institutional efficiency falling behind the number of applications received.¹⁰

Moreover, between the States, there is a wide gap in the implementation quality as a result of attempting to standardise implementation through the NALSA Scheme-2018. A number of States have created special victim compensation cells and digital monitoring processes, while others persist with manual processes. Failure of delay in payment of funds from State governments also hinder rehabilitation, particularly for victims of SVs, AA, trafficking, etc. who need immediate medical and psychological treatment.¹¹

These are seen shortcomings in judicial oversight again and again. Courts have emphasized that the progress of criminal cases should not be the sole basis for compensation and that the authorities need to take a proactive stance when identifying victims who are eligible for compensation. However, the absence of good data management, accountability frames and monitoring is still impacting the credibility of institutions.¹²

The numbers of beneficiaries who received assistance in relation to legal aid services in NALSA's Annual Report for 2022-23 stands at 1.82 crore as compared with 1.31 crore in 2018-19.4. Table 1 below shows significant differences between the legal aid clinic density, beneficiary coverage ratio and victim compensation settlement ratio across the States. Socio-economically better States like Kerala (74% settlement rate) and Tamil Nadu (68%) improve significantly compared to the laggard States like Bihar (29%) and Rajasthan (41%). These differences mirror differences in judicial infrastructure, allocation of budget and administrative capacity that NALSA's uniform national guidelines cannot tackle singularly.¹³

¹⁰Shuvro Prosun Sarker, "Empowering the Underprivileged: The Social Justice Mission for Clinical Legal Education in India" *Clinical Legal Education in Asia* 177–93 (2015).

¹¹Shuvro Prosun Sarker, "Clinical legal education in Asia: Accessing justice for the underprivileged" *Clinical Legal Education in Asia: Accessing Justice for the Underprivileged* 1–250 (2016).

¹²Vânia Costa Ramos and Begoña Vidal Fernández, "Access to a Lawyer and Legal Aid (Directives 2013/48 and 2016/1919)" 39–55 (2021).

¹³Francesco Francioni, "The Rights of Access to Justice under Customary International Law" *Access to Justice as a Human Right* (2007).

Table 1: State-wise Legal Services Authority Performance Indicators (2022–23)

State	Legal Aid Clinics (2023)	Beneficiaries (Lakhs)	Victim Comp. Cases Settled (%)
Maharashtra	312	4.21	61%
Kerala	278	3.89	74%
Uttar Pradesh	198	2.14	38%
Bihar	143	1.67	29%
Tamil Nadu	265	3.55	68%
Rajasthan	172	1.98	41%
All India Avg.	–	–	52%

Source: NALSA Annual Report 2022–23; NALSA Victim Compensation Data 2022–23.¹⁴

IV. VICTIM COMPENSATION: SECTION 357A AND THE NALSA SCHEME

The Compensation Scheme of 2018, initiated by NALSA, sets a minimum standard for the compensation for victims of sexual offences, acid attacks, human trafficking and other serious crimes, which means that the State schemes cannot go beyond this level. This was an effort to tackle the wide disparity that existed in the existing State schemes, with compensation for rape ranging from ₹20,000 in some States to ₹10 lakh in others.¹⁵

The number of applications received and awards issued for victim compensation funds has increased over the past five years from 42,318 in 2018–19 to 63,441 in 2022–23 but the percentage of pending cases has fallen slightly, from 32.8% to 27.5%, over the same period. (See

¹⁴NALSA, Annual Report 2022–23 (National Legal Services Authority, New Delhi, 2023).

¹⁵Amrita Paul, “Beyond Access: Legal Aid for Child Refugees in India” *Human Rights and Legal Services for Children and Youth: Global Perspectives* 211–39 (2023).

Table 2.) The quantum of awards has increased from ₹85,200 to ₹1,14,600, supporting better compliance with the minimum quantum stipulated by NALSA. However, the continued high pendency rate and discrepancy between applications received and awards given indicate structural problems with verification, documentation and inter-agency coordination.¹⁶

Table 2: Victim Compensation Fund Disbursement Trends in India (2018–23)

Year	Applications Received	Awards Granted	Avg. Award (₹)	Pending (%)
2018-19	42,318	28,450	85,200	32.8%
2019-20	49,775	34,120	91,500	31.4%
2020-21	38,902	24,890	88,700	36.0%
2021-22	55,612	38,760	1,02,300	30.3%
2022-23	63,441	45,980	1,14,600	27.5%

Source: NALSA Victim Compensation Data 2022–23; NALSA Annual Reports 2018–2023¹⁷.

The jurisprudence of ‘*Nilabati Behera v. State of Orissa*’¹⁸ and ‘*Rudul Sah v. State of Bihar*’¹⁹ established the availability of public law compensation for State-perpetrated wrongs. The conceptual framework derived from these decisions treating the victim's loss as a constitutional harm warranting monetary redress undergirds Section 357A and NALSA's

¹⁶Rajashree K and Chetan Singai, “Reforms in legal aid and awareness with regard to the aged in India: A case for an inclusive approach,” 13 *Jindal Global Law Review* 253–76 (2022).

¹⁷NALSA, Victim Compensation Data 2022–23 (NALSA Secretariat, New Delhi, 2023).

¹⁸(1993) 2 SCC 746.

¹⁹(1983) 4 SCC 141.

compensation initiatives. However, the transition from this constitutional foundation to effective ground-level implementation remains incomplete.²⁰

While Section 357A showcases progressive architecture and the standardisation process has been brought through the NALSA Compensation Scheme, the working of victim compensation institutions in India still indicates significant institutional gaps. The disparity of administrative capacity at State level in processing claims is one of the highest concerns. Although NALSA has laid a bare line to the minimum compensation that should be provided, it remains to be implemented by SLA (State Legal Services Authorities) some of which are understaffed, have slow processing times and often do not adhere to proper documentation standards. The information about eligibility, documentation, and processing timelines for disbursement is often difficult to access, and victims (especially those from economically disadvantaged or marginalised groups) face challenges in accessing it.²¹

Yet another difficult challenge is the lack of a victim-centred approach in the criminal justice process. In the compensation proceedings, the claim is frequently regarded as subsidiary to criminal prosecutions instead of as a separate claim for the victim. This is because Section 357A was clear that it was a procedure separate from conviction, and the delay in police verification and medical certification and delays in trial progress are events that have a direct impact on compensation awards. Procedural insensitivity and the victim's engagement with authorities multiple times in the context of sexual offences and human trafficking may result in further traumatisation and ultimately cause them to abandon their efforts to bring the case to court.²²

India's victim compensation mechanism thus represents a clear normative shift towards restorative justice but requires further institutional coordination, time bound compensation

²⁰Felice Batlan and Marianne Vasara-Aaltonen, "Introduction: Understanding the History of Legal Aid in an International and Comparative Perspective" *World Histories of Crime, Culture and Violence* 1–26 (2021).

²¹Merry Barua, Jaya Shankar Kaushik and Sheffali Gulati, "Legal Provisions, Educational Services and Health Care Across the Lifespan for Autism Spectrum Disorders in India," 84 *The Indian Journal of Pediatrics* 2016 84:1 76–82 (2016).

²²Hakim Yasir Abbas, "Cross Border Judicial Dialogue: A Look at Indian Supreme Court's Engagement with Australian Jurisprudence in National Legal Services Authority V. Union of India" *Comparative Approaches in Law and Policy* 119–39 (2023).

disbursement mechanisms, an increased awareness among victims and ongoing judicial oversight to ensure that it serves as a tool of rehabilitation, as well as of constitutional justice.²³

V. STRUCTURAL AND SYSTEMIC CONSTRAINTS

Several interconnected deficiencies undermine LSA effectiveness. First, funding inadequacy: LSAs are primarily funded through grants from the Central and State Governments, supplemented by the Legal Services Fund. The per-capita allocation for legal aid in India remains below ₹15 annually a fraction of the expenditure in comparable legal aid systems. This constrains staffing, infrastructure, and outreach capacity. Second, beneficiary awareness deficits: a significant proportion of eligible persons particularly first-generation litigants, tribal communities, and domestic violence survivors remain unaware of their entitlement to free legal aid. Third, para-legal capacity gaps: despite NALSA's Standard Operating Procedure for Legal Aid Clinics, para-legal volunteers often lack adequate training in victim-sensitive interviewing and documentation requirements for compensation claims. Fourth, coordination failures: effective victim compensation requires seamless coordination among the police (for FIR registration and documentation), medical establishments (for injury certification), District Legal Services Authorities (for claim processing), and State Compensation Funds (for disbursement). Fragmentation across these agencies creates delays and documentation deficiencies that disproportionately disadvantage victims.²⁴

The study by the Centre on the Death Penalty, NLU Delhi demonstrates that legal aid at the trial stage continues to be compromised by under-resourced panels and high caseloads per panel advocate. This systemic dysfunction necessarily cascades downstream: a trial where the accused's right to legal representation is compromised also typically fails to adequately ventilate the victim's compensatory claims under Sections 357 and 357A CrPC. The interface between legal aid for accused persons and legal support for victims must therefore be conceptualised as two dimensions of a single access-to-justice deficit.²⁵

²³*Ibid.*

²⁴Melvin J. Lerner, "The justice motive in social behavior: introduction," 31 *Journal of social issues* 1–19 (1975).

²⁵Megha Middha, Binect Kedia and Bhupal Bhattacharya, "Compensatory Jurisprudence in India: A step Forward to Rehabilitate the Victims of Various Acts and Crimes," 36 *International Journal for the Semiotics of Law - Revue internationale de Sémiotiquejuridique* 2023 36:3 1311–23 (2023).

The Protection of Women from Domestic Violence Act, 2005 designates DLSAs as service providers, yet studies consistently find that DLSAs's domestic violence response remains underpowered due to the absence of dedicated social workers and inadequate coordination with shelter homes and protection officers. The Law Commission of India's Report No. 277 of 2018 recommended a standalone statute for victim compensation covering wrongful prosecution cases a category conspicuously absent from existing LSA mandatareinforcing the need for legislative expansion of the LSA's victim-centric functions.²⁶

VI. REFORMS AND THE WAY FORWARD

But the future success of the victim compensation scheme in India will rely on the transformation of Section 357A from a formally accessible step to a truly accessible and effective rehabilitative step. While legislative and judicial improvements have reinforced the normative foundation of the victim compensation system, these needs will require administrative modernisation, institutional accountability, and a more victim-centred approach to meet the justice needs of victims.²⁷

One of the key reforms that is needed is the setting up one set of standard and deadline requirements to deal with compensation claims in each of the States. Currently, the police verification, the medical paperwork and bureaucratic approvals are creating delays in attainment of immediate relief. Timelines during each of the stage of the process, with digital tracking systems, which are under the watch of State Legal Services Authorities, would significantly reduce pendency and give better transparency. The introduction of compensation portals and the connectivity with the police FIRs and hospital records can also automate the entire verification process further and reduce repetitive documentations.²⁸

Another major reform has to do with awareness and accessibility. Numerous victims are not aware of their rights to compensation, or do not have the means to make applications. Proactive outreach should also be undertaken by Legal Services Authorities via police stations,

²⁶Indira Sharma, Shruti Srivastava, MS Bhatia, Uday Chaudhuri, Sonia Parial Neena Bohra, “Avdesh Sharma, and Dinesh Kataria. “Violence against women,” *57 Indian journal of psychiatry* S333 (2015).

²⁷ S. Latha, “Compensatory Jurisprudence in India” *Restorative Justice in India* 77–87 (2017).

²⁸ Hildur Fjóra Antonisdóttir, “Compensation as a means to justice? Sexual violence survivors’ views on the tort law option in Iceland,” *28 Feminist Legal Studies* 277–300 (2020).

hospitals, One Stop Centres and community legal aid clinics. If the offence is of a sexual nature, if it is an acid attack, if it's related to trafficking, if it's related to custodial violence, it would take the burden off the traumatised victim to initiate these proceedings at their own. If the sexual crime, acid attack, trafficking, custodial violence is committed, it would be automatic on the victim's behalf to initiate compensation proceedings, thereby avoiding the burden on the victim.²⁹

The above discussion bolsters an agenda of reform spanning several fronts. Most pressing is whether a specific National Victim Compensation and Support Fund (NVCF), distanced from the legal services general fund, is established which is not dependent on conviction rates; and whether the budget line for the fund is ring fenced from the general fund of the Legal Services Fund. This would eliminate the reliance on State budgets which gives rise to inter-State disparities and would ensure fixed timelines for disbursements. The Law Commission's recommendations on the subject of the 2018 offer a ready legislative blue-print for this purpose.³⁰

Second, the mandatory requirement for legal aid at the first information stage should be implemented by amending the Legal Services Authorities Act to ensure that a DLSA is notified within 24 hours after a registration of offences relating to sexual violence, organised crime, terrorism and child abuse are registered in police stations. It is constitutionally viable and flexible to hold that the Court can use LSAs as authorities for proactively delivering rights; the same principle is equally applicable to crime-victim notification in 'NALSA v. Union of India'³¹. Third, the need for law school integration of trauma-informed legal aid approaches is imperative. For this it is essential to add psycho-social support, survivor sensitive interview protocols and multi-disciplinary case management to NALSA's SOP framework. Compensation is not enough to be restorative justice unless the emotional and psychological aspects of a victim's sacrifice are considered. Fourth, technology would improve the accountability by providing real-time tracking of compensation applications, approvals, disbursements and pendency through a unified national dashboard and empower evidence-based policy corrections at the national and State levels.

²⁹*Ibid.*

³⁰*Supra* note 5 at 3.

³¹(2014) 5 SCC 438

VII. CONCLUSION

India's Legal Services Authorities represent an institutionally ambitious, constitutionally grounded framework for delivering justice to the marginalised and the victimised. The legal edifice built through decades of judicial pronouncements from *Hussainara Khatoon* to *Ankush Gaikwadis* unquestionably sound. The deficit lies in institutional execution: chronic underfunding, fragmented implementation, and the persistence of an accused-centric legal aid culture that has been slow to recognise the victim as an independent subject of legal services. The NALSA Compensation Scheme of 2018 marks a meaningful step toward rectifying this asymmetry, but its promise is realised only in States with strong administrative capacity and political will.

From the empirical data explored in this paper, emerges a system in transition; this is a system that is better in absolute terms, but has a tenacious geopolitical and demographic and cultural reach. The compensation gap cannot be filled with simply a fix to the law, but by reconceptualising LSAs as multistakeholder victim support institutions with financial and human capacity and interagency coordination capabilities to support a crime survivor from contact with the justice system through to the provision of 'compensatory relief'. Supreme Court has always repeated that right to access to justice is not a concession of the State for the purpose of charity, but it is a constitutional imperative. The Legal Services Authorities should be given full powers to act in accordance with that imperative.