

# INTERNATIONAL COVENANTS ON THE RIGHT OF VICTIM TO COMPENSATION

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## INTRODUCTION

The United Nations General Assembly was the first to recognise the victim and their right to have compensation and therefore later in the year 1985 adopted the Declaration of Basic Principles of Justice for victims of Crimes and Abuse of Power.<sup>1</sup> It recognised that thousands of people suffer from the crime and their effects every year. The victims and the rights given to them are not given the importance and are not recognised properly and as a result their families, witnesses and friends whoever help or aid them subsequently are subjected to harm or loss. The assembly outlined the necessity of having International and National norms to ensure effective and universal recognition and respect for the victims. **In the year 2006 UN adopted the “Serious Violations of International Humanitarian law and Basic Principles and guidelines” on the right to remedy for victims of Gross violation of International Human rights law.**<sup>2</sup> It was seen for the first time at the international level to define the victims and their rights. This declaration mainly aimed to provide justice, compensation and fair treatment to the victims and is also considered the Magna Carta of the right of the victims. The victims have a right to access justice and it is the duty of the Court and the administration to address the wrong committed against them and to punish the offender.

The Declaration defined ‘**victim**’ as a person to be someone who has suffered any kind of harm be it physical injury or mental trauma, monetary loss, or agony by any act or omission which violates

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<sup>1</sup> Joelle Milquet ‘Strengthening victims' rights from compensation to reparation’ (2019), <[https://ec.europa.eu/info/sites/info/files/strengthening\\_victims\\_rights\\_-\\_from\\_compensation\\_to\\_reparation.pdf](https://ec.europa.eu/info/sites/info/files/strengthening_victims_rights_-_from_compensation_to_reparation.pdf)> last accessed on April 17, 2020.

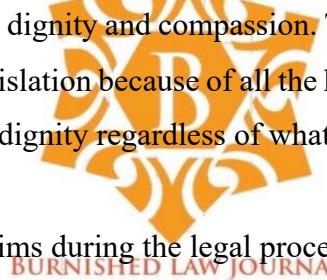
<sup>2</sup> M. Cherif Bassiouni, ‘International Recognition of Victims' Rights’ (2006) vol. 6, p.203-279.

the criminal law. The definition of Victims also includes the family members of the victims or the person who has been harmed while aiding the victim.<sup>3</sup>

Convention against torture and other cruel, inhuman or degrading treatment or punishment define **'torture'** as an act causing pain or suffering be it physical injury or mental trauma and is inflicted upon a person forcing that person to release any information or to confess, punishing him for an act that he is suspected of committing, or by coercion or intimidation, or for a reason based on discrimination.<sup>4</sup>

The UN Declaration mainly outlined the four important components for the rights of the victims which were- **Assistance, Access to justice and fair treatment, Compensation and Restitution**<sup>5</sup>.

The Declaration also gave some suggestions while dealing with the victims:

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- a) Victims shall be treated with dignity and compassion. They can also access the mechanism of justice as stated by the legislation because of all the harm that they have suffered. Victim shall be treated with utmost dignity regardless of what he has been through in the past.
  - b) Giving assistance to the victims during the legal proceedings.
  - c) Avoiding or minimizing inconvenience caused to the victims while taking steps to ensure and protect their privacy wherever required.
  - d) Informing the victims of their role and progress while the proceedings especially in serious offences where they request for such an information.

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<sup>3</sup> Article1, Declaration of Basic Principles of Justice for victims of Crimes and Abuse of Power, 1985.

<sup>4</sup> Article1, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1987.

<sup>5</sup> Barcelona Panda, 'Victims right to rehabilitation: India, UK, USA experience' <<http://www.manupatra.com/roundup/348/Articles/Article%20Victim.pdf>> last accessed on April 17, 2020.

## DIFFERENT CONVENTION RULES IN DIFFERENT COUNTRIES

### 1) UNITED STATES OF AMERICA:

Victims of Crime Act came into US in the year 1984. Victim of Crime Act also established the Crime Victims Fund which is a major financial source for victims today. Millions are deposited every year by Criminal fines, penalty fees and forfeited bail bonds etc. The money in the fund comes from the offenders and not from the taxpayers of the country. Crime victim compensation program administers its functioning in every state. The programs aim to help the victims and their families by giving them financial aid. It covers cost related to medical treatment, counseling, funerals, and loss of income during the process. To file the claim from the program the victim need to report within 3 days about the crime and for the claim can approach till period of 2 years. Compensation programs help the victim pay a large amount of their expenditure and loss while dealing with the crime and its treatment from the professionals. States aim to work for the betterment of the victim and to find new feasible ways so that large ratio of victim can be helped.<sup>6</sup>



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### 2) UNITED KINGDOM:

European Convention of compensation of victims of violent crime, 1983 ensures several rights given in the UN Declaration and have also introduced the Criminal Injuries Compensation Act, 1995. It was passed by the Parliament and was given effect in 1996. In the year 2008 UK introduced the Criminal Injuries Compensation Scheme under which people sent applications for the payment of compensation or stating the injury that they have sustained.

The CICA provides the victims, their relatives or close friends financial compensation and the reasons for giving out such compensation is to give a recognition that such physical or mental trauma is the result of crime, or they want to compensate them for all the money or savings that they have spent to get justice for that crime. The Criminal Justice Act, 1988 enacted new provisions

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<sup>6</sup> 'Crime Victim Compensation: An Overview' < <http://www.nacvcb.org/index.asp?bid=14>> last accessed on April 16, 2020.

for the method of paying money to the victims. The Code of Practice for victims of crime, a new legislation lay down that the victim can expect compensation from the agencies likes that of the Crown Prosecution Service or the Police.<sup>7</sup>

The Secretary of the State keeps a check in the working of the Scheme. The award given to individuals and how it shall be paid to them is decided by the Claims officers. The decision made by them will be open to review and appeal before the First Tier Tribunal as per the provisions of the scheme. Usually the compensation is granted to the victims but under severe circumstances the compensation is not granted like in the case where the victim has already filed an application for the claim under any other scheme in Great Britain, or when the injury or crime happened before 1 October, 1979. The act not only keep in mind the living victims but also has made a provision for the victims of the crime who has died as a consequence, they will be given only the funeral expenditures.

## CONCLUSION

Informing victims about the compensation is the responsibility of all those people who work in enforcement and victim service centre. People providing counseling and medical facility to the victims also has a responsibility to aware them about the same. Everyone in the society has to play a role in awareness and informing their known if any one of them are victims of any crime but the large share of responsibility lies on the shoulder of the professionals who deal with the victim on a daily basis as they invest a large amount of their time in their physical and mental improvement from the trauma.

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<sup>7</sup> The Criminal Injuries Compensation Scheme, 2008  
<[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/717271/Criminal-Injuries-Compensation-Scheme-2008.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717271/Criminal-Injuries-Compensation-Scheme-2008.pdf)> last assessed on April 16, 2020.