

DUTIES AND OBLIGATIONS OF VARIOUS STAKEHOLDERS TOWARDS CRIME VICTIMS

Dr. Malay Pandey¹& Shubham Malviya²

Certain rights impose a duty on the state to provide for the victims; this chapter aims to first identify the various parties involved in the victim care process, and then it will carefully outline the legal and professional obligations that each party must fulfill. The researcher actively sought to incorporate best practices from throughout the world in addition to referring to Indian laws, codes of conduct, and standard operating procedures when establishing the professional obligations. Therefore, the purpose of this chapter is to enlighten and equip the following professionals with the knowledge of their responsibilities and duties so that they can work to secure justice in the broadest sense of the word. On the other hand, this chapter also provides crime victims with a wealth of information on their rights and expectations with regard to the following officials:

- I. Police and Law enforcement Agencies
- II. Public prosecutors and Advocates
- III. Judges and Judicial Officers
- IV. Medical Practitioners
- V. Non-Governmental Organizations (NGO)
- VI. Media (Print, digital and social media)
- VII. Employers

1.1 LAW ENFORCEMENT AND POLICE AGENCIES

The police and other law enforcement organizations are the backbone of the criminal justice system since they are the first responders to reported crimes. The police has a particular responsibility to assist victims in overcoming the immediate shock and to reestablish the

¹ Assistant Professor (Law), Dr. Ram Manohar Lohiya National Law University, Lucknow

² Research Scholar, Dr. Ram Manohar Lohiya National Law University, Lucknow

sense of security that they have lost, in the event that the state is unable to prevent the crime. The victim's psychological, physical, and emotional states should all be considered in the police's response. It should be required that police officers receive the following training:

- i) Victim assistance strategies and the capacity to offer victims "psychological first aid" in addition to victim sensitization.
- ii) Giving equal weight to technological know-how and physical training.
- iii) A functional legal knowledge foundation to guarantee effective prosecution-side investigations.
- iv) Provide instruction on cutting edge methods of investigation.

The following behaviors are matters of expectation and right for the victims, which turn into a legal and professional obligation for the police to protect and provide:

1.1.1 FIRST AID AND ANCILLARY RESPONSE:

- i) Offer victims "psychological first aid" in addition to first aid.
- ii) Perform a "needs assessment" on the victim to ascertain their short-, medium-, and long-term physical and psychological needs.
- iii) Behave honorably, compassionately, with regard for the victims' dignity, and without bias or personal convictions.
- iv) Don't use social, familial, or personal values as a justification for not encouraging the victim to report what happened.

1.1.2 REGISTRATION OF FIR:

- i) When a cognizable offence is committed, it is required to file a formal complaint (FIR). A preliminary investigation should only be conducted to determine whether a cognizable offence has been committed, not to determine whether that complaint should be filed.³

³ Section 154, Code of Criminal Procedure, 1973

- ii) The victim should get written notice of the cause for the findings within a week of the complaint if the preliminary investigation indicates that no offense is committed that is punishable.⁴
- iii) Give the victim a copy of the FIR as soon as possible, together with a written acknowledgement of the offense that includes the essential information that was reported to them.⁵
- iv) Make sure that the inability to file a formal complaint is not prevented by a lack of jurisdiction.
- v) If the offender makes threats against the victim, file a new FIR under section 506 of the IPC.

1.1.3 QUESTIONING AND INVESTIGATION:

- i) Before questioning the victim, advise them of their right to legal representation.⁶
- ii) When recording a victim's statement, the police should make sure that the victim's family, friends, or relatives are present, especially in cases of significant or heinous offenses.
- iii) Guarantee and uphold the victims' identity and the confidentiality of the information they provide.
- iv) Ensure that a female police officer is always present on the police station's premise.
- v) If there isn't a female police officer on duty at the police station, one should be called in from another jurisdiction.
- vi) Make sure that the only people who can question rape victims or child victims are skilled, sensitive, and sympathetic police officers.
- vii) If the victim is a minor, the statement should be obtained in a cordial manner from an unmarked investigating officer while the parents are present, ideally at the child's home.⁷

⁴ *Lalita Kumari v. State of U.P.* AIR 2014 SC 561

⁵ Id.

⁶ Section 50, code of Criminal Procedure, 1973 & Article 22(1) of the Constitution of India, 1950

⁷ Section 36, POCSO Act, 2012

- viii) All questions posed to victims throughout the inquiry phase should be informal and should treat each person as an individual rather than following a dehumanizing script.
- ix) Make sure that the officer who conducted the initial interview with the victim does so for all ensuing ones.
- x) All information should be gathered during questioning in a way that does not worsen the victim's trauma and should be documented in plain terms.
- xi) Make sure there is a steady supply of the tools needed to collect evidence.
- xii) The investigation needs to be finished quickly in order to prevent the accused from being granted bail on procedural grounds.

1.1.4 MEDICAL EXAMINATION:

- i) When investigating crimes against women, a female police officer and the investigating officer shall accompany the victim for any necessary medical examinations.⁸
- ii) When necessary, provide the victim a brief explanation of the type of medical examination.
- iii) As soon as the police officer learns of facts regarding the commission of the offense, they should notify the Rape Crisis Cell.
- iv) The medical officer and a forensics expert should accompany the investigating officer to the crime site in situations of significant or heinous offenses or wherever appropriate in order to guarantee that there are no investigative failures that could result in a false acquittal.

1.1.5 LEGAL AID:

- i) The police station should have a list of willing advocates who are experienced in handling cases of sexual assault, rape, or crime against children on display.
- ii) Let the victim know that they have the option to hire a private advocate.
- iii) Ensure that victims of sexual assault receive legal aid and are represented by counsel during questioning.

⁸ Section 164A, Code of Criminal Procedure, 1973

1.1.6 INFORMATION, SUPPORT AND ASSISTANCE TO VICTIMS:

- i) Inform the victim of any updates regarding the status of the investigation.
- ii) Notify the victim right away in the event that the accused is arrested or released on bond or parole.
- iii) The victim must be notified in writing of the reasons behind the closure of the investigation if it is discontinued or closed.
- iv) In order to prevent needless complexities and misunderstandings, the investigating officer should be able to communicate with the victim in their native tongue.
- v) Create a victim support unit inside the law enforcement agency.
- vi) To expedite their recuperation, provide the victims encouragement and assistance when they return to their regular schedules.
- vii) Explain to the victims of crime their legal, human, and fundamental rights.
- viii) Give the victim all the information on organizations that offer specialist support in accordance with their needs, including the organization's contact information and the kinds of services they can anticipate.
- ix) Whenever necessary, assist the victim in obtaining counseling services; collaborate with the district's voluntary groups, private institutions, and the government's mental health departments to offer these services.
- x) Give the victims the information they require, including the investigating officer's contact information, the phone numbers of toll-free helplines, support groups, and state victim compensation assistance.
- xi) Whenever necessary, make sure the victim receives free emergency medical attention, first aid, and any other interim benefits made available to them by section 357A(6) of the Code of Criminal Procedure.
- xii) Create a workable complaint system that has the power to discipline police officers who violate the guidelines for victim assistance outlined in this document.

1.2 PUBLIC PROSECUTORS AND ADVOCATES

Advocates and public prosecutors have a unique and specific duty to victims as agents of the court. Victims must always rely on advocates and public prosecutors for support in their pursuit

of justice. The job of the advocates in this situation goes beyond just provide legal representation; that is, it involves both advocacy and victim support. When considering the victim's point of view, much is lacking even if the Indian judiciary's conception of the public prosecutor's position maintains the ideals of justice, candor, impartiality, and propriety. Having stated that, an advocate hired by the victim or the public prosecutor ought to carry out the following tasks in relation to the victim's rights:

1.2.1 LEGAL AID:

- i) Make sure the victim is informed of their ability to work with a private advocate.
- ii) Even if you are called to the crime scene to provide guidance, assistance, and advise to both the victims and the police, always be ready to respond right away.
- iii) Make sure you are present when the victim is being questioned in order to support them in their interactions with the authorities.
- iv) While upholding justice and honesty, make sure that the victim's interests are your top priority.
- v) Defend the victims' fundamental, legal, and human rights.
- vi) Explain to the victims their legal, basic, and human rights, such as the right to restitution and restoration.

1.2.2 EXTRA LEGAL ASSISTANCE TO VICTIMS:

- i) Give the victim all the information on organizations that offer specialized help based on their requirements, including the organization's contact information and the kinds of services they can anticipate.
- ii) Ensure that all agencies handle the victim with decency, sympathy, and respect.
- iii) Assure victims receive the medical care and psychiatric counseling to which they are legally entitled, and help victims navigate the legal obstacles in the way.

1.2.3 ASSISTANCE DURING TRIAL:

- i) Guarantee the protection of the victim's privacy and the secrecy of the data they disclose.
- ii) Make sure that any correspondence you have with the victim is kept private.

- iii) Brief the victim on what to expect in the coming days and explain the nature of court processes.
- iv) Support the victim during their courtroom depositions.
- v) Make certain the victim has a companion or support person present during their deposition.
- vi) Help the victim draft the victim impact statement that will be spoken out in court and submitted to the judge.
- vii) Take the victims' account of what happened at face value, free from bias, judgment, or personal convictions.
- viii) Give careful thought to how the crime affected the victims' physical and emotional well-being.
- ix) Act without fear, with moral rectitude, empathy, deference to the victims' dignity, and without bias or personal convictions.
- x) Notify the victims in writing of any changes made to the charges against the accused, the discontinuation of the legal process, the dropping of charges, or the lack of proof.
- xi) Every public prosecutor ought to secure, assure, and promote the victim's involvement in the legal proceedings.
- xii) When determining the best course of action, public prosecutors ought to take the victims' opinions and beliefs into account.
- xiii) Tell the victim of their rights to pursue legal action against the accused, to demand reparations or restoration, and to remain silent. Every attempt should be made to obtain restorative justice when the victim would prefer it over retributive justice.
- xiv) Update the victim on the status of the court procedures and the ongoing proceedings.
- xv) Help the victim prepare for security in the event that the accused is freed on bond, probation, or in the event that the victim gets threats.
- xvi) Schedule court appearances and meetings in advance to help reduce the amount of time the victim and the accused – as well as the accused's attorney – interact.

- xvii) Encourage the victim, witnesses, and police to collaborate.
- xviii) Support the court in determining the appropriate sentence, repayment, and amount of compensation depending on how the victim was affected by the offense.
- xix) To protect the victim's best interests, stay informed on legal changes.

1.2.4 SECURITY OF THE VICTIM:

- i) Determine the psychological and physical obstacles preventing the victim from being safe in order to create a plan to ensure that safety.
- ii) Notifying the victim right away in the event that the accused is arrested or released on bail or parole.

1.3 JUDGES AND JUDICIAL OFFICERS

The judge in an adversarial system makes decisions in an impartial and unbiased manner. A significant portion of our legal system is devoted to the rights of the accused, which the courts are required to protect. While maintaining the rule of law in such a situation, it is crucial to remember that the victim should receive all the support they need to find closure and then go on to receive rehabilitation. The standards of ethics that judges and other judicial officials are required to uphold are not discussed in the chapter, but it is clear that how proceedings are handled, how the evidence is evaluated, and how the law is interpreted all have a significant impact on the victim's experience. In this situation, a judge's ability to keep control over the court procedures becomes essential to ensuring that the victim has a positive experience that supports and enhances rather than hinders their rehabilitation.

- i) Assure that all judges, court employees, and judicial officers undergo recurring training to increase their awareness of the requirements of victims.
- ii) Make certain that the victim is treated with appropriate regard, compassion, and respect throughout the entire process.
- iii) Reduce the security threats to the victim and witnesses by doing risk assessments following the collection of data regarding the accused's actions both before and after the crime from the relevant parties, police, advocates, prosecutors, and family.

- iv) Make sure the victim and the offender have as little interaction as possible while the case is pending.
- v) Ensure that the courtroom and the court premises have distinct waiting rooms and entrances for the accused and the victims.
- vi) Make certain that the victim doesn't have to wait a long time to provide testimony.
- vii) Verify that the questions the defense attorney asks the victims are neither offensive nor forceful and are given to judicial officers in advance for review.
- viii) Verify if the victim has received interim compensation; if not, make an order to provide the victim with such compensation.
- ix) Move quickly through the trial to avoid putting the victim through needless suffering in terms of travel, hotel, boarding, and other costs.
- x) Guarantee the victim receives payment for all costs incurred during the court processes, including hotel and transport.
- xi) Proceed quickly through the trial to reduce the psychological suffering that such trials inflict on the victim.
- xii) Verify that the victim's rights under the introduction's listed principles of aid, compensation, restitution, and fair treatment have been secured.
- xiii) Whenever necessary, make sure the victim has access to a free interpreter or translator so they can actively participate in advancing their right to obtain justice.
- xiv) Ensure that a victim impact statement is obtained from the prosecution or the victim, and where appropriate, permit the accused to hear the statement read out in court.
- xv) The principles of access to justice and fair treatment, as well as the right to assistance, must be upheld throughout the trial, even though the rights under restitution and compensation may depend on how the case turns out.
- xvi) The victim's impact of the offense should be considered while determining the appropriate sentencing or when considering bail requests.
- xvii) Direct the victim to obtain any specialist assistance, special measures, or legal protection they may need, particularly if they are at a higher risk of becoming a victim again or repeatedly. These services should include the provision of refuge,

medical attention, psychiatric counseling, legal counsel, and police protection, depending on the type of risk involved. For this purpose, victims of hate crimes, victims of human trafficking, victims of sexual violence, victims of domestic abuse, minors, and people with disabilities are among the victims who are more vulnerable.

- xviii) Order that recoverable victim property that has been taken for investigative purposes be promptly returned, unless there are special circumstances that require the opposite.
- xix) Make sure that the victim's privacy is protected, as is the secrecy of any information that might place the victim in danger.
- xx) Ensure that the process and rules established by the legislative and higher courts are followed to the letter and spirit and with the appropriate consideration.

1.4 MEDICAL PRACTITIONERS

Healthcare and medical professionals have a fiduciary duty to each and every one of their patients. Because of their line of work, they are uniquely positioned to help victims not just with medical care but also with fostering a sense of security and accelerating the rehabilitation process. Furthermore, the doctors' medical reports are frequently heavily relied upon, which has a significant impact on the case's conclusion. Healthcare providers can aid in securing justice by doing the following, all without sacrificing the effectiveness of the medical care they give the victim:

1.4.1 MEDICAL ASSISTANCE AND TREATMENT:

- i) Act impartially, compassionately, respectfully, and without bias or personal convictions toward the victims' dignity.
- ii) Exercise extra caution when dealing with victims who have particular requirements, such as women, children, people with disabilities, victims of sexual assault, and victims of human trafficking.
- iii) Make sure that the victim's best interests are your first priority, taking into account not just the victim's immediate medical needs but also the psycho-social

effects of the crime, the victim's long-term medical needs, and the victim's psychological needs.

- iv) In light of the aforementioned, you ought to provide primary counseling in addition to primary medical care. Wherever it is necessary, you should direct and refer the patient to specialized service providers for the long-term physical and psychological impacts of the crime.
- v) The victim's medical examination and treatment are legally necessary, and this is your main duty; the legal formalities come second.
- vi) Make sure that, unless there are special circumstances, such an emergency, the victim or the guardian has given their informed consent before beginning any invasive medical operations.
- vii) It is important to document the case's brief history in addition to listing each injury's specifics, such as its location, approximate measurement, and kind.
- viii) It's critical to document both the cases' diagnosis and their immediate prognosis.
- ix) Any discrepancies between the medical report and the case's documented history should be noted and corroborated.

1.4.2 DYING DECLARATION:

- i) It is important to confirm that the victim is in a reasonable state of mind before recording a dying declaration.
- ii) Write the final declaration in the form of a question and response exchange in plain, understandable language.
- iii) Take a verbatim recording of the dying declaration in front of two witnesses, making sure both the victim's and the witnesses' signatures are there.

1.4.3 MEDICAL EXAMINATION:

- i) Before performing medico-legal examinations, the victim's informed permission or, if necessary, the guardian's informed consent must be obtained.
- ii) If the victim is a female at the time of the examination, make sure a female attendant is present.

- iii) Only a female doctor should perform the medico-legal examination in cases when the victim is a female.
- iv) The medical officer should go to the crime site with the police officer in situations of significant or heinous offenses, or wherever appropriate, in order to gather the biological evidence required for an extensive medical report.
- v) Verify that all findings and results regarding injuries, forensic analysis, and laboratory testing are included in the medico legal report and are not just skimmed over.
- vi) While gathering samples for medico legal analysis and documenting the results, make sure you are knowledgeable about the most recent advancements in the fields of law, science, and technology.
- vii) Since the results are typically utilized in court to either discredit or humiliate the victim, the two finger test and the status of the hymen are no longer accepted as reliable methods for determining sexual assault and, as such, should not be used or documented in the medico legal report.
- viii) In cases of sexual offenses, the lack of injuries is also no longer seen as reliable evidence of consent, thus you shouldn't let that influence your decision-making in the medico legal report.
- ix) Keep in mind that you are the state's representative when conducting a medico-legal examination. That being said, this does not imply that you stop being a doctor in the eyes of the examinee. As with any other patient, you continue to owe the examinee all obligations and responsibilities.
- x) In order to enable the medical officer evaluating the victim to create or justify his view, the hospital/laboratory shall make sure that the medical officer receives a copy of the results of the evidences acquired during the examination.

1.4.4 OTHER DUTIES AND RESPONSIBILITIES:

- i) Checking for indicators of domestic abuse and violence in all patients who are at risk, such as women and children.

- ii) Reporting abuse and symptoms of domestic violence to the police, as well as anywhere you believe it will benefit the victim's interests to involve law enforcement.
- iii) Hospitals and other healthcare facilities should make sure that their employees receive regular, high-quality training that helps them become more sensitive to the requirements of victims as well as updates on judicial, governmental, and other guidelines related to the topic.

1.5 NON-GOVERNMENTAL ORGANISATIONS (NGO)

Through offering assistance to individuals who are directly impacted by an offense, such as victims, witnesses, and accused, NGOs play a number of functions within the criminal justice system. The NGO's services include, but are not restricted to, advocacy, education and support in the legal field, mediation, counseling, supervision, housing, and rehabilitation. NGO's can fill the gaps left by the State by offering such a wide range of services. Therefore, based on the specialized services the NGO offers, the chapter acknowledges the following obligations of NGO's to victims:

1.5.1 GENERAL DUTIES:

- i) Act impartially, compassionately, respectfully, and without bias or personal convictions toward the victims' dignity.
- ii) Talk to the victim in a straightforward and understandable manner to make sure they fully comprehend you and vice versa.
- iii) A translation must be given to the victim at no cost if they are illiterate in the local tongue or if they are a person with a disability.

1.5.2 ACCESS TO MEDICAL AND LEGAL AID:

- i) Support, counsel, and help the victim get the necessary short- and long-term medical care, psychological counseling, and protection.
- ii) Arrange for emergency referrals right away or offer direct support in the form of food, housing, medical attention, and counseling.

- iii) When a victim comes to you asking for assistance, report the incident on their behalf and support them all the way through.
- iv) Upon reporting the offense, make sure the victim gets a written acknowledgement.
- v) Where necessary, offer sufficient legal representation.
- vi) Educate the victims on their legal, human, and fundamental rights as victims of crime.
- vii) Explain to the victims that they are entitled to restitution and compensation.
- viii) Help the victim get compensated for the costs they paid while they were being tried.
- ix) Support the victims in their interactions with law enforcement and police personnel, making sure that their basic rights and dignity are upheld.
- x) Explain to the victims what happens in court and how it works.
- xi) The victim shall be provided with free translations of the court proceedings if the proceedings are being conducted in a language that they are not familiar with.
- xii) Help the sufferer file claims with private insurance and make sure their job and housing are maintained.
- xiii) Whenever necessary, get protective orders to guarantee the victim's safety.

1.5.3 REGISTRATION:

- i) Make sure your company is registered under the Companies Act of 2013 or the Societies Registration Act of 1860.
- ii) Make sure that, if necessary, your organization is registered under special and local laws with the appropriate state government. The Juvenile Justice (Care and Protection of Children) Act of 2015 and the Protection of Women from Domestic Violence Act of 2005 are two such examples.

1.6 MEDIA

The media, which is sometimes referred to as the "fourth pillar of democracy," has a significant influence on how society views crimes and handles victims. Needless to say, the ethics and

morals that media outlets and journalists promote have a big impact on the victim's experience. The media's main obligations to victims are as follows, even if they also have an obligation to present an unbiased and fair account:

- i) Treat the victims' dignity with care and respect, acting without bias or personal convictions.
- ii) Refrain from disclosing any details, like a name, address, or photo, that could be used to identify the victim.
- iii) Avoid taking pictures and speaking with the victims when it's not acceptable.
- iv) Avoid taking pictures or speaking with victims of sexual offenses or who are children.
- v) If the victim has any demands for interviews, only get in touch with them through their advocate.
- vi) Request an interview with the victim and include a list of questions to ask them.
- vii) Refrain from persistently contacting victims for interviews if the victim initially declines your request.
- viii) Honor the victims' and their families' right to privacy.
- ix) When conducting an interview with the victim, show them care and regard for their dignity.
- x) Avoid posing improper, impolite, offensive, or hostile inquiries.
- xi) When a victim is uncomfortable with an interview, accept their written comments in lieu of the interview.
- xii) Refrain from placing the blame or victim shaming on the victim of the offense.
- xiii) Don't disregard the victim's allegation until it has been validated in a court of law.
- xiv) Refrain from disclosing unneeded information that is irrelevant to the case and could discredit the victim.
- xv) Refrain from exalting the accused or the crime.
- xvi) Spread awareness of the rights that victims have and the responsibilities outlined below for front-line workers in all formats and languages.

1.7 EMPLOYERS

Employers not only have an obligation to prevent accidents at work, but they also have an obligation to assist the victim in getting well. By doing this, the victim's employers – both current and potential – can significantly contribute to their recovery process as they heal from the impact of the crime against them. Employers can accomplish this in the following ways:

- i) Treat the victims' dignity with care and respect, acting without bias or personal convictions.
- ii) Make sure that every employee treats the victims with dignity and compassion, acting without bias or personal convictions.
- iii) Regularly educate all staff members on the needs and requirements of crime victims through sensitization training.
- iv) Recognize that the victim's recurrent court appearances, medical procedures, or psychological trauma may impair their performance at work.
- v) Recognize that the victims' occupations have given them a certain amount of financial independence, which they must preserve in order to be rehabilitated, and that this job security can aid in their recuperation.
- vi) Ascertain that, during the reasonable amount of time needed for the victim's recovery, no disciplinary action is taken against them or their employment is terminated due to reduced working capabilities.
- vii) Make sure the victim is not subjected to any form of harassment, discrimination, or discrediting behavior at work.
- viii) When recruiting new staff, refrain from treating victims of crime differently.
- ix) Adjust or modify the victim's work schedule in line with their needs in order to guarantee productivity.
- x) Where necessary, give the victim lodging at no expense to them or at a reasonable rate.
- xi) Taking into consideration all of the above mentioned criteria, develop a thorough policy governing the benefits, security, and employee assistance programs to be provided to employees who are victims of crimes.

REFERENCES:

- P.V Reddi, Role of the Victim in the Criminal Justice Process (2016)
- Mike Maguire, The Needs and Rights of Victims of Crime (1991)
- Andrd Klip, Victim's Rights and its Impact on the Rights of the Accused (2015)
- Howard Zehr and Henry Mica, Fundamental Concepts of Restorative Justice (2018)
- R Mangoli and Nandini Devarmani, Role of Victims in Criminal Justice System: A Critical Analysis from Indian Perspective (2014)
- Gateway B & Hudson J "Restitution as a Victim Service" (1980) Evaluation and Change – Special Issue
- Mrinal Satish and Aparna Chandra, "Third Party Intervention in Criminal Litigation", (2005) 2 SCC (J) 72.
- King L W "Exploring Ancienr World Cultures – Reading from the Ancient Near East", accessed at <http://eawc.evansville.edu/anthologyhammurbai.html>
- Edwlhertz H "Restitution Justice: A General survey and Analysis" January 1975 Bottelle Law andf Justice Centre
- Herrington L H "Dollars and Sense: The Value of Victim Restitution" (1986) 48 Corrections Today
- Warrington E H "Remains of Old Latin III, circa 450 BC, assessed at <http://members.aol.com/pilgrimojon/private/LEX/12tables.html>.