





# Participation of the Mexican state in the protection of the rights of victims in the accusatory criminal justice system

## Participación del estado mexicano en la protección de los derechos de las víctimas en el sistema de justicia penal acusatorio

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### ABSTRACT

**Introduction:** The Mexican State assumes the constitutional responsibility of guaranteeing the pursuit, administration, and dispensation of justice, based on the imperatives of due process. The main objective of this research is to analyze the current regulatory framework that establishes comprehensive legal, medical, psychological, and other forms of protection and assistance for those who can prove their status as victims or injured parties.

**Methodology:** Using a mixed methodological approach, qualitative analysis was employed to track and systematize theoretical evidence concerning compliance with the Mexican legal system. In addition, official quantitative research was integrated, specifically data derived from the National Survey on Victimization and Perception of Public Safety (ENVIPE) of the National Institute of Statistics and Geography (INEGI), to empirically measure the phenomenon.

**Results:** The study evaluates state performance in the effective implementation of reparations, critically examining the substantive effectiveness of the public policies implemented and the degree of compliance with the relevant legal provisions. The findings reveal persistent deficiencies in the practical assistance provided to victims or offended parties, identifying critical areas of opportunity for advancing the specialized professionalization of the public servants involved.

**Conclusions:** As a fundamental conclusion, the study highlights the urgent need to implement ongoing awareness-raising and training processes with a victim-centered perspective for all personnel involved in the various stages of the process, in order to ensure empathetic treatment that is strictly in line with the full recognition of their fundamental rights.

**Keywords:** Administration of justice, justice, law, penal sanctions, right to justice

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### RESUMEN

**Introducción:** El Estado mexicano asume la responsabilidad constitucional de garantizar la procuración, administración e impartición de justicia, fundamentada en los imperativos del debido proceso. Esta investigación tiene como objetivo central analizar el marco normativo vigente que establece la protección y la asistencia integral, jurídica, médica, psicológica y de otra índole, destinada a quienes acrediten la condición de víctimas u ofendidos.

**Metodología:** Desde un enfoque metodológico mixto, se empleó el análisis cualitativo para rastrear y sistematizar evidencias teóricas concernientes a la observancia del ordenamiento jurídico mexicano. De forma complementaria, se integró investigación cuantitativa oficial, específicamente datos derivados de la Encuesta Nacional de Victimización y Percepción sobre Seguridad Pública (ENVIPE) del Instituto Nacional de Estadística y Geografía (INEGI), para dimensionar empíricamente el fenómeno.

**Resultados:** El estudio evalúa el desempeño estatal en la materialización efectiva de la reparación del daño, examinando críticamente la eficacia sustantiva de las políticas públicas implementadas y el grado de cumplimiento de las disposiciones legales pertinentes. Los hallazgos revelan deficiencias persistentes en la atención práctica brindada a víctimas u ofendidos, identificándose áreas críticas de oportunidad para avanzar en la profesionalización especializada de los servidores públicos involucrados.

**Conclusiones:** Como conclusión fundamental, se subraya la imperiosa necesidad de implementar procesos continuos de sensibilización y formación con perspectiva victimocéntrica dirigidos a todo el personal que interviene en las diversas etapas procesales, con el fin de garantizar un trato empático y rigurosamente ajustado al reconocimiento pleno de sus derechos fundamentales.

**Palabras clave:** Administración de justicia, derecho, derecho a la justicia, justicia, sanción penal

**Clasificación JEL:** K14, K56, K42.



## INTRODUCTION

Human beings' everyday activities can trigger conflictive situations, requiring the intervention of the law, which is designed to regulate people's behavior through existing legal norms (Illera Santos, 2022). In Mexico, the Constitution prohibits individuals from exercising free will to take justice into their own hands or violently demand the fulfillment of a right they believe they are entitled to. In these cases, the appropriate course of action is to go before the competent authorities to resolve violations of legal norms, in accordance with the guidelines of the rule of law that prevails in the country (Martínez Mejía & Martínez Mejía, 2022).

In the area of crime, the Mexican government's public policies, with the establishment of formal social control, aim to prevent crime. It is regrettable to note that this effort is not always sufficient, since human behavior can be harmful to others and violate the social order by externalizing criminal conduct. The appropriate course of action in this case is the establishment of due process, in accordance with respect for the human rights of all subjects of the process and their assistants, in accordance with the provisions of the Adjective Criminal Law, mainly. For this reason, judicial decisions are made in accordance with the guidelines contained in the Political Constitution of the United Mexican States, considered the supreme law or Constitution of the Mexican Republic (Valenzuela Gastélum et al., 2024).

In the interest of the common good, the Mexican State has transformed the criminal procedural legal framework, the institutions, and the personnel responsible for collaborating in the investigation and punishment of criminal conduct. Historically, the mixed inquisitorial criminal justice system faced persistent criticism for its slow proceedings, lack of judicial attendance at hearings, insensitivity of officials, poor attention to victims, and systemic failures in the administration of justice.

This scenario generated an urgent social demand for a criminal justice system that would guarantee dignified treatment of the parties without undermining their human rights. The implementation of the adversarial criminal justice system began with the 2008 constitutional reform, which amended ten articles of the Constitution, seven of them on criminal matters, laying the foundations for the transition from an inquisitorial model to an adversarial one, in line with international human rights instruments signed by Mexico (Palazuelos Covarrubias et al., 2019).

It is clear that the law requires constant adaptation, as the legislative branch must respond to social demands to repeal or adjust regulations to specific contexts. This legislative process is crucial, as it requires that all judicial or administrative actions be based on and justified by the legal system. The evolution in the investigation and punishment of crime is demonstrated in the constitutional reforms of June 8, 2008, which determined the transition to the Accusatory and Oral Criminal Justice System. These reforms to Articles 16, 17, 18, 19, 20, 21, 22, 73, 115, and 123 had an impact on criminal justice and public security, with key objectives: to establish constitutional bases for the new model; to strengthen the accusatory system by eliminating inquisitorial features; to introduce oral trials for transparency; to expand victims' rights; optimizing investigations; combating impunity; regulating ministerial and police investigations; confronting organized crime; promoting alternative mechanisms; and modernizing public security (Secretaría Técnica del Consejo de Coordinación para la implementación del sistema de justicia penal, 2014).

Among the significant changes was the unification of regulations through the National Code of Criminal Procedure, replacing state codes. This accusatory and oral model prioritizes: expanding the rights of defendants and victims; effective training for operators; adequate infrastructure for hearings (such as witness rooms); comprehensive reparation for damages; and guiding principles. These principles, which are mandatory and prevailing norms, are binding, hierarchical, and hermeneutic in nature (Reimbaevich, 2025). Five principles are fundamental: publicity (accessible hearings, with exceptions such as the protection of minors); immediacy (non-delegable judicial presence); continuity and concentration (procedural speed); and contradiction (the right to refute arguments).

Within this framework, the research analyzes the criminal process as a sphere of protection for victims, a state mechanism for investigating offenses, prosecuting and resolving disputes, guaranteeing fundamental rights and effective justice (Schmidt, 2024). The central purpose is to evaluate the effectiveness of the accusatory system in the actions of investigating authorities, specifically in satisfying victims through reparation for damages. By filing a complaint, victims gain access to rights such as free legal advice, medical/psychological assistance, and alternative mechanisms (summary proceedings, reparatory agreements). The protection of their human rights is paramount, as these are inherent rights of the human condition for a dignified life without discrimination (Fikfak & Izvorova, 2022). Despite their legal and international recognition, tensions persist, such as prison overcrowding without comprehensive reparations for victims. The reform prioritized precisely this reparation, scientific investigation of crime, and the reduction of impunity.

## METHODOLOGY

This socio-legal research was based on a mixed approach. The qualitative and descriptive documentary method was used due to the need to search for and compile theoretical evidence from both bibliographic and legislative sources. The purpose of this methodological component was to achieve an in-depth observation of the legal framework and the sphere of protection afforded to those who are legally recognized as victims or injured parties in criminal proceedings. Quantitative research was used to analyze trends in the results of the national survey on victimization and perceptions of public safety (ENVIPE) conducted by the National Institute of Statistics and Geography (INEGI). This complementary approach provided an overview of the effectiveness of government policies on public safety in light of the international and national legal framework.

Concerning the central topics, the adequacy of the behaviors classified in criminal legislation was analyzed, which is sometimes questioned by citizens due to the inadequacy of the strategies implemented to reduce crime rates. In addition, the effectiveness of state intervention in the treatment and medical, legal, and psychological assistance provided to victims of crime was evaluated. In order to address these issues, per the Mexican legal framework, it is inevitable to resort to criminal law, as it provides alternative mechanisms for crime prevention and jurisprudential and instrumental tools to provide legal certainty to members of society, especially those who suffer the violation of their legally protected rights.

## RESULTS and DISCUSSION

### Legal framework for victims' rights in criminal proceedings

The legal framework for victims' rights in criminal proceedings defines procedural subjects as those who exercise or face a substantive legal relationship, vested with powers to uphold or contradict it (Sucari Cruz, 2022). This right of action, through a complaint or lawsuit, initiates the investigation to reconstruct the historical and scientific truth of the criminal act, assign responsibility, and deliver justice.

When analyzing the subjects of the process, it is crucial to differentiate between parties (victim/offended party and defendant), auxiliaries (Public Prosecutor's Office, legal advisors, police), and intervening parties (judicial body). The victim or injured party suffers direct or indirect damage to a protected legal right, with the distinction that the victim is the passive subject upon whom the criminal conduct is directed. In contrast, the injured party is the owner of the damaged property. If the victim dies or is unable to exercise their rights, their spouse, common-law partner, blood relatives, relatives by marriage, or persons with an emotional relationship are considered offended parties (Carreón Perea, 2016).

The National Code of Criminal Procedure (CNPP) regulates these actors:

- Defendant: Alleged perpetrator or mastermind.
- Victim/offended party: Subject of violated legal rights.
- Public Ministry: Compiles the investigation file to decide whether to bring criminal charges.
- Legal advisor: Represents the victim.
- Defense attorney: Lawyer who assists the defendant.
- Police: Assists in scientific investigation and maintaining order.
- Jurisdictional body: Directs procedural actions.
- Precautionary measures unit: Monitors decisions to ensure the defendant's assistance and the victim's safety.

Various instruments enshrine fundamental rights to preserve human dignity. According to the United Nations General Assembly (1985), "victims" include those who suffer physical, emotional, or financial harm or impairment of rights through crime or abuse of power, extending to family members or persons who assist the direct victim.

The legal framework of the adversarial system is based on:

- Political Constitution of the United Mexican States.
- Federal Criminal Code.
- CNPP.
- General Victims' Law.
- Specialized laws (children, women free from violence).

The reform of Article 20 of the Constitution (DOF, June 18, 2008) established key rights for victims and offended parties: legal counsel, assistance from the Public Prosecutor's Office, medical/psychological care, and

compensation for damages (Covarrubias Flores, 2014, p. 338). This momentous change shifted the focus away from the accused, balancing the need to punish deviant behavior (considering aggravating, mitigating, or extenuating circumstances) with the comprehensive protection of the victim. This means avoiding revictimization during the reporting, evidence gathering, or trial stages through alternative solutions (reparatory agreements) or early termination of the proceedings. Figure 1 shows a textual analysis of the constitutional reforms to Articles 16, 17, 18, 19, 20, 21, 22, 73, 115, and 123, insofar as they impact the criminal justice system and others impact public safety.

**Figure 1.**

Word cloud of key terms in the constitutional reforms to the aforementioned articles



Source: own elaboration.

### Victims' rights in criminal proceedings

The criminal process, established to investigate alleged criminal conduct through essential legal formalities, aims to reconstruct the historical truth of the facts and issue well-founded decisions. The National Code of Criminal Procedure (CNPP), together with other legal provisions, establishes the fundamental guidelines. The Political Constitution of the United Mexican States, in Article 20, distinguishes between the rights of the accused (section A) and those of the victims (section C). This list is substantially expanded in Article 9 of the CNPP (2024), which enumerates the rights of the victim or injured party in all proceedings:

#### *Rights to information and access*

- To be informed of your constitutional rights (I).
- To receive services from the Public Prosecutor's Office, assistants, and judicial bodies with legality, honesty, loyalty, impartiality, professionalism, efficiency, gender perspective, effectiveness, and due diligence (II).
- Access specific information (service by personnel of the chosen gender, urgent medical/psychological assistance, legal advice) (III).
- Communicate with family members or legal counsel after the crime (IV).
- Be notified of the progress of the proceedings (V).

### *Rights to protection and dignified treatment*

- Respectful treatment without discrimination (VI, VIII).
- Free legal advice at any stage (VII).
- Prompt, free, and impartial access to justice (IX).
- Protection from risks to life or integrity (XVI).
- Protection of identity in sensitive crimes (rape, kidnapping, trafficking) (XXVI).

### *Rights to participate in proceedings*

- Participate in alternative dispute resolution mechanisms (X).
- Receive assistance from an interpreter (XI) or procedural adjustments due to disability or advanced age (XII).
- Provide evidence, conduct proceedings, participate in trials, and file appeals (XIV).
- Request investigative measures (XVII), precautionary measures (XIX), or transfers due to physical/psychological impossibility (XX).
- Challenge omissions by the Public Prosecutor's Office (XXI).

### *Rights to reparation and additional guarantees*

- Access to investigation records (except where subject to judicial confidentiality) (XXII).
- Restitution of accredited rights (XXIII).
- Reparation for damage during the proceedings (XXIV) or after the judgment (XXV).
- Notification of withdrawals or final decisions (XXVII).
- Request for the reopening of suspended proceedings (XXVIII).

### *Special protections*

- Minors: Application of the *best interests of the child*, prevalence of rights, and comprehensive protection (CNPP, 2024, p. 7).
- Women victims of violence: Rights established in the *General Law on Women's Access to a Life Free of Violence* (CNPP, 2024, p. 7).

The victim or injured party, when exercising their right to take action by going to the Public Prosecutor's Office as the institution responsible for investigating the commission of allegedly criminal acts and reporting the circumstances thereof, using a complaint or criminal complaint following the legal right protected by criminal law and which has been violated, has essential, human, and legal rights. It is of paramount importance that they be treated with dignity, professionalism, and total protection, and that the official treat them with empathy, respect, and above all, promptly, always seeking to follow the protocol already established in the regulatory framework governing their actions, establishing the parameters to be followed in order to determine, based on the investigations to be carried out with the support of their assistants, such as the investigating police and experts, whether a crime has been committed and who is likely to be responsible, giving priority to redressing the harm caused to the victim or injured party.

In Mexico, society is multicultural, which is why the rights of victims are designed to allow for reasonable adjustments when the victim or offended party does not speak or understand Spanish, belongs to an ethnic or indigenous group, or is a Mexican or foreign national. Every action taken by public servants must be free of any discrimination based on origin, gender, membership of the LGBTTQ+ community, or any other grounds.

In the case of sexual crimes, when the medical examiner examines the victim to perform the relevant tests, such as anal or vaginal swabs, the victim has the right to be attended by a person of the same gender as the victim, in order to avoid further trauma. In addition, alternative dispute resolution mechanisms in criminal matters are important. The reparation of the damage may be resolved, and the judge is not aware of the contents of the investigation file. However, by proceeding in accordance with the applicable legal requirements, the victim may be satisfied with a settlement or mediation.

The list of victims' rights is extensive. However, victims or injured parties do not always declare themselves satisfied with the reparation of damages or the restriction of their rights. They often consider the process of going through the institutions responsible for investigating and prosecuting criminal conduct; the public perception of access to justice that is prompt, impartial, and expeditious is not always expressed with gratitude. Figure 2 shows the main terms in the catalog of victims' rights, as set out in Article 9 of the Adjective Criminal Law.





one member was a victim of crime, a percentage similar to that recorded in 2022. The number of adult victims (18+ years) reached 21.9 million, with a crime prevalence rate of 23,323 per 100,000 inhabitants. A slight gender disparity was observed: 22,903 women versus 23,817 men affected per 100,000 inhabitants (Instituto Nacional de Estadística y Geografía, 2024).

A critical underlying phenomenon is the number of unreported crimes: victims who do not exercise their right to take action by failing to file a complaint with the Public Prosecutor's Office. This statistical underrepresentation stems from structural factors such as chronic distrust of institutions, the perception of impunity, and the insensitivity of public servants, which discourage reporting and perpetuate the invisibility of social harm.

### **Reparations for victims of crime: approaches and challenges**

The psychological and physical consequences, as well as the family, work, and social imbalances suffered by many victims, are immeasurable. Penal codes establish lists of the legal consequences of crimes, and financial penalties, including fines and compensation for damages, are among them. One of the objectives of criminal law is to provide compensation for damages (Valenzuela Gastélum et al., 2024). In reality, there is discontent among those who have unfortunately been victims or offended parties in criminal proceedings.

Article 2 of the National Code of Criminal Procedure (CNPP, 2024, p. 1) defines the central purpose of criminal procedural law: to establish the rules governing the investigation, prosecution, and punishment of crimes, articulating five essential interrelated objectives: 1) objective clarification of the facts; 2) effective protection of the presumption of innocence; 3) prevention of impunity through punishment of the perpetrator; 4) full reparation for the damage caused; and 5) guarantee of access to justice as a mechanism for resolving the social conflict generated by the crime. All of this must be done within a binding framework of respect for the human rights recognized in the Political Constitution of the United Mexican States and in international treaties ratified by the Mexican State, thus establishing a procedural paradigm that balances the punitive power of the state with the reinforced protection of fundamental guarantees.

It is necessary to give due importance to the correct and timely reparation of the damage caused to the victim or injured party of a criminal act. Once the legal right protected by criminal law has been affected, it can never return to its original condition. Talking about repairing the damage, when this is achieved, will never be enough for the injured party, if it is also considered that justice in this area was swift and expeditious. However, in most cases, the process is lengthy and exhausting, ultimately revictimizing the offended parties. Therefore, in all proceedings, priority must be given to repairing the damage as soon as possible after the commission of the unlawful act and, where this is not possible, ensuring that it is secured by means of a guarantee or precautionary measure issued in a timely manner, while also attending to and respecting the rights of the accused or defendant.

The area of alternative dispute resolution mechanisms in criminal matters plays a very important role in seeking, through awareness-raising work with victims or injured parties and the accused, to establish measures aimed at resolving the conflict between the parties, guaranteeing and ensuring reparation for the damage caused, and attempting to avoid prolonged revictimization in lengthy and exhausting proceedings, without omitting that this will depend on the type of crime and damage caused, as established in the criminal procedural law.

The right to comprehensive reparation for victims, enshrined in the Ley General de Víctimas (2024), requires a timely, full, differentiated, transformative, and effective response to harm resulting from crimes or human rights violations. This concept encompasses five interconnected dimensions: restitution, rehabilitation, compensation, satisfaction, and guarantees of non-repetition. To be comprehensive, reparation must be proportionate to the severity of the harm and take seven forms: first, the restitution of the unlawfully obtained property or its current value; followed by compensation for material and moral damage, including medical and psychological care, social services, and necessary rehabilitation treatments, with an emphasis on crimes against psychosexual freedom or domestic violence, where specific psychotherapeutic therapies are guaranteed.

At the same time, it includes compensation for damages; financial compensation for loss of income and loss of earnings (calculated according to the victim's previous salary or the minimum wage in force); reparation for loss of opportunities in employment, education, or social benefits; and the restoration of dignity through public statements. In addition, symbolic measures such as public apologies, acceptance of responsibility, and guarantees of non-repetition are included when public servants commit the crime.

Complementarily, the Código Penal Federal (2024) emphasizes that rehabilitation mechanisms must be comprehensive and restorative, allowing the victim to fully reintegrate into public, private, and social life. These

elements transcend mere financial compensation toward a reconstructive approach to the victim's life project. Finally, Figure 3 shows the corresponding word cloud.

**Figure 3.**  
*Word cloud of key terms related to damage repair*



Source: own elaboration.

## CONCLUSIONS

Human behavior can violate legal rights protected by criminal law. Whether intentional, negligent, or premeditated, single or multiple, subjective or objective, by action or omission, the perpetrator of the crime may carry it out in different ways that may aggravate, mitigate, or exclude criminal liability. In any of these situations, there is a clear violation of the legitimate interests of the victim or injured party, even though there is a legal framework for the protection and promotion of their rights, together with the support of legal or victim's counsel and a list of the legal consequences of the crime, which would allow them to feel a sense of satisfaction when seeing the person who caused them harm or danger convicted.

The perception of public mistrust of the institutions and authorities responsible for the prosecution, administration, and delivery of justice is regrettable. Despite the existence of legal norms regulating this delicate function, they cannot be held accountable for their actions due to the apathy of the State, which in most cases protects these officials. This has fostered impunity to the detriment of citizens, when the existence and protection of their rights should be the central focus of their actions.

Greater responsibility and political will are required on the part of the State to commit its officials in charge of the State Prosecutor's Offices and the Attorney General's Office, as well as the judicial bodies, to restrict their actions to the regulatory system of the Political Constitution of the United Mexican States, the National Code of Criminal Procedure, the Federal and State Penal Codes, as well as existing organic and secondary laws, protocols, and decrees.

Therefore, these individuals should be warned that in the event of non-compliance and non-observance, the corresponding administrative and criminal sanctions will be applied. This will ensure that the rule of law prevails, that the applicable rules are respected, and that officials act with empathy and humanity toward citizens whose rights have been affected and who seek protection and compensation for the damage caused, but who find themselves faced with neglected institutions.



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