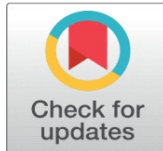
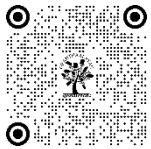


VICTIM IMPACT STATEMENT: COMPARATIVE ANALYSIS OF THE INDIAN CRIMINAL JUSTICE SYSTEM WITH WESTERN COUNTRIES SPECIFIC REFERENCE TO USA, CANADA, UK, AND AUSTRALIA

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[10.29121/shodhkosh.v5.i3.2024.3279](https://doi.org/10.29121/shodhkosh.v5.i3.2024.3279)

Funding: This research received no specific grant from any funding agency in the public, commercial, or not-for-profit sectors.

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ABSTRACT

The Indian criminal justice system, rooted in principles of justice and equity, faces challenges in adequately addressing the needs of crime victims, often focusing primarily on punishing offenders. This contrasts with practices in Western countries, specifically the USA, Canada, Australia, and the UK, where victim-centric approaches have gained widespread recognition. Globally, there has been growing acknowledgment of the importance of giving crime survivors a voice and recognizing their rights. However, in India, victims have historically been overlooked, with limited opportunities to participate in the justice process. This study explores the legal framework surrounding victims in India and the potential for integrating Victim Impact Statements (VIS) during sentencing. The article aims to assess the efficacy of existing provisions, focusing on the judiciary's role in recognizing victims' rights and needs. By analyzing the comparative status of VIS in India, the USA, Canada, the UK, and Australia, this research identifies the strengths, limitations, and gaps in India's criminal justice system. The study also highlights the benefits of VIS in empowering victims, offering them a sense of justice, and addressing challenges in their practical implementation. Through doctrinal research, the article proposes recommendations to enhance the use of VIS in India, aiming to create a more compassionate and just criminal justice system. The article is structured in five parts: the introduction, an exploration of VIS and comparative analysis, the benefits of VIS, challenges and opportunities for victim empowerment, and concluding recommendations. This proactive approach can significantly improve how victims are treated in India, making strides towards a more victim-centric justice system.

Keywords: Victim-Centric Approach, Compensation, Victim Impact Statement, Indian Criminal Justice System, Justice, Equity

1. INTRODUCTION

India's criminal justice system is based on the common law system, so it uses an adversarial system to run the criminal justice system. India's penal philosophy embraces the dual objectives of crime prevention and the rehabilitation and reintegration of offenders into society. As a result of this, the accused have been allowed to offer a defence in court, and the human rights commission has taken significant steps to guarantee that their rights as accused persons are safeguarded throughout the entirety of the judicial process. These ideas have been reaffirmed by the Supreme Court in many of its rulings.

Unfortunately, the paradigm has not yet been adequately putting attention to the interests of victims and their rights within the framework of India's criminal justice system. Unless identified as a witness in the trials or receive fewer privileges than it does to offenders under the criminal justice system.

In this context, for the first time, the Law Commissions of India in its 154th report¹ added a new dimension to the victim-centric approach. Whereas, this new dimension ensured that the choices, safety, and well-being of victims were given top priority in all situations. Moreover, by acknowledging the harm caused to victims and supporting them, the criminal justice system can demonstrate its commitment to upholding the rights of all individuals, including survivors of crime. The Supreme Court of India, however, in the case of *Rattiram&Ors. v. State of M.P., 2012*², has rightly emphasized the importance of protecting the rights of victims. India has analyzed the role of the judiciary in recognizing the rights and needs of victims of crime and has often emphasized the significance of bringing justice to victims of crime. Throughout the past few decades, India's criminal justice system has undergone substantial reforms aimed at better protecting the rights of crime victims, including the introduction of victim impact statements and new compensation programs. Recently, The Supreme Court ruled that the victim and kin's of the deceased victim of a crime can participate in the sentencing process by presenting a victim impact statement to the judge before the court³ which helped to illustrate the severity of the crime and the impact it had on the victim's family. Accordingly, the panel ruled that punishments should also be "meaningful" to the person who was punished. Therefore, it helped to provide some measure of justice and support to the family in the aftermath of the crime.⁴ Similarly, the Supreme Court compensated the victim and their family for the monetary losses they sustained as a result of the crime.⁵ Overall, Victim impact statements and financial compensation are two important parts of the Indian criminal justice system that provide victims a voice and recognition while also helping to expedite the delivery of justice. It provides a way for survivors to move forward with their lives and begin the healing process. This article addresses the need for victim impact statements and their function in the sentencing process from a legal perspective. This study also examines the feasibility, challenge, and effectiveness of providing justice to victims of crime while scrutinizing the role of the judiciary by recognizing the rights and needs of victims of crime.

2. RESEARCH METHODOLOGY

This study adopts a doctrinal research approach to examine the status of victim impact statements in India, as compared to the United States, Canada, United Kingdom, and Australia. This article has been split into five major parts. The introduction provides a conceptual background. The second part will explore the concept of Victim Impact Statements (VIS), providing a comparative analysis of their implementation in the USA, Canada, UK, Australia, and India. It will also examine recent statutory provisions and judicial advancements related to VIS in these jurisdictions. The objective is to identify similarities, differences, and areas for improvement in India's criminal justice system. The study emphasizes a lack of understanding and potential misuse of victim impact statements. While the third part conducts explores the benefits of victim impact statements. The fourth part discusses challenges and opportunities for empowering survivors of crime. The fifth part is the Concluding part proposed some recommendations to assert that victim impact statements can be a crucial tool in ensuring the right to be heard for crime victims during the trial process.

3. CONCEPT OF VICTIM IMPACT STATEMENTS

In India, the term 'victim'⁶ was codified in **Section 2(wa) of the Code of Criminal Procedure, 1973** in 2009. It has also been specified in Article 1⁷ and 2⁸ of the Declaration of Fundamental Principles of Justice for Victims and Abuse of Power by the United Nations General Assembly. While it has been recognized that victims play an expanded role in the criminal justice process.

¹Law Commissions of India, 154th Report, (May 28, 2023),

<https://cdnbbsr.s3waas.gov.in/s3ca0daec69b5adc880fb464895726dbdf/uploads/2022/08/2022080878-1.pdf>.

²*Rattiram&Ors. v. State of M.P., AIR 2012 SC 148*

³*MallikarjunKodagil (Dead) v. State of Karnataka* (2018),

⁴*KrishnadasRajagopal, Victim of a crime should have a say in punishment: Supreme Court*, The Hindu, (Oct. 14, 2018, at 10: 06 pm), (June 01, 2023), <https://www.thehindu.com/news/national/victim-of-a-crime-should-have-a-say-in-punishment-supreme-court/article25221532.ece>.

⁵*Bhopal gas tragedy: Supreme Court rejects more money for victims*, BBC News, (2014, March 14), (June 01, 2023) <https://www.bbc.com/news/world-asia-india-64899487>.

⁶The Code of Criminal Procedure (Amendment) Act, 2008, No. 5, Acts of Parliament, 2009 (India).

⁷Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, Art. 1. & Art. 2.

⁸*Ibid.*

In light of that victim has evolved into "important actors" rather than "forgotten participants". Accordingly, the criminal justice system has started working in this regard. In addition, the criminal justice system came up with a new concept of victim impact statements. Whereas, several developed nations have begun to adopt it and developed their victim-specific laws including the USA, Canada, Australia, and many European countries.

Further, India's criminal justice system has long overdue to follow suit. Victim also has the freedom to express themselves, and it is the obligation of the country to listen.⁹

Recently, Victim Impact Statement guarantees the right to be heard, as well as the right to express rage, dissatisfaction, and suffering as a consequence of the crime, including the right to try to communicate one's viewpoint about the offending parties' approach.

Recently, in criminal law, the concept of Victim Impact Statement was introduced in the new Code of Criminal Procedure (Amendment) Bill, 2020 that was passed in favour of victims or their kinsof the deceased victim of such crime. Further, the Supreme Court not only mandated the introduction of a victim impact statement to secure the victim's involvement or provide support in the preliminary proceedings but also restored the victims' right of appeal against an unfavourable order.

Victim impact statements (VIS) A victim impact statement is a written or oral statement by the victim or their family members, describing the physical, emotional, and financial impact of the crime on their lives.

The purpose of VIS is to provide a voice to victims, allow them to express their feelings about the crime committed against them, and inform the court of the impact the crime has had on their lives. In addition, VIS can provide judges with important information about the harm caused by the crime, which can help inform sentencing decisions. The statement is considered by the court while deciding the sentence to be imposed on the offender. While there is no specific provision in the Indian Penal Code that deals with VIS,".

Victims can also be categorized as-

1. Primary: A primary victim refers to an individual who endures harm, such as physical, psychological, or financial injury.
2. Secondary: A secondary victim is someone who suffers because of the harm inflicted upon the primary victim, typically due to their relationship with the primary victim.
3. Tertiary Victims: Tertiary victims are those individuals who experience harm or injury resulting from the criminal actions of others, despite having no association with the conflicting or opposing parties. For example, people who become targets of communal riots or terrorist attacks.
4. Resultant victims:- is a victim who is a result of the victimization of someone else. However, suffers the agony, pain, Injustice, and suffering without any fault of his or her.

In conclusion, the use of victim impact statements in the Indian criminal justice system has gained acceptance in recent years, and there are both benefits and challenges associated with their use. While VIS can provide victims with a greater voice in the criminal justice process and can help judges make more informed sentencing decisions, there are concerns about the accuracy and reliability of the information presented and the potential for some victims to be excluded from the process.

1. Comparative Analysis of Victim Impact Statement in Indian Criminal Justices System with Western Countries Specific Reference to United States, Canada, Australia, and the United Kingdom

From a global perspective, VIA (Victim Impact Assessment) plays a vital role in addressing the needs of victims

Revamping the criminal justice system through victim's participation, particularly with Victim Impact Statement. Whereas, the right of Victim Impact Statement has gained significant attention worldwide, majorly this right has to be used in Western countries with specific reference to the USA, Canada, Australia, and the UK. The role of victim impact statements is crucial in providing survivors with a voice and recognition within the criminal justice system. This comparative analysis will explore how these aspects are addressed under the Indian criminal justice system and in Western countries.

⁹ G.S. Bajpai, "A victory for crime victims," The Hindu, (May 11, 2022), (June 05, 2023), https://www.researchgate.net/publication/331045772_Victim_Impact_Statement,

Here is a comparative analysis of the mentioned countries:

1. United States:

In the United States, victim impact statements have been widely embraced as a means of empowering crime victims and giving them a voice in the criminal justice process. Victim impact statements allow victims to share their personal experiences, emotions, and the impact of the crime on their lives during the sentencing phase of a criminal trial. The statements aim to provide judges with a deeper understanding of the harm caused and help them make informed sentencing decisions. The inclusion of victim impact statements varies across states, but it has generally been well-established and recognized in the US legal system¹⁰. The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985¹¹, marked a significant milestone in empowering victims. This declaration advocated for the rights of victims, including protection, assistance, and participation in the justice system. It emphasized the importance of giving victims a strong voice during trials while still upholding the rights of the offender.¹² In the United States, the constitutionality of Victim Impact Statements (VIS) was established in the case of *Payne v. Tennessee*¹³, aligning through 'the principle of proportionality'.¹⁴ In 2004, the legislative body passed 'the Crime Victims' Rights Act', recognizing and honoring the rights of victims to actively participate in the justice system.¹⁵

2. Canada:

Canada has also implemented victim impact statements as part of its criminal justice system. The Canadian system recognizes the importance of victims' rights and encourages their participation in the legal process. Victims can present their statements at various stages of the criminal justice process, including bail hearings, plea bargains, and sentencing. The statements are intended to inform judges about the harm suffered by victims and assist in determining appropriate sentences.¹⁶ In Canada, victims do not merely possess the right to share their Victim Impact Statements (VIS), although the court can also inquire about the opportunity provided to them for preparing the VIS. Courts may even delay proceedings to allow victims to submit their statements.¹⁷

Australia:

Australia has also recognized the value of victim impact statements in its criminal justice system. Victim impact statements enable victims to express the impact of the crime on their lives, which can be taken into consideration during sentencing. The statements are usually submitted in writing and can be read aloud in court if the victim desires. The use of victim impact statements in Australia aims to ensure that victims' voices are heard and that their experiences are acknowledged in the criminal justice process.¹⁸

United Kingdom:

¹⁰ Robert C. Davis. & B.E. Smith., Victim impact statements and victim satisfaction: An unfulfilled promise? *Volume 22, Issue 1*, Pages 2-3 (1994), (June 18, 2023) [https://doi.org/10.1016/0047-2352\(94\)90044-2](https://doi.org/10.1016/0047-2352(94)90044-2).

¹¹ Study Report: Third Committee report, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, United Nations, (Nov. 29, 1985), (June 20, 2023), <https://www.unodc.org/pdf/rddb/CCPCJ/1985/A-RES-40-34.pdf>.

¹² *Ibid*

¹³ *Payne v. Tennessee*, 501 U.S 808, 808–10 (1991).

¹⁴ Georgia State University Law Review; Criminal Procedure Sentencing: Victim Impact Statement Volume. 1, Issue 2, Art., 20, GA. ST. U.L. REV. (May 15, 2012), (June 20, 2023), <https://readingroom.law.gsu.edu/cgi/viewcontent.cgi?article=2562&context=gsulr>.

¹⁵ Riley M.B., Victim Participation in the Criminal Justice System: In re Kenna and Victim Access to Presentence Reports, Utah L. REV., at 236, (2007), (June 22, 2023),

https://www.researchgate.net/publication/323494418_Muffled_Voices_Making_ways_for_Impact_Statements_in_Criminal_Justice_System_in_India.

¹⁶ *Sentencing, Victim impact statements-Canadian Victims Bill of Rights*, (July 07, 2022), (June 25, 2023), <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/sentencing-peine/vis-dv.html>.

¹⁷ The Criminal Code of Canada, 1985, §722.2., *Justice Laws Website*, Criminal Code Version of section 722.2, Community impact statement from (July 23, 2015-to June 21, 2023) (June 25, 2023), <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-722.2-20150723.html>.

¹⁸ Edna Erez, Victim Impact Statements, No.33, Australian Institute Of Criminology- Trends and Issue In Crime And Criminal Justice, ISSN 0817-8542 ISSN 0 642 166153, (Sep 1991) (June 28, 2023), <https://www.aic.gov.au/sites/default/files/2020-05/tandi033.pdf>

In the United Kingdom, the use of victim impact statements has gained traction but to a somewhat lesser extent compared to the United States and Canada. Victim personal statements (VPS)¹⁹ provide victims with an opportunity to express the physical, emotional, and financial consequences of the crime. While initially restricted to specific crimes, the scope of VPS has expanded over time. However, victim impact statements in the UK are not presented in court, instead, they are read privately by the judge and probation officer before sentencing.²⁰

The Criminal Practices Discretion of UK²¹ emphasized the Victim's Personal Statement that

- i. Evidence regarding the impact of a crime on the victim should either be in the form of a witness statement according to Chapter 80 of Section 9 of the Criminal Justice Act 1967²², or an expert's report.
- ii. The statement must be provided to the defense before the sentencing stage.
- iii. The court should not make assumptions unsupported by evidence about the effects of the crime on the victim unless there are clear indications from the nature or circumstances of the offense.
- iv. The court has the discretion to read out the Victim's Personal Statement (VPS) in full or in part, or to summarize it. If it is read aloud, the court should determine who should do so, considering the victim's preferences unless there are valid reasons not to follow them (e.g., inadmissible or potentially harmful content). Court hearings should not be adjourned solely for the victim to attend court and read the VPS.
- v. The court must determine an appropriate sentence based on the circumstances of the offense and the offender, considering the consequences for the victim as far as it deems appropriate.
- vi. The opinions of the victim or their close relatives regarding the sentence are not relevant.

It is important to note that while victim impact statements are utilized in various Western countries with specific laws and procedures, their implementation may differ. Some countries provide more extensive opportunities for victims' participation, while others have more limited use or slightly different approaches. Nonetheless, the overall objective is to empower victims and enhance their involvement in the criminal justice system, ultimately aiming to achieve a fairer and more comprehensive response to crime.

In the Report of *Julian V. Roberts and Marie Manikis*²³, they clearly show that it is the most comprehensive analysis of victim responses confirming that victims generally have a positive reaction to the act of submitting a statement discovered that 86% of Scottish victims who submitted a personal statement believed it was "*the right thing to do*"²⁴, and nearly two-thirds indicated that making the statement had a positive emotional impact on them.²⁵ A previous study in England reported that three-quarters of victims who completed the form expressed satisfaction with their participation. To address the crucial question regarding the use of victim statements, we have compiled the key findings from various studies conducted since 1990. For that

Table 2 ²⁶.

¹⁹ VPS =Victim personal statements

²⁰ Ministry Of Justice, Making a Victim Personal Statement: You have a voice in the criminal justice system and have a right to explain how the crime has affected you, (Apr. 21, 2021), (June 28, 2023), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/264625/victims-vps-guidance.pdf.

²¹ Sentencing Council, Victim personal statements, (June 30, 2023), <https://www.sentencingcouncil.org.uk/explanatory-material/magistrates-court/item/victims/1-victim-personal-statements/>.

²² *Miscellaneous provisions as to evidence, procedure, and trial*, The Criminal Justice Act, 1967, Chapter 80, Section 9, (July 27, 1967), (2023), <https://www.legislation.gov.uk/ukpga/1967/80/2015-05-26>.

²³ Julian V. Roberts & Marie Manikis, Victim Personal Statements at Sentencing: A Review of the Empirical Research, Report for the Commissioner for Victims and Witnesses in England and Wales, (October 2011), (June 29, 2023), <https://www.justice.gov.uk/downloads/news/press-releases/victims-com/vps-research.pdf>.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Supra no.34, p. 27/51.

Relationship between Statement Submission and Satisfaction: International Findings

<i>Jurisdiction and citation</i>	<i>Outcome Regarding victim satisfaction</i>
1. Canada <i>Giliberti (1990)</i>	"Participants reported a high level of satisfaction with VIS programs" (p. 17)
2. United States <i>Sobieski (1997)</i>	56% of victims who submitted a VIS expressed satisfaction with system compared to 14% who did not submit (p. 1)
3. South Australia <i>Erez et al. (1997)</i>	45% of victims submitting a VIS felt satisfied; 49% felt it made no difference; 7% felt worse (p. 49).
4. England and Wales <i>Hoyle et al. (1998)</i>	75% of victims who completed form were "pleased that they had done so" ⁴³
5. Canada <i>Meredith and Paquette (2001)</i>	79% would submit statement again; victims were "generally very positive in their views of their experience with VIS" (p. 13).
6. Canada <i>Prairie Research (2005)</i>	82% of victims who completed a statement said that they were pleased they had (p. 31)
7. England and Wales <i>Graham et al. (2004)</i>	"Respondents positive about participation in VIS scheme; no participant felt that VIS not a valuable outcome" (p. 20; 30)
8. Scotland <i>Leverick et al. (2007a)</i>	63% state "definitely the right decision to submit a VIS; 20% probably the right decision" (Table 6.16)

Table 2 presents a summary of the primary findings on victim reactions from eight independent research projects conducted in different jurisdictions, employing both quantitative and qualitative approaches. Despite variations in methodologies, the consistent finding across these studies is that the majority of victims who submit statements express satisfaction with their decision to do so.

It is important to consider the administration of victim input schemes when evaluating research findings on victim satisfaction. The impact of victim statements on satisfaction can vary depending on the victims' expectations regarding the purpose and use of these statements. Regardless of their perception of the usefulness of impact statements, scholars and practitioners agree that creating unrealistic expectations may lead to lower levels of victim satisfaction. *Hungerford-Welch*, provide an example of how raising unrealistic expectations can have a negative effect.

Empirical evidence supporting the relationship between expectations and satisfaction is demonstrated by *Erez and Tontodonato (1992)*, who found that victims who submitted an impact statement with the expectation that it would influence the imposed sentence reported lower levels of satisfaction. This suggests that disappointment arises when the statement does not produce the desired effect from their perspective. This emphasizes the importance of providing crime victims with clear and easily understandable instructions on how to complete a victim impact statement.

In comparing the role of victim impact statements in the Indian criminal justice system and Western countries, several differences emerge. While the Indian criminal justice system recognizes victim impact statements to some extent, their formal incorporation and consideration during sentencing are more prevalent in Western countries. Similarly, Western countries tend to have more robust compensation programs that provide comprehensive support to victims, while India's Victim Compensation Scheme exhibits variations in implementation and limited financial assistance. Overall, recognizing the importance of giving survivors a voice and providing adequate compensation is an area where the Indian criminal justice system could potentially learn from Western countries' practices.

5. India:

India has yet to fully embrace the concept of the Victim Impact Statement and establish a comprehensive and uniform compensation policy for victims. However, there have been some positive developments. The Central Victim Compensation Fund (CVCF) is a significant step in the right direction, particularly for victims of crimes like acid attacks, as it offers financial compensation and rehabilitation support.

Despite the existing gaps, efforts are being made to address the right to submit a Victim Impact Statement. The Code of Criminal Procedure (Amendment) Bill, 2020, seeks to amend statutory provisions to enhance the recognition and implementation of Victim Impact Statements. Furthermore, ongoing judicial pronouncements contribute to shaping the legal landscape in this regard.

While India still has progress to make, initiatives like the CVCF and the proposed amendments demonstrate a growing awareness of the importance of empowering victims and providing them with a voice through the Victim Impact Statement. The states modify the thing for rehabilitation of victims and kin of deceased victims according to their needs. Further government with this, the Code of criminal procedure (amendment) Bill, 2020²⁷ which stated that;

The following clause was added after clause I of section 2 of the Code of Criminal Procedure, 1973 (hence referred to as the primary Act):

1. (ia) kin of deceased victim" refers to the mother, father, brother, sister, son, daughter, and spouse of the deceased person.
2. After section 173(2)(i)(h) of the Criminal Code was changed, the following sub-clauses were added: I if the investigation was about a deceased victim, whether the Victim Impact Statement of the victim's family, in the form required by Schedule III of the Act, has been attached: Whenever possible, at least each Victim Impact Statement must be included with the report.
3. Changes were also made to section 235 (2), which says, "If the accused is found guilty in a case where the victim died as a result of the crime, the judge shall hear the kin of the deceased victim on the question of sentence, give due consideration to the Victim Impact Statement submitted under subsection (2) of section 173, and then pass the sentence according to the law."
4. Under section 173. (1) Every investigation shall be completed without unnecessary delay.
5. Under this amendment, police have to under sub-clause (1A) The inquiry into a crime under "sections 376, 376(A), 376(AB), 376(B) to 376(D), 376(DA), 376(DB), or 376(E)" of the Indian Penal Code would be completed within two months of the police station's commandant filing the information.

2. Judicial pronouncements:

A victim impact statement does have the potential to influence the course of events for crime victims in India.

1. In the matter of *Rattan Singh v. State of Punjab (1979)*²⁸, Krishna Iyer J²⁹ noted this. Crime's Victims and the suffering of the perpetrator's dependencies are not brought to the notice of the courts, which is a fault in our jurisprudence. In fact, in our criminal law, victim restitution is still a vanishing point. This is the flaw in the system that the leviathan must address.
2. According to Surya Kant, J of Supreme Court passed a ruling in *Jagjeet Singh v. Ashish Mishra (2022)*³⁰, which talks about The High Court didn't let the victims take part in the hearing, which was the main reason why the Supreme Court overturned the decision. So, it was argued before the Supreme Court that "(i) Victims had a legal right to be heard throughout the bail process, and (ii) the impugned order was passed in contravention of this right." The decision in the Ashish Mishra case favored the appellants in its entirety, particularly in Section A, and this forms the primary basis for their appeal. The Court has determined that the definition of a victim, as outlined in the Criminal Procedure Code of 1973, applies in this case, "has a legally vested right to be heard at every step after the crime has been committed. This kind of 'victim' has full rights to take part in the process, from the beginning of the investigation to the end of the case, when an appeal or revision is made."³¹ (Part 24)
3. According to Mohan M. Shantanagoudar, Krishna Murari j, in the case of *Rekha Murarkavs The State Of West Bengal, 2020*³², the Supreme Court stated that providing victims the ability to participate in the trial might result

²⁷ The Code of Criminal Procedure (Amendment) Bill, No. X of 2020, Bill of Rajya Sabha (Mar. 13, 2020).

²⁸ *Rattan Singh v. State of Punjab*, 4SCC 719 (1979)(India)

²⁹ Ibid.

³⁰ *Jagjeet Singh v. Ashish Mishra*, Criminal Appeal No.632, Spl(Crl.) No. 2640 Of 2022.

³¹ Abhinav Sekhri, Victims and Bail — The Judgment in *Jagjeet Singh v. Ashish Mishra*?, (May 15, 2020), (June 30, 2023), <https://criminallawstudiesnluj.wordpress.com/2022/05/21/victims-and-bail-the-judgment-in-jagjeet-singh-v-ashish-mishra/%ef%bf%bc%ef%bf%bc/>.

³² *Rekha Murarkavs The State Of West Bengal, 2020*, SLP (Crl.) No. 7848 of 2019.

in the trial being a "vindictive battle" between the victim and the accused. There is an urgent need to alter the CrPC to assist in the recognition of victim rights.³³

4. In the case of *Mallikarjun Kodagil (Dead) v. State of Karnataka (2018)*, the Supreme Court of India has recognized for the first time that there is a lack of victim support, also stressing the importance of a VIS "so that the prisoner receives the accurate punishment" and also stated that the Victim impact statements can be a game-changer in this case. As, in contrast, the accused must be present at all times during the process. Though, in light of recent Indian court rulings, which have stated that the penalty must be in response to "society's cries for justice."³⁴

Benefits of Victim Impact Statement:

1. Closure and Healing: A victim impact statement allows survivors to express the physical, emotional, and financial impact of the crime on their lives. It gives them a chance to tell their story and share how the crime has affected them, their families, and their community. This process can be therapeutic and can provide a sense of closure and healing for the survivor.
2. Empowerment: The process of creating a victim impact statement can empower survivors by giving them a voice in the criminal justice system. It allows them to participate in the legal process and have a say in the outcome of the case.
3. Rehabilitation: Victim impact statements can also have a rehabilitative effect on offenders. By hearing how their actions have affected the victim, offenders may be more likely to understand the harm they have caused and be more motivated to change their behavior in the future.
4. Improved Public Trust: Victim impact statements can also improve public trust in the criminal justice system by demonstrating that the system is responsive to the needs of victims. This can lead to increased confidence in the system and a greater willingness to report crimes.

Victim impact statements and compensation schemes are critical components of the criminal justice system that provide important benefits for survivors of crime and the broader community. They demonstrate the system's commitment to supporting victims and holding offenders accountable for their actions.

Challenges and Opportunities for Empowering Survivors of Crime

1. **Legal and Practical Barriers to Victim Impact Statements (VIS) and Compensation Schemes:**
Implementing VIS and compensation schemes faces legal and practical hurdles. Restrictions on who can submit a VIS and victims' fear of retribution often limit their use. Compensation schemes, though crucial for financial recovery, encounter funding issues, strict eligibility criteria, and bureaucratic delays, leaving many victims unaware of or unable to access them.
2. **Cultural and Attitudinal Barriers:**
Cultural stigma and victim-blaming attitudes, particularly towards survivors of sexual violence, discourage reporting and support. Normalized views of violence in some societies further hinder efforts to address and prevent abuse.
3. **Role of Civil Society and Media:**
Civil society organizations and media are key to advancing victim-centered justice. They provide survivors with counseling, legal aid, and advocacy while raising awareness about victim rights and the importance of inclusive justice systems.

In conclusion, empowering survivors of crime is a critical aspect of the justice system that requires addressing various challenges, including legal and practical barriers, cultural and attitudinal barriers, and the role of civil society organizations and the media. By recognizing and addressing these challenges, we can work towards a more victim-centered approach to justice that respects the rights and needs of survivors of crime.

³³G.S. Bajpai&AnkitKaushik, A victory for crime victims, in 'The Hindu', (May 11, 2022), (July 02, 2023), <https://profgsbajpai.in/wp-content/uploads/2022/05/OPED-11-MAY-2022.pdf>.

³⁴DipaDube, Muffled voices. Making way for impact statements in the criminal justice system in India, Vol. XII - N. 1 (Apr. 2018), (July 05, 2023), https://www.researchgate.net/publication/323494418_Muffled_Voices_Making_ways_for_Impact_Statements_in_Criminal_Justice_System_in_India.

4. CONCLUSION AND RECOMMENDATIONS

Conclusion

The role of victim impact statements in the criminal justice system is crucial in giving survivors a voice and recognition. Victim impact statements can contribute to a deeper understanding of the harm caused and assist in making informed sentencing decisions

While, western countries such as the United States, Canada, Australia, and the United Kingdom have embraced victim impact statements as an integral part of their legal frameworks, empowering survivors and allowing them to express the consequences of the crime they have endured.

However, the Indian criminal justice system lags behind in explicitly recognizing and utilizing this tool. By learning from the practices of these countries, the Indian judicial system started empowering survivors, by acknowledging their experiences, and ensuring that their voices are heard within the criminal justice system. Accordingly, The Supreme Court of India has recognized the importance of victim impact statements in various cases, setting important precedents for their effective implementation. In the case of *Ankush Shivaji Gaikwad vs. the State of Maharashtra (2013)*³⁵, the court held that a Victim Impact Statement can be used as evidence to determine the appropriate sentence for the offender. The court also stated that the statement could be used to assess the harm caused to the victim and provide them with appropriate compensation.

But, it's a major gap in our criminal justice system that they still have not yet established the right of victim impact statement statutorily. So now, it's high time that the Indian government takes an effort to strengthen victims by providing them with the right victim impact statement which can be a positive step towards ensuring justice for survivors.

5. RECOMMENDATIONS

On the basis of the entire study, we recommend the following three suggestions are

1. Training for judges and prosecutors on the use of victim impact statements.
2. Expanding the availability and accessibility of compensation schemes.
3. Strengthening partnerships between government, civil society organizations, and the media.

No justice system is perfect; it constantly improves and becomes robust with the passing of time and a dedicated line of action in the interest of law and justice.

CONFLICT OF INTEREST

None

ACKNOWLEDGEMENTS

None

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