

Victim Impact Statements and Sentencing in India: An Indian- Centric Analysis

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The Indian criminal philosophy has been historically offender centric in reference to the substantive and procedural codified stratagem with victims occupying a peripheral role limited to that of witnesses. The punitive to inclusive transaction of the Indian criminal jurisprudence offers a reconstruction with an introduction to victim centric rehabilitative and restorative justice paradigm which also grants an insight over physical, psychological, emotional and decision- altering consequences. This Conspectus comprehensively peeks into victim impact statements and allied mechanisms such as Victim Impact Reports within the legal framework, drawing a comparative sketch with global practices in the same regard, Indian statutory provisions, case laws and an ardent proposal for formal recognition of the victim confessions to institutionalize victim participation, strengthen restorative justice and bring Indian criminal law in consonance with the constitutional mandates of dignity, rights and delivery of well- diversified definition of justice.

EVOLUTION OF VICTIM RIGHTS IN INDIA

Before the 21st century, Indian criminal law provided limited avenues for victim redressal. The revolutionary movement stemmed from several internationally held instruments like the **United Nations Declaration of Basic Principles of Justice for victims of crime and Abuse of Power (1985)** which synthesized assertion, on the states to recognize victim's rights to access justice, be treated with dignity and receive restitution or compensation. India having chosen to be a signatory to various international human rights convention gradually integrated elements of victim centric justice to the legal architecture. Prior to the 21st century; Indian criminal law provided Limited avenues for victim redressal.

The 154th Law commission report (1996) recommended expanding the scope of victim compensation and participation. The Malimath committee on Criminal Justice Reforms (2003) proposed statutory recognition of victims' rights, including the right to be heard at Sentencing and to receive compensation independent of conviction. The statutory framework also in consonance with Section 357 CrPC, empowers courts to award compensation out of fines imposed on the accused section 357 CrPC (inserted in 2009) mandates every state to frame a victim compensation scheme and obligates courts to consider Compensation even where the accused is acquitted of unable to pay.

EMERGENCE AND INCLUSION OF VICTIM IMPACT STATEMENTS IN THE INDIAN JUDICIAL PRACTICE

The major prerogative of integration of impact statements, is delivery of justice tailored to the best interests of both the victim, and the society. It was further elaborately discussed in the **United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power** which pronounced protection and compensatory rights not overlooking them as forgotten sob stories but grant an avenue for global deliberation. The Canadian case of **R v/s EGK (2001)** noted that “Although, He [the offender] knew he had caused the victims; harm, he didn't realize how much until he read the [impact] statements.”

The pre-amendment scenario harmonized with limited recognition of victims. Although Section 357 (1) and (3) provided for compensation, Sec 357(A) marked a watershed reform mandating each state government in coordination with State Legal Services Authority to draft a victim compensation Scheme with addressal to provision of interim relief during trial, mandatory state compensation funds, assessment of victim's loss and trauma through reports from Legal service authorities the scheme necessitated the evaluation of the victim's Condition, medical reports, for income loss, dependency and trauma. Victim Centric developments did grant a glimpse with the introduction of BNS (Bhartiya Nyaya Sanhita), 2023, replacing IPC (Indian Penal Code), notably under section 396 explicitly commanding to heal

victims during sentencing. However, the variation in the depth, administrative complacency, and limited training constraints the imperative revolutionary averment.

JUDICIAL EXPANSION OF IMPACT STATEMENTS

In **KARAN V/S STATE (NCT OF DELHI)** the Delhi High Court pronounced to the concept of victim Impact report, directing Legal Service Authorities to conduct a Summary inquiry into →

- The physical, emotional and financial impact of the offence on the victim.
- The expenses incurred by the victim.
- The paying capacity of the accused.

IN MALLIKARJUN KODGIL (DEAD) V/S STATE OF KARNATAKA (2019):

- The Karnataka High Court observed that the victims should be heard at the sentencing stage and deserves formal recognition.

IN ANKUSH SHIVAJI V/S STATE OF MAHARASHTRA:

- The Supreme Court held that consideration of compensation is mandatory and courts must record reasons if compensation is not recorded.

Furthermore different states have related differently to the assertive alteration.

- Delhi being the torch bearer; front runner developed forensic, psychological and legal services units under the Delhi state Legal Services Authority.
- Kerala's DLSA's partnered with NGO's and Women Shelters to monitor victim's post compensation rehabilitation.
- Gujarat established a formal implementation for victim Compensation scheme but was marred by delays.
- Telengana digitized its compensation claim application process, enabling online tracking of cases and status of disbursement.

But the bureaucratic delays, lack standardized assessment tools inadequate funding and limited create systematic hurdles for implementation.

KEY NOTES FOR INDIA

- The administral incompetence coupled with shallow sensitivity scales observed in purview of the judicial system and monetary incapability, with the retribution and reformation model equals down to incapacitation of the legal machinery to justify the affirmative revolutionary judicial jurisprudence.
- The publicized story of two former gymnasts' assault by **Larry Nassal**, a former doctor for USA Gymnastics & Michigan State Athletics, gave 150 other victims to speak up about their tragedy by the same perpetrator.
- In this case the Judge Rosemarie Aquiline 'dissected the victims on the basis of age, background, education and employment status with the length & extent of abuse.'
- Such Landmark judicial pronouncements creates a safe space for victims to believe that they shall not be disbelieved.
- In United Kingdom, the victims can update their statements during, appeals or parole hearings. The Canadian victim bill of rights guarantees victims the right to participation, protection and restitution.
- Victim statements are presented not only in Court but in parole board decisions.
- The inconsistency across jurisdictions, inadequate integration of victim harm into sentencing decisions are fundamental loop holes to be recognized calling for a clear statutory framework with their transformative potential.

An India-centric victim impact statement regime, carefully crafted to domestic realities could make space for offender rights with meaningful, authentic victim participation. However, diverse legal cultures resist uniform model, and infrastructural gaps hinder timely VIA reports burdening already overburdened judicially; Thus, contextualized and

phased digital tools, pilot programmes, delegated statutory bodies & NGO collaborations must pillar the progressive model. Legislative clarity, standardized VIA formats, appropriate training for probation officers, forensic experts, judicial officers, efficient data collection monitoring and reporting, with determined intent can catalyze the leap towards institutionalized system machinery.

VICTIM IMPACT STATEMENTS AND PRINCIPLE OF OPEN JUSTICE

Victim impact statements also intersect with the constitutional principle of open justice by rendering sentencing processes more transparent and intelligible to both victims and the public at large. Sentencing decisions in India often suffer from opacity with limited explanation of how competing considerations – offender circumstances, deterrence, reformation and harm are balanced. Structured victim impact narratives, when judicially filtered, allow courts to articulate the human consequences of crime in sentencing orders, thereby enhancing public understanding of punishment rationales. This transparency does not cater to populism; rather strengthens institutional legitimacy by demonstrating that sentencing outcomes are responsive, reasoned and grounded in lived realities. In an era where criminal justice outcomes are increasingly checked, victim impact statements can function as instruments of democratic accountability without compromising judicial independence.

SECONDARY VICTIMIZATION AND PROCEDURAL SAFEGUARDS

While victim impact statements expand participatory justice, their unregulated use risks secondary victimization through repetitive narration of trauma, adversarial exposure, or procedural delay. The Indian criminal process—already prolonged—can inadvertently compel victims to relive harm without adequate psychological safeguards. Therefore, any formalized victim impact regime must incorporate trauma-informed procedures, including optional written submissions, psychological screening, and protective in-camera hearings where appropriate, and limits on cross-examination relating to impact narratives. Recognizing these safeguards is essential to ensure that victim participation remains empowering rather than extractive, and that restorative objectives are not undermined by procedural insensitivity.

CONCLUSION

A critical yet under-explored dimension of victim-impact statements in India is their potential role in correcting sentencing asymmetry and opacity. Indian sentencing continues to suffer from wide judicial discretion with minimal articulation of how harm is quantified, particularly in non-capital and non-capital and non-statutory minimum cases. Victim Impact Statements – if institutionally structured and judicially filtered – can function as evidentiary anchors that translate abstract notions of “gravity” and “Societal Impact” into individualized assessments of harm, thereby improving sentencing transparency and proportionality. Further, such statements can assist courts in differentiating between similarly classified offences that result in vastly different lived consequences, a nuance often lost in tariff-based sentencing. Importantly, this mechanism need not undermine the rights of the accused; rather, when subjected to judicial scrutiny and adversarial testing, it enhances reasoned sentencing orders, reduces arbitrariness, and strengthens appellate review. In this sense, victim impact statements are not merely expressive tools of participation but structural correctives capable of rationalizing sentencing jurisprudence within India’s constitutional framework.