

Research Article

Adversarial Values, Fateful Victims and Exclusive Justice: Appropriateness of Victim Impact Statement

Sunishtha Moghe^{*,†} , Akash Naik[†]

Faculty of Law, Jayant Shikshak Prasarak Mandal University, Pune, India

Abstract

Victims have mostly been viewed as ‘emotionally’ induced entities which may not contribute any ‘legalistic’ material to the criminal trial in a fundamental way. Due to this foundational belief in non-rational contribution of the victim to the legalistic basis of the trial which is sought to be preserved by the adversarial set up of the criminal trial, the interests of victim do not find direct place in the shaping of criminal justice. Such absence of comforting values leads to exclusion of victim’s voice in the process of sentencing. This research is an attempt to understand the nature of such non-accommodative adversarial values which impact the utility of victim participation in a criminal trial. It juxtaposes such values with the need of securing the interest of victim in order to ascertain the attainment of ‘inclusive justice’ out of a criminal process. This objective is refined by the specific reference to the possible contributions of the Victim Impact Statement (‘VIS’) in conditioning the ‘justice sensitive sentencing’ without diluting the adversarial culture. The research focuses on the aspects of conflict as well as possible synergy between the adversarial values of a criminal trial and the voicing of victim’s interest through Victim Impact Statement. Thus, the expected outcome of this paper is a critical analysis of the fate of victim in a criminal trial amidst the adversarial values and an extent of inclusive justice which may be secured using the tool of Victim Impact Statement.

Keywords

Victim, Criminal Trial, Adversarial Values, Inclusive Justice, Sentencing, Victim Impact Statement, Victim Participation

1. Introduction

Every crime produces two victims; firstly, the society which faces the violation of public interest and secondly, the individual who faces the direct wrath of the crime on in every possible manner. The second victimhood encapsulates not just the violation of private interest but also the violation of dignity and liberty of that individual [33]. It must be understood that the latter violation may be assessed not just by the ‘legalistic’ eyes of the legal professional. Such assessment, being essentially individualistic in nature, cannot be mean-

ingfully done without any input of the sufferer. However, such belief is not fully accommodated in the adversarial set up wherein the criminal justice is shaped by the direct participation of prosecutor and the accused. As far as the victim is concerned, the adversarial system tries to spoon feed the justice churned by the tussle between prosecutor and the accused. It disentitles the victim from any meaningful participation and thereby creates the sense of dissatisfaction with the criminal process and the criminal justice being served [18].

*Corresponding author: sunishtha1818@gmail.com (Sunishtha Moghe)

† Sunishtha Moghe and Akash Naik are co-first authors.

Received: 14 July 2025; **Accepted:** 31 July 2025; **Published:** 2 September 2025



Copyright: © The Author(s), 2025. Published by Science Publishing Group. This is an **Open Access** article, distributed under the terms of the Creative Commons Attribution 4.0 License (<http://creativecommons.org/licenses/by/4.0/>), which permits unrestricted use, distribution and reproduction in any medium, provided the original work is properly cited.

Such justice is customized on the lines of 'legalistic' mind of the adversarial body of the court. The issue is that such justice may not necessarily reflect the extent of victimization and the impact it caused in the life of concerned victim. Such justice may be acclaimed on the yardstick of 'managerial justice' but not healing the person who is the focal point of the crime; the victim. It is achieved at the cost of rising discontentment of victim with the justice 'exclusively' for accused [4].

In order to condition such justice with inclusivity and for that, the participation of the victim, without disrespecting the adversarial values, many countries, such as USA, Canada, Australia and South Africa, have adopted the device of VIS. It is a statement to be delivered by the victim which describes the impact of the crime on the life of victim. It is delivered to the judge prior to the stage of sentencing so that a judge can gauge the depth of the victimhood arisen due to the crime. It is intended to ensure that the victim is enabled to participate in the criminal trial and delivery of justice.

However, such tool of VIS has been viewed with skepticism by those who fear dilution of adversarial culture due to victim participation. They question the suitability of 'emotional' effect of such statement by victim onto the 'impartial' judicial mind. The criticism can be located in the fundamental canon of adversarial system which considers crime as a public wrong and makes it to be contested between the adversaries; the prosecutor and the accused. The victim is not regarded as an adversary and therefore the voice of victim is afforded to be minimized under the veil of prosecutor's discretion [6].

This paper attempts to analyze the contours of such adversarial values, their role in deciding the fate of victim and the possible role of VIS in synergizing the expectations of proponents of adversarial culture and of victim participation. It rests upon the belief that victim participation must be directed at 'therapeutic' and 'restorative' effects and VIS can be expected to play 'normative' role in the sentencing having objective considerations. Ensuring this would maintain the much valued consistency and fairness in the sentencing and will insinuate the process from possible emotional influence of victim input. Thus, VIS can be adopted with a spectacle of reasonable prudent victim's response to the crime [12]. VIS can be modeled to incorporate both the therapeutic recovery of victim as well as objectivity of the legal proceedings. It must be realized that synergy of these two ideals will produce the desirable 'inclusive justice' out of a criminal trial.

2. Adversarial Values in a Criminal Trial

The underlying notion of an adversarial system is the 'fight between the adversaries' for proving their assertions and claiming the justice. It is followed by particularly those nations which have adopted common law system and value the principles of autonomies of adversaries or parties and the

impartiality of a judge. Due to its emphasis upon the direct parties; the adversaries, the adversarial system does not welcome the involvement of third party; the non-adversary which unfortunately includes the victim. Thus, it is designed in a way so as to curb the direct participation of victim in the criminal process [1].

On the contrary, inquisitorial system, followed in civil law countries, believes in 'discovery of truth' and for this purpose it does not launch the tussle between the parties. It rather promotes the ascertainment of fact and for this purpose it welcomes the participation of every party directly or indirectly affected by the crime. In this context, victim input does not meet cultural resistance as it does in an adversarial set up.

The victim input does not figure in the procedural priorities of the adversarial system which values the public nature of a criminal trial and allows it to be contested in the name of the state. Being a public trial, the sentencing of the case must address societal concerns as well beside the individual concerns of victim. Victim input, in this manner, is not welcomed in the sentencing parameters, as it is done in 'neutral' and 'public' orientation [2].

Such relegation of victim input is also digested due to the possible risk of non-pragmatic expectations of victim after being asked to provide input to the sentencing. If not met, these expectations will cause resentment and dissatisfaction in the mind of victim with the criminal process and the resultant justice. The reason behind downgrading such victim expectations as non-pragmatic lies in the fact that victim lacks the legal training and the ability to analyze the case without importing the personal sentiments. Such sentimental and highly individualized input is highly likely to vitiate the 'objective' nature of the sentencing which is the backbone of adversarial criminal system [8].

However, many adversarial nations have witnessed the dilution of strong adversarial conservation and have welcomed the development of inquisitorial devices to achieve the inclusive justice. For example, a matter involving public interest may be taken ahead for judicial decision by any public spirited person in India under the banner of Public Interest Litigation ('PIL'), thereby diluting the strict rule of locus stand, a strong adversarial value. Such inquisitorial approach in the form of PIL reflects the willingness of many adversarial nations to adapt to the changing needs of the society and criminal justice system [9].

In order to explore the possibility of adaptation of an adversarial system to accommodate the victim input using the tool of VIS, the level of survival of victim in an adversarial culture must be examined.

3. Tracing the Fate of Victim in an Adversarial Web

The question of victim survival in an adversarial set up and

the suggested solution of enabling victim input must be assessed in the context of pivotal role of victim in the criminal process and justice. A victim's perspective provides a valuable framework for analyzing intuitive judgments regarding the severity of offenses committed against individuals. This perspective enables the development of a more precise and structured understanding of which offenses result in the most significant harm, thereby enhancing the assessment of crime severity [32].

Both the substantive as well as procedural criminal law must be informed with the meaningful victim participation as victim has the potential to play a very important role in every stage of the criminal trial and resultantly in the enforcement of criminal sanctions upon the convicts as well as suspects. The interests and rights of victims significantly influence various aspects of criminal law. For instance, the victim's characteristics can determine jurisdictional questions. Once the applicable legal framework is established, the victim's role extends to shaping the definition of defenses and influencing sentencing decisions. Victim behavior often impacts the availability of justification or excuse defenses; for example, victim consent is commonly regarded as a justification for actions that would otherwise be deemed criminal [16].

The injury inflicted upon an individual member of the community attracts a punitive response from community which reflects the empathetic association with the victim. Thus, such association causes the rest of the community to feel and understand the impact of the crime on the life of victim. The crime against a particular member of community is construed as a threat to the life of entire community. In this context, enabling the victim input about the impact of crime will affirm the pain caused to victim and symbolically to the community. However, in this model, the victim is entirely at the discretion of community affirmation and identification [13].

This dependency of the victim is not limited to community, in considering crime as a public wrong. It also extends to the prosecutor's discretion and the leniency of the court which is legitimated by the adversarial values. Such dependency is majorly due to the non-party status of the victim and the manner in which victim's interest is connected with the interest of direct parties [8].

Fundamentally speaking, the input by victim is considered as a threat to the 'presumption of innocence' of accused which is the fundamental canon of the adversarial system. Balancing the presumed innocence of the accused and input of the victim may heighten the stress for an adversarial judge thereby impacting the adversarial value of objectivity. Victim input is considered to be diluting the innocence of accused and it is seen as developing the 'pre-conceived notion' of a judge about the accused [1]. This uneasy relation between victim input and presumed innocence of accused may also prove fatal for the fulfillment of duties by the prosecutor, who is officer of the court itself. It must not be forgotten here that prosecutor is supposed to uphold the public interest as a rep-

resentative of the state on behalf of public. Such fair and just enforcement of laws and fulfillment of duties is considered to be endangered due to the onset of victim input and a duty to protect victim's interest [25]. Such dual and ironical obligations may vitiate the prosecutorial discretion and may add to the challenge even further when victim interests deviate from the public one. Victim input must also be assessed on the field of protection of rights of accused [10]. Requiring the accused to address the victim input and thereby the victim's interest is going to be a never ending process as the two are bound to dive apart and despite victim being a non-party, the accused will have to balance its interest with that of victim's [16]. Thus, accused may have to deal with dual parties on the other side, Prosecutor as well as the victim; thereby compromising the adversarial canon of public nature of criminal trial.

The victim input is, therefore, taken to be fundamentally inconsistent with the values of adversarial system. However, such inconsistency may prove to be flexible than being permanent. In a research on the feasibility of VIS in India, the possibility of incorporating the VIS in Indian criminal trial was investigated. It was found that Indian criminal trial, though being an adversarial one, may accommodate the victim input in the form of VIS and the barriers to such incorporation are more attitudinal than the structural one. It was concluded based on the interview findings that victim interests can be reconciled with the protection of adversarial values, such as rights of accused, objectivity in sentencing etc. Victim input through VIS may be welcomed in an adversarial set up and it shall achieve the goal of an inclusive justice [29].

While many countries follow the adversarial system, they have been able to balance the rights of victims with that of an accused while preserving the adversarial values at the same time. Such balancing can be seen in various ways, such as, right of victim to engage a counsel during trial. However, these efforts have been observed to be insufficient in translating the inclusive justice into complete reality. The level of satisfaction of victim still appears to be low [30].

One of the most important factors behind such low satisfaction can be traced into the work by Heimer who focused on the dual categorization of crime by criminal justice system and the individual victim. A crime is perceived and treated by the former as a 'case', while to the latter it is personal 'event' which had impacted the life in major ways. Such differential perception to the crime bifurcate the treatment of crime, as standardized routine for the criminal justice system and emotionally devastating occurrence for the victim who seeks to 'connect' with the former in order to convey the unknown facets of crime and get it acknowledged by the legal system in a criminal process. When such acknowledgement and validation is turned down by the officials due to much valued adversarial neutrality, victim feels detached from a case and is left highly dissatisfied with the criminal process and the resultant justice. Thus, this dichotomy between organizational and biographical approach to a crime creates fundamental

dissatisfaction for the victim [22].

4. Synergizing the Victim's Interest and the Adversarial Values: Achieving the Goal of Inclusive Justice

It is essential to recognize that the concept of considering the victim's interests is inherently normative. It does not entail framing the trial as a form of psychological therapy or providing emotional support to the victim. Instead, it involves the formal acknowledgment of the victim's rights through the criminal verdict. While this recognition may incidentally offer consolation to the individual victim, its justification extends beyond addressing personal emotional needs [24].

In the adversarial criminal justice system, the interests of victims have traditionally been subsumed under the broader concept of the "public interest," which is theoretically safeguarded by the prosecution. However, due to the attitudinal nature of resistance to victim's interest in an adversarial system, it is possible to incorporate victim input while preserving adversarial values [4]. The first foundation for such synergy is the legal realism which advocates integration of public and private concerns while prosecuting the crime as every crime violates both the public and private interests. Thus, a criminal prosecution will remain incomplete and ineffective unless the violation of private interests is also known and understood by the judge.

This realist argument can be seen as furthered by the victim's rights movement which believes in the separate importance of the victim in any criminal prosecution and insists upon substantial stake of victim in the outcome of criminal process. Such substantial stake need not be secured in the form of direct participation necessarily. Even non-party status of a victim would be able to achieve integration of victim's interest into the criminal process [24]. Thus, methods such as, meaningful and timely communication with the prosecutor, presence of victim in important hearings and decisions of the court, being heard before sentencing, may prove to be effective in securing the separate interest of victim while also preserving the adversarial canons. It is only when a victim is given a separate and direct party status that the adversarial values can be threatened and the victim input can be clearly modeled to avoid it [3].

Such distinct importance of victim has been sought to be secured by various procedural devices which secure the interest of a third party without roping in the adversarial values in danger. Firstly, third party may use the option of *amicus curie* in order to communicate with the judge in a verbal or documentative manner. Secondly, third party may use the option of Public or Social Interest Litigation in order to bring the matter to the attention of judicial eyes. Thirdly, third party may also use the option of an intervener in order to intervene into a civil case for claiming some relief. Lastly,

derivative suit can be used by the direct parties in order to protect the interest of a third party. Such procedural devices preserve both the party autonomy as well as objectivity of a judge [5].

Thus, these mechanisms seek to secure the victim's interest while respecting the adversarial values. Such synergy is crucial for attainment of inclusive justice.

One of the threats to such synergy might be the discord between the victim and prosecutor which cause resentment among the victims despite victim participation. Prosecutor being the repository of discretionary powers in the criminal justice system and simulating the experiences of the victim in every decision related to the case, it is ideally essential to analyze the role of prosecutor in enhancing the satisfaction of victim during the criminal trial by bring the healing effect through its behavior and approach towards the victim. Shared emotions between victim and prosecutor have been found in some of the researches to enhance the experience of victim with the criminal process [26].

For example, there are efforts by the Crown Prosecution Service ('CPS') and the General Council of the Bar in England and Wales to establish closer relationships between prosecutors and victims. These initiatives are based on the assumption that assisting victims in their preparation for testifying may reduce the stress associated with giving evidence and thereby improve its quality. Further, the Police, Crime, Sentencing and Courts Act, 2022 imposed a statutory duty on law enforcement to seek the views of victims regarding conditions of pre-charge bail that pertain to their safeguarding. Investigating officers, where reasonably practicable, must consult victims to determine whether any modifications to these conditions are necessary and, if so, what specific changes should be implemented [20].

The realization that the victims are not only marginalized in practice during adversarial criminal trials but are also normatively regarded as external to the judicial process led the Rome Statute to grant victims the right to select their legal representatives at the International Criminal Court ('ICC'). Thus, they may present their views, and make submissions at all stages of proceedings, provided such participation does not prejudice or conflict with the rights of the accused. This framework reflects a significant shift in international criminal justice, emphasizing victim participation as a core element of the process [7].

While these developments indicate a shift in the highly conservative approach and aim to achieve the synergy between adversarial values and victim input, the ideal of inclusive justice is still yet to be achieved.

5. Addressing the Adversarial Barriers Through Victim Impact Statement

The participation of victim may be ideally considered to be

beneficial for both the victim as well as criminal justice system but such participation is not welcomed with open heart by the adversarial conservationists. Although both the adversarial and inquisitorial systems share the reluctance to modify the existing procedure to enhance the victim participation, adversarial system has peculiar resistance due to the value of party autonomy.

The concept of victim participation is contentiously perceived under the adversarial set up mainly due to its possible impact upon party autonomy and the objectivity of the sentencing. Thus, the major premise of the challenge to victim participation is the possible ability of the victim to endanger the objectivity of the judge in sentencing and redundant nature of the victim input [31].

However, resistance to victim input can be eased out by preserving the core values of adversarial culture while securing the victim participation in least controversial manner. As the obstacles to victim participation in an adversarial system are more attitudinal and conceptual than structural one, victim input can be well incorporated into an adversarial set up using the flexible device of VIS. This must be critically analyzed using the foundational principles including nature and the purpose of the VIS and what limits can be set [16].

5.1. Foundational Premise of VIS

VIS is a statement describing the impact of crime, delivered by the victim to a judge before the process of sentencing. The nature and function of VIS have significant implications for all parties in the sentencing process. Therefore, defining these aspects precisely would contribute to greater clarity and consistency in sentencing, as well as the development of a more structured regime with appropriate safeguards tailored to the intended outcomes of these statements.

VIS can be modeled to serve either instrumental or expressive purpose or both [12]. The expressive function of VIS primarily serves to convey a message to various stakeholders, including the court, the public, and the offender, regarding the harm inflicted. This function has been linked to therapeutic benefits for victims, aligning with the principles of therapeutic jurisprudence. The instrumental function of VIS primarily serves to directly influence the sentencing decisions. In this model, it serves as a mechanism to assess the harm suffered by the victim, which is critical for determining a proportionate sentence. Within this framework, the statement operates as evidence during sentencing [12].

The two models are not exclusive of each other and many jurisdictions can be found to incorporate the blend of both in a manner which is most respectful of the adversarial features. Thus, such multi model system of VIS is characterized by the necessary limitations and procedural conditions for incorporation of VIS in a criminal process [17].

However, while Victim Impact Statement can be a valu-

able tool in assessing victim harm, it must be considered alongside all other relevant factors when determining a sentence in order to preserve the adversarial value of objectivity. Thus, VIS remains pertinent evidence for evaluating harm caused by a crime which will inform the basis of sentencing [23].

5.2. The Sentencing Fear

One of the primary concerns regarding VIS is the potential infringement on a defendant's right to a fair trial. This concern stems from the assumption that victims, driven by a desire for retribution, will advocate for excessively harsh penalties. While many victims believe their VIS will directly influence sentencing, it must be emphasized here that VIS is not intended to include sentencing recommendations or criticisms of the offender, according to judicial interpretation.

In *Booth v. Maryland* (1987) the United States Supreme Court recognized the influence of the perceived 'worth' of a victim on a sentencing. Justice Powell focused on the extraneous nature of factors, such as victim's reputation, emotional impact of crime, character of victim, for determining the culpability of the accused. Such information under VIS may put consequential risk to the eighth amendment rights of the accused against cruel and unusual punishment. However, this reasoning was reversed in *Payne v. Tennessee* (1991) where the Supreme Court held that victim input before sentencing does not violate the Eighth Amendment and VIS may be a relevant factor [25].

Such change in the judicial reasoning reflects the deliberation and discourse about appropriateness of victim input in the form of VIS. Over the period of time, assessment of the practical influence of victim impact statements has yielded mixed results that adversarial practices regarding sentencing have not been vitiated due to VIS [11].

5.3. Synergizing Role of VIS

VIS could be managed in a way that prevents courts from being placed in the difficult position of balancing the prosecutorial discretion and victims' interests. By respecting the distinction among role of victim and direct parties to the case, the fundamental function of the criminal justice system can be achieved while also enabling the meaningful victim participation through VIS. VIS can easily serve 'therapeutic' justice by adopting the expressive function of the victim input thereby respecting the objectivity in sentencing while also securing the victim input. It can present one of the guiding factors, impact of the crime, in the form of objective assessment of the crime and can contribute to the proportionality of sentencing [23]. The content of such contribution can be summarized in the following chart.

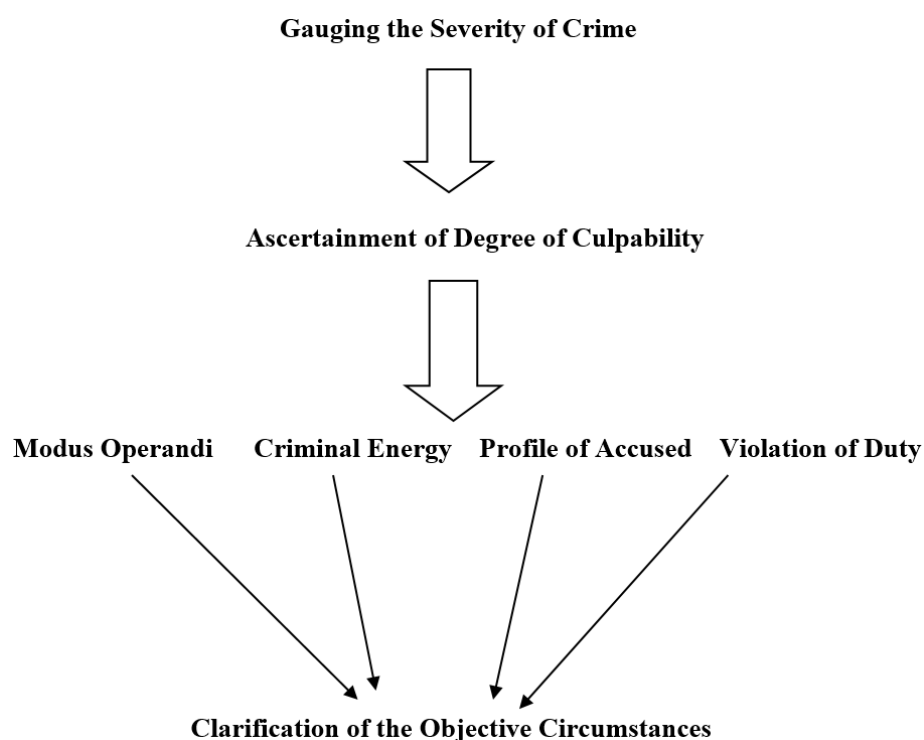


Figure 1. Role of Victim Impact Statement in Criminal Justice.

6. Fate of Victims and VIS in an Indian Context

India's criminal justice system has historically prioritized the rights of the accused over those of victims, leaving victims with limited recognition and protection. While there are legislative provisions aimed at addressing victims' needs, such as introduced under Section 357A of the Code of Criminal Procedure ('CrPC') for victim compensation, these measures often fall short in implementation [14]. The Constitution of India, while guaranteeing fundamental rights such as dignity and security, does not explicitly protect victims in the same detailed manner as it safeguards the rights of arrested, detained, and accused persons under Articles 20, 21, and 22. This imbalance reflects a systemic focus on punitive measures against offenders rather than victim-centered justice [15].

Efforts to enhance victim rights have been sporadic. The Malimath Committee (2003) recommended significant reforms, including the establishment of a victim compensation fund and legislation dedicated to victims' rights. However, these recommendations have largely remained unimplemented. Victim participation in criminal proceedings is minimal. Victims are often treated as mere witnesses rather than central stakeholders in justice delivery [28].

While victims do not have a formal right to be heard in a criminal trial, recent legal reforms have emphasized the importance of considering victims' interests in various stages of the criminal justice process. Restorative initiatives like victim-offender mediation and counseling have been explored in

some Indian jurisdictions, aiming to facilitate healing and understanding between victims and offenders.

Reflecting the importance of victim input, Amar Patnaik, a Member of Parliament, had introduced a private bill in the Upper House aimed at legally recognizing Victim Impact Statements in India. This proposal sought to amend "Sections 173 and 235 of the Code of Criminal Procedure (CrPC)". The bill specified a standardized form for VIS. While strongly advocating for the protection of victims' rights, the author of the bill raised concerns about procedural complexities and practical challenges associated with implementing VIS in India [19].

In the Indian context, retributivism offers a framework where victims are acknowledged primarily through the assessment of harm caused by the defendant's actions [14]. This assessment considers not only the abstract definition of the offense but also the specific harm inflicted in each case, provided the offender demonstrates an attitude that warrants blame.

Recent reforms in India's criminal justice system have marked a significant shift toward prioritizing victim rights and welfare. The enactment of new laws such as the "Bharatiya Nyaya Sanhita" (BNS), "Bharatiya Nagarik Suraksha Sanhita" (BNSS), and "Bharatiya Sakshya Adhinyam" (BSA) in 2023 reflects a concerted effort to modernize and make the system more victim-centric [21]. These reforms aim to address the historical neglect of victims' interests in the criminal justice process, where the state traditionally represented victims without adequately considering their needs or perspectives and provide following rights [27].

The BNSS provides for victim compensation schemes allowing victims to seek compensation from the state. Despite these provisions, the Indian criminal justice system remains predominantly state-centric, with limited scope for direct victim participation in prosecution decisions or trial proceedings. The system does not mandate prosecutor consultation with victims before making charging decisions or dismissing charges, unlike some other jurisdictions [30].

While India has made strides in recognizing victims' rights, the level of victim involvement in the criminal justice process remains limited compared to some other legal systems. It continues to grapple with balancing symbolic protections with effective implementation, highlighting the need for ongoing reforms. If introduced, VIS may shape the evolving role of victims in Indian criminal proceedings by empowering the victims and ensuring their meaningful participation towards inclusive justice.

7. Conclusion

Criminal justice is being served for vindicating the rights of both the victim as well as public through state. Although adversarial in nature, it cannot afford to exclude the victim altogether from the scene of criminal trial. While victim used to exercise a central role in ancient criminal justice system which focused on restitution, such role transformed into peripheral one with the rise of entity of state and public approach to crime. It led to bifurcation of restitution and penal policies which witnessed the fundamental transformation of criminal justice system and criminal process wherein victim is relegated to position of mere witness [2].

Realizing this, victim rights movements, developed over a period of time, reminded the criminal justice system of the meaningful role and legitimate expectations of the victim. It showcased the fate of the victim due to the veil of rigidity of adversarial values. This constant struggle and developments witnessed many reform in many jurisdictions which targeted victim participation and input. However, without a comprehensive understanding of the penal process that integrates victims' roles, the advancements of the victims' rights movement may remain symbolic at best. It must be realized that symbolic protections, while rhetorically powerful, may ultimately restrict rather than solidify victims' roles in the absence of an additional action.

In this context, VIS being of such a nature must be welcomed as a measure which will strengthen the victim participation than just establishing the initial protections [13]. It realizes that the individual most affected by the commission of crime is the victim and must not be excluded from the process of justice. Such realization had been subjected to another layer of evolution wherein process of globalization is exerting influence on criminal justice practices, infusing the restorative and therapeutic practices and denting the rigidity of adversarial values in favor of inclusive justice. Thus, the goal of inclusive justice has made a loud call for shrugging off

the shackles of adversarial rigidity in favor of ameliorating the fate of victims and maintaining the harmony between the substance of adversarial values and the Victim satisfaction.

Abbreviations

BNS	Bharatiya Nyaya Sanhita
BNSS	Bharatiya Nagarik Suraksha Sanhita
BSA	Bharatiya Sakshya Adhiniyam
CPS	Crown Prosecution Service
CrPC	Code of Criminal Procedure
ICC	International Criminal Court
USA	United States of America
VIS	Victim Impact Statement

Author Contributions

Sunishtha Moghe and Akash Naik are co-authors. The authors read and approved the final manuscript.

Conflicts of Interest

The authors declare no conflicts of interest.

References

- [1] Blondel, "Victims' Rights in an Adversary System," *Duke Law Journal*, 2002, 58(2), pp. 237-274.
<http://www.jstor.org/stable/40040652>
- [2] Doak, "Victims' Rights in Criminal Trials: Prospects for Participation," *Journal of Law and Society*, 2005, 32(2), 294-316.
<http://www.jstor.org/stable/3557229>
- [3] Edwards, "An Ambiguous Participant: The Crime Victim and Criminal Justice Decision-Making," *The British Journal of Criminology*, 2004, Vol. 44, Issue 6, pp. 967-982.2004.
- [4] Erez, L. Rogers, "Victim Impact Statements and Sentencing Outcomes and Processes: The Perspectives of Legal Professionals," *The British Journal of Criminology*, 1997, 39(2), 216-239. <http://www.jstor.org/stable/23637970>
- [5] Erez, P. Tontodonato, "Victim Participation in Sentencing and Satisfaction with Justice," *Justice Quarterly*, 1992, 9(3), pp. 393-417.
- [6] Gershman, L. Bennett, "Prosecutorial Ethics and Victims' Rights: The Prosecutor's Duty of Neutrality," *Lewis & Clark Law Review*, Vol. 9, 2005.
<https://ssrn.com/abstract=1292887>
- [7] Human Rights Watch, "The Role of Victims in ICC Proceedings," Publications, Human Rights Watch.
www.hrw.org/reports/2008/icc0708/10.htm
- [8] J. V. Roberts, "Listening to the Crime Victim: Evaluating Victim Input at Sentencing and Parole," *Crime and Justice*, 2009, 38(1), 347-412.

- [9] Law Commission of India, "Report on Reforms in Criminal Justice System," 2008.
- [10] M. Gromet, T. G. Okimoto, M. Wenzel & J. M. Darley, "A Victim-Centered Approach to Justice? Victim Satisfaction Effects on Third-Party Punishments" *Law and Human Behavior*, 2012, 36(5), 375-389. <http://www.jstor.org/stable/43586858>
- [11] M. Maguire, *The Needs and Rights of Victims of Crime*. Crime and Justice, 1991, 14, 363-433. <http://www.jstor.org/stable/1147465>
- [12] M. Manikis, "Victim Impact Statements at Sentencing: Towards A Clearer Understanding of Their Aims," *The University of Toronto Law Journal*, 2015, 65(2), 85-123. <http://www.jstor.org/stable/24311948>
- [13] M. D. Dubber, "The Victim in American Penal Law: A Systematic Overview," *Buffalo Criminal Law Review*, 1999, 3(1), 3-31. <https://doi.org/10.1525/nclr.1999.3.1.3>
- [14] Malimath Committee Report, "Report on Reforms of Criminal Justice System," 2003.
- [15] Nariman, "10 Thoughts on Law and Justice in India. Speaker's Corner," Center on the Legal Profession. Harvard Law School, 2012. <http://www.clp.law.harvard.edu/knowledge-hub/magazine/issues/indian-legal-profession/10-thoughts-on-law-and-justice-in-india/>
- [16] P. Cassell, "In Defense of Victim Impact Statements," *Ohio State Journal of Criminal Law*, September 4, 2009, Vol. 6, No. 611. <https://ssrn.com/abstract=1468649>
- [17] P. Cassell, "The Crime Victims' Rights Movement's Past, Present, and Future," *The Volokh Conspiracy*, February 20, 2025. www.reason.com/volokh/2025/02/20/the-crime-victims-rights-movements-past-present-and-future-part-iii-the-future/
- [18] P. Harris, "The Jurisprudence of Victimhood," *The Supreme Court Review*, 1991, 77-102. <http://www.jstor.org/stable/3109599>
- [19] P. Prasanth, "The importance of victim impact statements in criminal law," *Criminal Law Columns, Bar and Bench*, 21 October 2023. www.barandbench.com/columns/victim-impact-statement
- [20] P. Rock, "The Role of Victim Advocacy in Criminal Justice Reform in England and Wales," *Annual Review of Criminology*, January 2023, Vol. 6, pp. 499-527, 2023, or <http://dx.doi.org/10.1146/annurev-criminol-030521-102428>
- [21] P. V. Reddi, "Role of the Victim in the Criminal Justice Process," *Student Bar Review*, 2006, 18(1), 1-24. <http://www.jstor.org/stable/44306643>
- [22] R. Davis, B. Smith, S. Hillenbrand, "Restitution: The Victim's Viewpoint," *The Justice System Journal*, 1992, 15(3), 746-758. <http://www.jstor.org/stable/27976781>
- [23] R. Davis, B. E. Smith, "Victim Impact Statements and Victim Satisfaction: An Unfulfilled Promise?," *Journal of Criminal Justice*, 1994, 22(1) pp. 1-12.
- [24] Roach, "Blaming the Victim: Canadian Law, Causation, and Residential Schools," *The University of Toronto Law Journal*, 2014, 64(4), 566-595. <http://www.jstor.org/stable/24311941>
- [25] S. Bandes, "Empathy, Narrative, and Victim Impact Statements," *The University of Chicago Law Review*, 1996, 63(2), pp. 361-412. <https://doi.org/10.2307/1600234>
- [26] S. Goodrum, "Bridging the Gap Between Prosecutors' Cases and Victims' Biographies in the Criminal Justice System Through Shared Emotions," *Law & Social Inquiry*, 2013, 38(2), 257-287. <http://www.jstor.org/stable/24545898>
- [27] S. Gupta, "Victim Impact Statement: Relevance in the Indian Criminal Justice System," SSRN, April 28, 2024. or <http://dx.doi.org/10.2139/ssrn.4810216>
- [28] S. Mishra, "The Rights of Victims and Criminal Justice System," *The Daily Guardian*, 2020. <http://www.thedailyguardian.com/legally-speaking/the-rights-of-victims-and-criminal-justice-system/>
- [29] S. Moghe, N. Saxena, "Should Victims be Heard During Sentencing?: Empirical Assessment of Victim Impact Statement in India," *International Journal of Law, Management and Humanities*, 2025, Volume 8 Issue 2, pg. 5351-5370, <https://doi.org/10.1000/IJLMH.119592>
- [30] S. Sarkar, "The Quest for Victims' Justice in India," *Human Rights Brief*, 2010, 17, No. 2, pp. 16-20.
- [31] Schünemann, "The Role of the Victim within the Criminal Justice System: A Three-Tiered Concept," *Buffalo Criminal Law Review*, 1999, 3(1), 33-49. <https://doi.org/10.1525/nclr.1999.3.1.33>
- [32] T. Härnle, "Distribution of Punishment: The Role of a Victim's Perspective," *Buffalo Criminal Law Review*, 1999, 3(1), 175-209. <https://doi.org/10.1525/nclr.1999.3.1.175>
- [33] UNODCCP, "Handbook on justice for victims: on the use and application of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power," UN Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, New York, 1999, vi, 126. <http://digitallibrary.un.org/record/414602>