
VICTIM IMPACT STATEMENTS IN SENTENCING: A COMPARATIVE ANALYSIS OF INDIA AND THE UNITED KINGDOM

Bhoomi Fruitwala, BA LLB, School of Law, Woxsen University

ABSTRACT

The criminal justice system in India traditionally focuses on the state and the accused, often leaving the victim with a limited role after reporting the crime and also providing evidence for the same. A Victim Impact Statement (VIS) allows victims to explain to the court how the offence has affected their physical, emotional, financial, and psychological well-being. It aims to ensure that the victim's voice is carefully heard before a judgment is rendered in a criminal trial. While it is true that Victim Impact Statements have some strengths, it also raises some concerns about whether the emotions expressed in them could affect sentencing if proper measures are not taken into account. According to this study, India can benefit from Victim Impact Statements by developing an appropriate framework that addresses victims' needs and ensures fair sentencing procedures. This study deals with the topic of victim impact statements and how they work in the context of sentencing. The study attempts to explore the present state of affairs in India and then tries to compare and contrast it with the way things are done in nations like the United Kingdom, wherein there is a more defined role for victims in the sentencing process. In conclusion, this study aims to contribute to the existing debate regarding the creation of a more balanced and inclusive criminal justice system in which the voices of the victims are equally important.

Keywords: Victim Impact Statement, Sentencing, Victimology, Criminal Justice, Victim Participation.

INTRODUCTION

The criminal justice system is traditionally viewed as a process between the state and the accused, where the primary goal is to determine the offender's guilt and impose an appropriate punishment. In this process, the role of the victim is often limited to reporting and providing evidence to the court. Even though the crime directly affects the victim, the sentencing stage has always focused more on the nature of the offence and the conduct of the offender than the harm directly suffered by the victim. However, over the years there has been a significant shift in recognising the role of the victims in the criminal justice system.

One of the important developments is the concept of the Victim Impact Statement, which allows the victim to describe how the crime has affected them physically, mentally, financially and emotionally before the court. It is not to determine the guilt of the accused, or allow the victim to decide the punishment; instead, it helps the court in understanding the consequences of the offence, ensuring that the victim's voice is also heard before the sentence is imposed.¹ This is adopted by many legal systems as a broader movement towards victim-centred justice.

India has made progress by recognising victims' rights through constitutional principles, judicial decisions and legislative reforms. The introduction of victim compensation schemes and greater participation during criminal proceedings reflects this evolving approach. Nevertheless, India still does not have a comprehensive statutory framework specifically governing victim impact statements during sentencing, as a result, victims often have limited opportunities to communicate the full impact of the offence directly to the sentencing court.²

In contrast, the United Kingdom has developed a structured victim personal statement, which allows victims to share the impact of the crime and ensure that their experiences are considered during the criminal justice process while preserving judicial independence. The UK model has become an important example of balancing the victims' rights with the principles of fairness and proportionality in sentencing.³

This paper argues that India can strengthen Victim Participation during sentencing by adopting a carefully regulated Victim Impact Statement framework informed by, but not identical to, the

¹ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, U.N. Doc. A/RES/40/34 (Nov. 29, 1985).

² Constitution of India arts. 14 & 21.

³ Code of Practice for Victims of Crime in England and Wales (Victims' Code), Ministry of Justice (2024)

model followed in the United Kingdom. While drawing lessons from the U.K experience, the study emphasises that any reform in India must preserve judicial independence, procedural fairness and the accused's constitutional right to a fair trial.

STATEMENT OF THE PROBLEM

For a long time, the criminal justice system has mainly focused on two parties, the State and the accused. Once a victim reports a crime and gives evidence before the court, their participation in the proceedings gets limited. On the other hand, when the court considers the seriousness of the offence and the circumstances of the offender before deciding the sentence, the victim is rarely given any formal opportunity to explain how the crime has affected their life.

Over the years, India has gradually taken meaningful steps to improve the position of victims. Judicial decisions have recognised victims' rights more broadly, and legislative reforms have introduced measures such as victim compensation and greater procedural participation. However, despite these improvements, there is still no structured legal mechanism that enables victims to explain the consequences of the offence before the sentence is pronounced. The United Kingdom is noticeably different. Through the Victim Personal Statement (VPS) Scheme, victims can describe how the offence has affected them, while leaving the final decision on punishment entirely to the court. This difference between the two legal systems raises an important question: Should India continue with its existing approach, or is there a need to introduce a structured Victim Impact Statement framework, and if so, how can it be done without compromising the fairness or the rights of the accused for a fair trial?

RESEARCH GAP

Existing Indian scholarship largely examines victim compensation, rehabilitation, restorative justice, and procedural rights during criminal proceedings. Comparatively little attention has been paid to the role of victims during the sentencing stage, particularly through Victim Impact Statements. Moreover, there is limited comparative research analysing whether the United Kingdom's Victim Personal Statement Scheme offers lessons that can be adapted to the Indian criminal justice system. This study seeks to address that gap by examining whether a structured mechanism for victim participation during sentencing can strengthen the administration of criminal justice while preserving judicial impartiality.

RESEARCH OBJECTIVES

The objective of this research is:

1. Examine the concept and purpose of victim impact statements in criminal sentencing.
2. Analyse the legal position relating to victim participation during sentencing in India.
3. Study the victim personal statement scheme followed in the United Kingdom.
4. Compare the legal frameworks of India and the United Kingdom.
5. Examine whether the UK model offers useful lessons for strengthening victim participation in India.

RESEARCH QUESTIONS

The present study seeks to answer the following questions:

1. What is the purpose of the Victim Impact Statements in criminal sentencing?
2. How does Indian law currently recognise victims during the sentencing process?
3. How does the United Kingdom regulate victim personal statements?
4. What are the major similarities and differences between Indian and the United Kingdom approaches?
5. To what extent can India draw lessons from the United Kingdom while preserving the principles of a fair trial?

RESEARCH METHODOLOGY

This research follows a doctrinal and comparative method of legal study. The doctrinal approach has been used to examine constitutional provisions, statutory laws, judicial decisions, and official legal documents relating to victims' rights and sentencing. The comparative approach has been adopted to understand legal positions in India and the United Kingdom. The study relies on both primary and secondary sources. The primary sources include the

Constitution of India, the Bharatiya Nagarik Suraksha Sanhita, 2023, relevant judgments of the Supreme Court of India, the Victims' Code for England and Wales, and guidance issued by the Crown Prosecution Service and the Sentencing Council. The secondary sources also refer to books, peer-reviewed journal articles, Law Commission Reports, government publications, and other scholarly writings on victimology and sentencing. The findings of this research are based on a critical analysis of these materials, to suggest reforms that are both legally sound and practically workable in the Indian context.

CONCEPT AND EVOLUTION OF VICTIM IMPACT STATEMENTS

The idea of a Victim Impact Statement (VIS) emerged from the growing recognition that victims should have a meaningful role in the criminal justice process. Traditionally, criminal proceedings were viewed as a dispute between the State and the accused. After reporting the offence and giving evidence, the victim's role was largely complete, and the sentencing process focused primarily on the seriousness of the offence and the culpability of the offender. Consequently, the personal consequences of the crime on the victim often received little attention.

This approach began to change during the victims' rights movement of the 1970s and 1980s, which argued that justice should acknowledge not only the offender's conduct but also the harm suffered by victims. This shift received international recognition through the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985, which encouraged States to treat victims with dignity, fairness, and respect throughout criminal proceedings.⁴ Although the Declaration did not require Victim Impact Statements, it laid the foundation for greater victim participation in criminal justice systems.

A Victim Impact Statement is generally presented after conviction but before sentencing. It enables the victim to explain the physical, emotional, psychological, social, or financial consequences of the offence. The statement does not determine the guilt of the accused or recommend the punishment; instead, it assists the court in understanding the impact of the crime before deciding an appropriate sentence.⁵

⁴ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, U.N. Doc. A/RES/40/34 (Nov. 29, 1985).

⁵ Andrew Ashworth & Rory Kelly, *Sentencing and Criminal Justice* 171–76 (7th ed. 2021).

It is important to distinguish a Victim Impact Statement from a witness statement. A witness statement forms part of the evidence used during the trial to establish the guilt or innocence of the accused. A Victim Impact Statement, by contrast, is considered only after conviction and is intended solely to assist the court during sentencing.⁶

The development of Victim Impact Statements is closely associated with victimology, a branch of criminology that emphasises the experiences and rights of victims. Victimology challenged the traditional offender-centred model by recognising that victims also deserve acknowledgement within the criminal justice process.⁷ However, concerns have been expressed that emotional statements could influence sentencing if left unregulated. For this reason, jurisdictions that recognise Victim Impact Statements usually provide clear procedural safeguards to ensure that the statement informs, rather than determines, the sentence.

The significance of a Victim Impact Statement lies not in allowing victims to influence punishment but in enabling the sentencing court to appreciate the full consequences of the offence. When carefully regulated, such statements promote transparency, strengthen public confidence in the justice system, and ensure that victims are recognised as participants rather than mere witnesses.

Victim Participation in Sentencing: The Indian Position

Indian criminal law has gradually moved towards recognising that victims are important participants in the criminal justice system. Constitutional principles, legislative reforms, and judicial decisions have strengthened victims' rights by providing compensation, rehabilitation, and limited procedural participation. Despite these developments, India still does not provide victims with a formal opportunity to explain the impact of the offence before the sentence is imposed. Criminal proceedings continue to be conducted primarily between the State and the accused, leaving sentencing largely focused on the offender rather than the victim.⁸

The constitutional foundation for protecting victims' rights can be traced to Articles 14 and 21 of the Constitution of India, which guarantee equality before the law and the right to life and personal liberty. Through judicial interpretation, these provisions have been expanded to

⁶ Crown Prosecution Service, *Victim Personal Statement* (Legal Guidance, updated 2024).

⁷ Andrew Karmen, *Crime Victims: An Introduction to Victimology* 19–26 (10th ed. 2018); Nils Christie, *Conflicts as Property*, 17 *Brit. J. Criminology* 1, 1–15 (1977).

⁸ INDIA CONST. arts. 14 & 21; *Zahira Habibullah Sheikh (5) v. State of Gujarat*, (2006) 3 S.C.C. 374 (India).

recognise fairness and dignity not only for the accused but also for victims. Similarly, Section 357A of the Code of Criminal Procedure, 1973, now continued under the Bharatiya Nagarik Suraksha Sanhita, 2023, introduced victim compensation schemes, acknowledging the State's responsibility towards victims of crime.⁹ Although these reforms provide financial assistance, they do not offer victims an opportunity to participate directly during sentencing.

The Supreme Court's decision in *Ankush Shivaji Gaikwad v. State of Maharashtra* significantly strengthened the law relating to victim compensation by holding that courts must actively consider compensation in appropriate cases rather than treating it as a mere formality.¹⁰ The judgment reflects an important shift towards victim-centred justice. However, compensation alone cannot substitute meaningful participation during sentencing. Financial relief addresses the consequences of crime after conviction but does not allow victims to explain the personal impact of the offence before the punishment is determined.

A similar development can be seen in *Mallikarjun Kodagali (Dead) through LRs v. State of Karnataka*, where the Supreme Court recognised that victims are no longer "forgotten participants" in criminal proceedings and affirmed their independent procedural rights, including the statutory right to appeal in certain situations.¹¹ This judgment represents a significant movement away from an exclusively offender-centred system. Nevertheless, the Court did not recognise a formal role for victims at the sentencing stage, leaving an important gap in the existing legal framework.

The decision in *Laxmi v. Union of India* further illustrates the judiciary's concern for victims by directing governments to provide compensation, medical treatment, and rehabilitation for acid attack survivors.¹² The judgment acknowledged that the consequences of crime extend far beyond the conclusion of a trial. Yet, rehabilitation and participation serve different purposes. Rehabilitation seeks to restore victims after the offence, whereas participation allows them to be heard before the sentence is imposed. The two are complementary but cannot replace one another.

⁹ Code of Criminal Procedure, No. 2 of 1974, § 357A (India); Bharatiya Nagarik Suraksha Sanhita, No. 46 of 2023 (India).

¹⁰ *Ankush Shivaji Gaikwad v. State of Maharashtra*, (2013) 6 S.C.C. 770 (India).

¹¹ *Mallikarjun Kodagali (Dead) through LRs v. State of Karnataka*, (2019) 2 S.C.C. 752 (India).

¹² *Laxmi v. Union of India*, (2014) 4 S.C.C. 427 (India).

Taken together, these decisions demonstrate that Indian courts have steadily expanded victims' rights through compensation, rehabilitation, and procedural safeguards. However, they have stopped short of recognising victims as participants during sentencing. In the absence of a structured Victim Impact Statement framework, sentencing continues to reflect the seriousness of the offence and the circumstances of the offender, while the victim's experience remains largely unheard. This gap provides the basis for examining whether the approach adopted in the United Kingdom offers a workable model for India.

Victim Personal Statements in the United Kingdom

Unlike India, the United Kingdom has developed a structured mechanism that allows victims to participate during sentencing through the Victim Personal Statement (VPS) Scheme. Introduced in 2001 and now governed by the Code of Practice for Victims of Crime (Victims' Code), the scheme enables victims to explain how the offence has affected them physically, emotionally, psychologically, socially, or financially after the offender has been convicted.¹³

The Victim Personal Statement is voluntary and is considered only at the sentencing stage. It does not form part of the evidence used to determine guilt, nor does it permit victims to recommend the punishment that should be imposed. Its purpose is to assist the court in understanding the consequences of the offence while leaving the final sentencing decision entirely to the judge. This distinction ensures that victim participation does not undermine judicial independence or the accused's right to a fair trial.

The Crown Prosecution Service (CPS) plays an important role in implementing the scheme by informing victims of their right to make a Victim Personal Statement and explaining how it may be used during criminal proceedings. Victims may also update their statement where the impact of the crime changes over time, particularly in cases involving long-term physical injuries or psychological trauma.¹⁴

The strength of the UK model lies in the safeguards that accompany it. Judges remain bound by statutory sentencing principles and the guidance issued by the Sentencing Council, ensuring that punishment is based on proportionality, consistency, and fairness rather than emotion.

¹³ Ministry of Justice, *Code of Practice for Victims of Crime in England and Wales (Victims' Code)* (2024).

¹⁴ Crown Prosecution Service, *Victim Personal Statement* (Legal Guidance, updated 2024)

¹⁵Although some scholars argue that emotionally compelling statements may influence sentencing, these concerns are addressed through judicial training and procedural safeguards instead of excluding victims from the process altogether.¹⁶

The UK experience demonstrates that victim participation does not require victims to determine punishment. Instead, it allows courts to make more informed sentencing decisions by considering the real consequences of the offence alongside the circumstances of the offender. In this respect, the UK model provides a useful reference for India, particularly because it balances meaningful victim participation with the principles of fairness and judicial impartiality.

Comparative Evaluation: Lessons for India

The comparison between India and the United Kingdom demonstrates that both legal systems recognise victims as important participants in the criminal justice process, but they differ significantly in the manner in which those rights are protected during sentencing. India has primarily focused on compensation, rehabilitation, and limited procedural rights, whereas the United Kingdom has recognised that victims should also have an opportunity to explain the impact of the offence before the sentence is imposed. This distinction reflects two different approaches to victim-centred justice.

In India, the development of victims' rights has largely been driven by constitutional interpretation and judicial decisions. Courts have expanded the rights of victims through compensation schemes and procedural safeguards, recognising that justice should not focus solely on the offender. However, these developments do not provide victims with a structured opportunity to participate during sentencing. As a result, the sentencing process continues to focus mainly on the seriousness of the offence and the circumstances of the offender.

The United Kingdom adopts a different approach. Through the Victim Personal Statement Scheme, victims may describe the consequences of the offence while the judge retains complete control over sentencing. The statement does not determine guilt or recommend punishment; rather, it assists the court in understanding the impact of the crime. This

¹⁵ Sentencing Council for England and Wales, *General Guideline: Overarching Principles* (effective Apr. 1, 2024); Andrew Ashworth & Rory Kelly, *Sentencing and Criminal Justice* 182–90 (7th ed. 2021).

¹⁶ Lucia Zedner, *Criminal Justice* 245–52 (2d ed. 2020); Victims' Commissioner for England and Wales, *Annual Report 2023–24* (2024).

demonstrates that victim participation and judicial independence are not conflicting principles but can operate together when supported by clear procedural safeguards.¹⁷

One of the most important lessons that India can draw from the UK experience is that participation does not mean control. A common concern is that victim statements may result in emotional or inconsistent sentencing. The UK addresses this concern by clearly limiting the purpose of the Victim Personal Statement and requiring judges to follow established sentencing principles. This ensures that the statement informs judicial decision-making without influencing it unfairly.

At the same time, India should not adopt the UK model without modification. The two countries differ in terms of judicial infrastructure, pendency of criminal cases, and victim support services. A direct transplantation of the UK framework may therefore create practical difficulties. Any future reform in India must be consistent with its constitutional values and institutional realities.

The comparison ultimately shows that the objective of a Victim Impact Statement is not to secure harsher punishment but to improve the quality of sentencing. A court that understands both the legal facts and the actual consequences of the offence is better placed to impose a sentence that is fair, proportionate, and capable of inspiring public confidence. For India, the challenge is therefore not whether victims should be heard, but how their participation can be incorporated without compromising the rights of the accused or judicial impartiality.

Comparative Overview

Aspect	India	United Kingdom
Approach towards victims	Focuses on compensation, rehabilitation and procedural safeguards	Recognises participation through the Victim Personal Statement Scheme
Role during sentencing	No formal opportunity to explain the impact of the offence	Victims may submit a Victim Personal Statement before sentencing

¹⁷ Ministry of Justice, Code of Practice for Victims of Crime in England and Wales (Victims' Code) (2024); Sentencing Council for England and Wales, General Guideline: Overarching Principles (effective Apr. 1, 2024); Mallikarjun Kodagali (Dead) through LRs v. State of Karnataka, (2019) 2 S.C.C. 752 (India); Ankush Shivaji Gaikwad v. State of Maharashtra, (2013) 6 S.C.C. 770 (India).

Aspect	India	United Kingdom
Legal framework	Constitution, BNSS, judicial decisions	Victims' Code, CPS Guidance, Sentencing Council Guidelines
Sentencing authority	Court alone decides the punishment	Court alone decides the punishment
Purpose of victim participation	Welfare and procedural protection	To inform the court about the impact of the offence
Future direction	Requires a structured statutory framework	Existing framework provides a useful comparative model

Challenges in Adopting Victim Impact Statements in India

Introducing a structured Victim Impact Statement (VIS) framework in India would strengthen victim participation, but it also presents legal and practical challenges. The foremost concern is maintaining a balance between the victim's right to be heard and the accused's constitutional right to a fair trial. If Victim Impact Statements are not properly regulated, there is a possibility that emotionally charged statements may influence sentencing and affect consistency in judicial decisions.

Another challenge is the absence of a statutory framework specifically governing Victim Impact Statements. Although Indian law recognises victims through compensation schemes and certain procedural rights, it does not prescribe a uniform procedure for presenting the impact of the offence before sentencing. This may lead to inconsistent practices across different courts.

Practical concerns must also be considered. Indian courts continue to face a heavy backlog of criminal cases, and many victims lack access to legal or psychological support while preparing such statements. Without adequate institutional mechanisms and judicial training, the introduction of a Victim Impact Statement framework may increase procedural delays, instead of improving victim participation.

These challenges do not suggest that Victim Impact Statements are unsuitable for India. Rather, they highlight the need for a carefully designed legal framework that promotes victim

participation while preserving judicial independence, procedural fairness, and efficient administration of justice.

Suggestions and Conclusion

The comparative analysis undertaken in this study demonstrates that India has made significant progress in recognising victims' rights through constitutional interpretation, judicial decisions, and legislative reforms. However, these developments primarily focus on compensation, rehabilitation, and procedural safeguards, leaving victims without a structured opportunity to express the impact of the offence during sentencing.

The experience of the United Kingdom shows that victim participation can be incorporated into the sentencing process without compromising judicial independence or the accused's right to a fair trial. The Victim Personal Statement Scheme does not permit victims to determine punishment; instead, it assists the court in understanding the consequences of the offence before deciding an appropriate sentence.

Based on this comparative study, India may consider introducing a carefully regulated Victim Impact Statement framework through appropriate legislative reform. Such a framework should clearly define the purpose and scope of the statement, ensure that it is considered only after conviction, and prohibit victims from recommending the punishment to be imposed. Judicial training and victim support services should also accompany any future reform to ensure uniform implementation across the country.

In conclusion, the study finds that recognising victims during sentencing is not inconsistent with the principles of a fair trial. A properly regulated Victim Impact Statement system would not transfer the power of sentencing to victims but would enable courts to appreciate the full consequences of crime before determining punishment. Ultimately, a criminal justice system that acknowledges both the rights of the accused and the experiences of victims is more likely to deliver fair, balanced, and meaningful justice.

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