

**Effects of Victim Impact Statements on Sentencing Outcomes**

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### **Abstract**

The research paper examines the effects of Victim Impact Statements (VIS) in influencing sentencing decisions in the Canadian legal system, focusing on both punitive and restorative justice viewpoints. The research question focuses on how VIS influences court decisions and whether they strike a balance between victims' emotional needs and legal fairness. The study conducts a literature analysis that includes empirical studies, case laws, and court surveys. It also identifies policy gaps and inconsistencies that have occurred following legislative modifications to the Criminal Code in 2015. Key findings show that VIS have little impact on sentencing outcomes in majority of cases as judges see them providing expressive function rather than instrumental to legal proceedings. Even though, these statements increases victim empowerment by offering emotional closure and encouraging restorative justice, they also increase the risk of emotional prejudice and sentencing inequalities where several impact statements are provided. Further, the literature provides that VIS are more commonly submitted in serious crimes as compared to minor crimes, therefore questioning their importance to legal proceedings. Finally, it is recommended to uniformly incorporate VIS in court proceedings which can be done by resorting to longitudinal research, increased victim education, and collaboration between legislators and legal professionals. The research recommend that combining emotional aspect with judicial impartiality can improve victim participation and sentencing equity.

*Keywords:* victim impact statement, sentence outcomes, judicial fairness, Canadian legal system, victims

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### **Effects of Victim Impact Statements on Sentencing Outcomes**

Victim Impact Statements (VIS) have become an integral part of the Canadian criminal justice system since its adoption in 1988. These statements allow victims to explain the personal impact of a crime, including emotional, psychological, and financial harm, during sentence hearings (Dufour et al., 2023). Traditionally, criminal sentencing has been based on legal considerations such as the nature of the offense and the offender's responsibility (Nicol, 2020). However, by introduction of VIS in sentence hearings victims' words are heard directly in court.

The Canadian Victims Bill of Rights (CVBR) was amended in 2015, especially section 722 of the Criminal Code, which increased VIS's role by granting victims the right to participate more inclusive in court proceedings and to provide information on the physical, emotional, and financial consequences of the crime. These changes were intended to highlight victims' voices and develop a victim-centered approach to the court system. However, they expressed concerns about ensuring fairness and consistency in punishment, as courts must reconcile the victim's emotional narrative with legal proportionality principles (Manikis, 2015). Miller (2015) views this participatory technique as the most consequential victim-centered reform, aiming to increase crime victim participation in court proceedings.

VIS aims to address a number of fundamental objectives. They give victims a way to express their pain, potentially assisting their emotional healing and sense of closure. Simultaneously, these statements increase judicial transparency by providing courts and offenders with insight into victims' lived experiences. Moreover, VIS aims to enhance public trust in the justice system by ensuring that the victim's perspective are not disregarded (Roberts & Edgar, 2006). However, the function and influence of VIS on sentencing results have sparked intense debate. According to some legal scholars and practitioners, VIS empowers victims and aids judges in imposing sentences that more accurately reflect the pain the offense has caused

(Smith, 2012). Proponents argue that VIS helps to promote restorative justice by recognizing the personal effect of the crime and encouraging offender accountability (Miller, 2015). Critics are concerned that VIS introduces emotional bias into the sentencing process, which could damage fairness and consistency. There is also the possibility of disproportionate punishment, especially in cases involving many or extremely passionate statements, since judges may feel compelled to apply stronger punishments (Dufour et al., 2023).

The divisive nature of VIS arises from demands of two competing goals which are to increase victim participation and guarantee judicial impartiality. While VIS aims to represent the personal cost of a crime, judges must ensure that their decisions are law-based, taking into account considerations like as proportionality, precedent, and the offender's circumstances. This requires research regarding their impact on sentencing outcomes and fairness.

### **Research Question**

How Victim Impact Statements affects sentencing decisions in Canada and whether using it results in fairer or more inconsistent outcomes?

Sub-questions include: What is the role of Victim Impact Statements in the sentence process for judges? How do judges, victims, and legal practitioners assess the influence of VIS on the equity and efficacy of sentencing?

### **Problem Statement and Purpose**

The key issue in this paper is to gain knowledge on the effect of VIS on sentencing outcomes in Canada. Although VIS offers an avenue for victims to be in a position to participate actively in the justice process, literature does not make it clear up to what extent they will influence judicial decisions. Some studies indicate that VIS has little or no effect on sentencing results since judges are mostly guided by legal considerations and sentencing

guidelines. Others argue that VIS results in longer or more severe sentences, especially in cases involving a high level of emotion or for serious crimes such as violent ones. At the very least, this difference raises unsettling questions about whether VIS have contributed to more equitable sentencing decisions or if they are importing unwarranted biases into the criminal justice system. The following study looks at the dual capacity of VIS serving within the Canadian Criminal Justice System.

This research is studying the practical effect of VIS on judicial decision-making and sentence outcome. It also examines the emotional and psychological benefits that VIS provides for victims, in terms of punishment. In this respect, the broader understanding of the implications of VIS may help assess whether these statements strike the right balance between victim empowerment and judicial impartiality.

### **Worldview**

This research design is more associated with the post-positivism world view. A postpositivist identifies reality, though one which can't be conceptualized and observed in a completely objective way, as Creswell and Creswell (2018) established. It researches empirical data, namely judicial verdicts and case files, to test what is the function of VIS in sentencing. It observes trends and results of VIS on sentencing. The post-positivism approach has the tendency to evaluate theories and hypotheses based on empirical data, allowing for consideration of preconceived notions and the influence of values on the researcher's perspective.

The current study has a two-fold approach toward the impacts of Victim Impact Statements, both at the level of sentencing outcome and in victim rehabilitation within the Canadian criminal justice system. The results indicate that VIS provides psychological relief and an avenue for active victim participation, which are also important components of

procedural justice. VIS do not always serve the principles of proportionality and equity in sentencing, especially in cases of multiple or highly emotional statements.

### **Search Methodology**

This research involved an evaluation of literature. First, online search was performed using the JIBC library's EBSCO system and its databases, as well as Google Scholar. Then, scholarly publications were picked according to their relevancy to the study issue. Newspaper stories, magazines, and periodicals were excluded from the review. Initially, the scope was set to articles concerning VIS in Canada, but to narrow down the scope of the research search, the focus shifted on the role of VIS in sentencing outcomes. The selected articles provided empirical evidence on VIS and their influence on sentencing outcomes in Canada.

The initial literature review was performed via the JIBC library. The keyword used was "Victim Impact Statements." There were 433,700 hits. The parameters were then refined by an evaluation of peer-reviewed literature. This received 351,909 hits. Also, the criteria were further refined by filtering to modify the year range to 2000-2024 and adding the keyword "sentencing or outcome" to the advanced search. This resulted a total of 1,238 hits. A number of articles were evaluated and/or selected by title, after which the filter "Canada" was applied, yielding 88 results (see Table 1).

**Table 1**

*Search Results of the Literature Search using JIBC Library*

<b>Filters</b>	<b># of Hits</b>
Victim Impact Statements	433,700 hits
Peer-reviewed literature	351,909 hits
Year range set to 2000-2024 and keyword refined to "sentencing or outcomes"	1,238 hits

Canada	88 results
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A search was also performed on Google Scholar with the keywords “victim impact statements,” “sentencing outcome,” and “Canada.” There were 20,000 results. After that, filters were applied by date, from 2000 to 2024, resulting in 19,800 results. The databases linked to the chosen articles from all searches included EBSCO, Criminal Justice Abstracts, APA Psych Info, and Sage Journals. For this research more than 20 items were chosen for review from these searches. Next, abstracts were evaluated for relevance of the research question, while also taking into account the established inclusion and exclusion criteria.

**Table 2**

*Search Results from Google Scholar*

Filters	# Hits
"victim impact statements," "sentencing outcome," and “Canada.”	20,000
Filtered by date (2000-2024)	19,800 results

### **Inclusion and Exclusion Criteria**

Table 3 describes the criteria for inclusion and exclusion in the study. This includes Canadian criminal cases from 2000 to 2024 which include submitted victim impact statements that involve Canadian courts, prosecutors, defense attorneys, and victims. The research examines offenses with different sentence decisions and guarantees that case data and victim impact statements are accessible to the public. It excludes non-criminal cases (including civil or family law), legal practitioners outside Canada, cases and articles before 2000, decisions resulting from plea agreements, non-Canadian jurisdictions, and any cases with incomplete or inaccessible records.

**Table 3***Inclusion and Exclusion Criteria for Literature Search*

<b>Criteria</b>	<b>Inclusion</b>	<b>Exclusion</b>
<b>Legal Cases</b>	Criminal cases in Canada with submitted VIS	Non-criminal cases (e.g., civil, family law)
<b>Participants</b>	Canadian judges, prosecutors, defense attorneys, victims	Legal professionals outside Canada, Public
<b>Time Frame</b>	2000 - 2024	Before 2000
<b>Sentencing Types</b>	Offenses with variable sentencing outcomes	Sentences determined by plea bargains with
<b>Geographic Scope</b>	Canada	Non-Canadian jurisdictions
<b>Data Availability</b>	Cases with publicly available VIS and sentencing records	Incomplete or inaccessible case records

These articles received consideration for thorough examination because of their varied viewpoints and detailed analysis of Victim Impact Statements in Canadian sentencing. Articles offered important insights on the impact of VIS on sentencing outcomes, considering elements such as crime severity, judges and victim views about role of VIS in legal proceedings. Several studies investigate the emotional and psychological effects of VIS on victims and their significance in trials, providing both quantitative data and qualitative insights. Others analyze legislative changes, like the Victims Bill of Rights Act that reflect on the transition towards punitive punishment and its consequence. Literature also indicate the significance of VIS in mitigating harm and directing proportional sentencing.

This research includes both quantitative and qualitative literature to gain a thorough knowledge of the function of VIS in sentencing decisions. The empirical research which provided quantitative data on sentencing results are preferred in order to gain knowledge about the measurable effects of VIS. Additionally, qualitative research articles provided insights into the emotional and psychological effects of VIS on victims, judges, and other legal professionals, which are essential for understanding the larger implications of VIS in

judicial contexts. This balanced approach resulted in a thorough examination of VIS's impact on Canadian sentencing results.

### **Assessment of Sources**

The selection process further narrowed the list to articles that matched the criteria of research and scope. This, within itself, narrowed the search to the selection of the articles that provided information on aspects of the research question. This was done through focusing on literature that addresses the role of victim impact statement on sentencing outcomes in Canada. The process required using the inclusion/exclusion criteria. This was through checking the title of the articles to see if they were relevant. Once the title had been cleared to meet the requirement, then the abstract and conclusion were checked. The article was then to be dismissed or critically appraised, using its relevance to the scope of the study. Following the selection of articles to its final number, it was necessary to assess the reliability and validity, in addition to common themes contained therein. Each component of the study was matched with the question and scope of the research: study location, participant sample, results, limitations, and gaps in the literature. Not all aspects of the research question are represented in the literature. Of course, this can be comprehended based on the complexity of the issue. As such, some articles were selected due to their specific strengths, providing rich information related to at least one subtopic. After this extensive search 15 articles were identified to provide the basis for this critical appraisal.

### **Literature Review**

After analysing and reviewing the literature relating to the research question, several themes emerge, which will be discussed as follows:

### **Usage and Effectiveness of VIS in Sentencing**

The studies regularly examine the perceived utility of VIS in the legal process while questioning their effectiveness. This lack of clarity shows that whereas VIS may fulfill a

procedural role, their true influence on sentencing is unclear, highlighting the necessity for additional research on their effectiveness beyond mere courtroom participation. Dufour et al. (2023) discovered that although victim impact statements are more commonly associated with severe cases, they do not have a significant influence on sentencing when the type of crime is accounted for. Oral victim impact statements and the number of statements often lead to lengthier sentences, showing that both the format and quantity of statements may influence judicial decisions, despite the inconsistent impact of victim impact statements on sentencing outcomes. Roberts and Edgar (2006) also observe that judges consider VIS beneficial for amplifying victims' voices, however, they highlight their limited usage, particularly in less severe cases. Cole (2003) observes that victim impact statements have a minimal effect on the severity of sentencing, particularly where the defendant enters a guilty plea. Both Crown counsel and victims recognize the substantial emotional impact of VIS; however, this emotional significance does not result in apparent changes to sentencing outcomes.

Bateman and Dalby (2010) presents a viewpoint from legal professionals, showing that both Crown prosecutors and defense attorneys concur that Victim Impact Statements have limited effect on the severity of sentencing. In contrast, Roberts & Edgar (2010) contend that using VIS as evidence enables the court to determine a sentence that is more accurate than the harm the offense causes. Thus, VIS can support the rehabilitation process by providing victims with a voice, as they rarely influence the final sentencing outcome.

### **Emotional and Psychological Impact on Victims**

Despite having little influence on sentence choices, Victim Impact Statements (VIS) play a vital rehabilitative role for victims. Many victims report feeling relieved after making a statement because it allows them to express their feelings and share their experiences (Cole 2003). In some cases, creating and delivering a VIS creates a sense of closure, allowing

victims to process their trauma and regain control.

Victims generally find the VIS process empowering because it allows them to communicate directly with the court and the perpetrator. This right to be heard is especially crucial in a legal system that historically prioritized the offender's actions over the victim's experiences (Smith, 2012). For some victims, the VIS is the only time during the trial process that their sorrow is legally acknowledged, which can help with emotional healing. Furthermore, VIS improves victim satisfaction with their involvement in legal proceedings victims often report pleasant experiences while making a statement in court (Bottoms & Roberts, 2012).

However, not all victims enjoy the benefits of VIS. Some people find the procedure re-traumatizing, especially if they believe their statements are ignored or if they are cross-examined at sentencing. In these circumstances, the anticipated emotional release may instead result in dissatisfaction and disappointment (Roberts & Manikis, 2010). Janzen (2020) highlights that the emotional effort of putting together a VIS, along with uncertainty regarding its impact on punishment, can leave victims feeling overwhelmed or disillusioned.

The emotional impact of VIS is well described in the literature. According to Dufour et al. (2023), VIS have significant emotional importance, especially when delivered orally, and are increasingly employed in situations involving serious offenses. The above-mentioned research provides that VIS may not influence sentence results, but they have a significant emotional impact on both the court and the victim, especially when multiple statements are delivered. Cole (2003) contends that VIS provide a means of release for victims, regardless of their little influence on sentence judgments.

VIS can also be used as a weapon to advocate for heavier punishments which might be harmful because it ignores victims' emotional needs (Janzen, 2020). In contrast, Ruparelia (2012) contends that the public recognition that comes from delivering a VIS in court can

improve victim satisfaction and provide therapeutic benefits. These findings show the importance of carefully considering the emotional effects of VIS. It is clear that such statements empower victims by giving them a platform to express their stories, but their usage can also impose psychological costs that contradict their intended purpose. Despite the aforementioned limitations, the symbolic value of VIS remains high. They help victims to express the personal effect of the incident in court. Even if the sentence is unaffected, the ability to express oneself can provide closure and healing, especially for victims of violent crime.

### **Legislative and Policy Implications**

The legislative framework governing VIS has progressed, notably with the enactment of the 2015 Victims Bill of Rights Act. Janzen (2020) attacks this approach for potentially increasing punitive sentencing trends, emphasizing a transition towards harsher sentences driven by Victim Impact Statements. This issue highlights the complex relationship between legislative amendments and the implementing VIS, prompting worries regarding the potential adverse effects of policies that advocate for more severe penalties under the justification of victim support.

### **Judicial Perception of VIS**

Roberts and Edgar (2006) examine judicial perspectives of VIS, revealing that judges typically appreciate victim input, particularly in violent crime cases; however, VIS remains underutilized in court proceedings. Judges have raised concerns that Victim Impact Statements may introduce unnecessary emotional content, potentially influencing the legal process. Janzen (2020) contributes to this argument by examining how VIS, used as evidence of harm, may strengthen a punitive sentencing approach. This method may lead judges to impose more severe sentences, although that Victim Impact Statements give victims a voice rather than to promote stricter penalties.

**Instrumental and Expressive Function of VIS**

Victim Impact Statements can impact sentencing results in two ways: expressive and instrumental. The expressive function focuses on describing the emotional impact of the crime to the court, the offender, and the general public, and it frequently provides victims with therapeutic benefits. This allows victims to reclaim a sense of control and actively participate in the legal system, addressing secondary victimization by ensuring their voice is heard (Manikis, 2015). However, because the VIS is intended to communicate emotion rather than give factual information, it has no direct bearing on the character or harshness of the sentencing. Conversely, the instrumental function views the VIS as critical evidence to determine adequate sentence. It assists the court to assess the harm caused, aligning with perspectives of retribution and proportionality, and can impact the sentence as either an aggravating or mitigating element. Furthermore, the instrumental function promotes restorative goals by facilitating restitution or directing protective conditions, such as probation sentences (Markin, 2017).

In the case of *R. v. Gabriel* 1999, para. 19, Justice Hill explained the four goals of the victim impact statements are: to show that the punishment was fair; to help the victim make up for the harm done; to boost the victim's trust and satisfaction in the justice system; and to restore the victim's identity in the proceedings. This provided for the crucial importance of clearly understanding the VIS's role in managing expectations and ensuring its proper application during sentencing. Thus, the dual purpose of VISs which are therapeutic expression and factual evidence influences sentencing by addressing both the emotional and legal aspects of justice.

The reviewed articles present a variety of ideas and recommendations for the usage of VIS. Some studies support the use of VIS as a tool for victim participation and expression, while others raise serious concerns about their impact on sentencing outcomes and the

likelihood of discrimination. Furthermore, arguments exist over the role of VIS in legal procedures, namely whether they should promote involvement of victims or strictly stick to principles of fairness and proportionality in sentencing. Despite a considerable literature present on the topic, several gaps exist. There is a considerable lack of empirical data on the effect of victim impact statements from various crime categories on sentence outcomes.

### **Findings**

This section presents key findings from the literature review, focusing on critical areas such as the limited impact of Victim Impact Statements (VIS) on sentencing outcomes, variation in the use of VIS based on crime type, the therapeutic role VIS play for victims, judges' attitudes toward these statements, punitive and restorative approach. The findings show relationship between the intended goal of VIS and how it influences sentencing practices in Canadian courts.

### **Mixed Findings on the Role and Influence of VIS**

Although studies acknowledge the emotional and expressive value of VIS, their actual impact on punishment is inconsistent. Dufour et al. (2023) discovered that VIS are more commonly utilized in serious situations, although the nature of crime still influences sentencing outcomes. Additionally, oral VIS and repeated statements can result in longer sentences, implying that the format and quantity of VIS may affect judicial decisions in some cases, yet the total effect remains minimal. Roberts and Edgar (2006) discovered that, while VIS can magnify victims' voices, they are underused in less severe cases. One possible explanation for the little impact is that Canadian courts follow the idea of proportionality in sentence. Judges consider a variety of legal elements, including the seriousness of the crime, prior criminal record, and aggravating or mitigating circumstances, which are more important than subjective victim experiences. This commitment to legal norms means that emotions portrayed in VIS do not outweigh the objective considerations considered in sentencing

(Roberts & Manikis, 2011).

Further research focuses the symbolic relevance of VIS over their practical application. For example, Cole (2003) discovered that VIS had no effect on sentencing severity, particularly when the defendant submitted a guilty plea. Also, legal professionals, including crown prosecutors and defense counsel, typically agree that VIS has no influence on sentencing (Bateman & Dalby, 2010). Nevertheless, Roberts and Edgar (2010) suggests that VIS can help with more accurate sentencing by providing a clearer understanding of the harm produced by the offense. While VIS are unlikely to dramatically impact sentencing decisions, they do have a rehabilitative goal by making victims feel heard and acknowledged. This therapeutic role contributes value to the judicial process, even if it does not result in changes in sentencing severity.

Although VIS may give another layer of knowledge, its practical impact on results is not substantial. For example, even in high-profile cases when victims provide emotional testimony, sentence patterns follow the precedent established by case laws based on principle of stare decisis (to stand by what has been decided) which implies that a legal principle or rule that was established in a previous case should be followed to in a subsequent case if the facts and legal issues of the subsequent case are sufficiently similar to those of the previous case (Skolnik, 2021). Thus, while VIS help victims feel heard, they rarely alter the intended course of justice.

### **Variability According to Crime Type**

The impact of VIS on sentencing varies immensely depending on the type of crime. According to studies, VIS are more common in cases involving serious crimes including homicide, sexual assault, and domestic violence than in property or minor crimes (Dufour et al., 2023). Similarly, judges also state that relevance of VIS varies by case, with 41% Manitoba judges responding that they are most useful in serious crimes, particularly

violent offenses, and insignificant in lesser cases where their usage could affect resources and dilute their impact (Roberts & Edgar, 2006).

This distinction can be related to the severity of emotional and psychological suffering caused by violent crimes, which encourages victims to offer statements. In serious cases, such as murder or aggravated assault, victims or their families feel compelled to express the significant impact the incident has had on their life. VIS in many situations is more thorough and emotionally intense, providing the tragedy, grief, and long-term impacts (Janzen, 2021). Judges may acknowledge the significance of these statements, but they must also highlight that sentence judgments must be proportional and fair.

On the other hand, VIS are used fewer in property crimes and nonviolent offenses (Department of Justice Canada, 2021). Victims of theft or vandalism, for example, may not feel compelled to make a statement because the loss they suffered was pecuniary rather than emotional. When VIS are submitted in such situations, they tend to focus on financial loss or inconvenience rather than emotional trauma, which reduces their potential impact on sentencing decisions (Dufour, 2021).

This difference raises serious concerns about the accessibility and equity of VIS for various sorts of offenders. If VIS are only utilized in extreme situations, victims of small crimes may feel cornered from the court system, undercutting the purpose of victim participation. Furthermore, the absence of VIS in minor cases may indicate to judges that the impact on victims is minor, even if the suffering suffered is large in non-material terms.

### **Judicial Attitudes About VIS**

Judges usually see VIS as an important part of the sentencing process, although some express concern about its potential to induce emotional bias. In interviews with judges, Roberts and Edgar (2006) discovered that most judges valued the information VIS provided into the personal consequences of crime. They did, however, underline the importance of

striking a balance between empathy for victims and the principles of fairness and proportionality.

Judges consider VIS to be valuable and a distinct source of information relevant to punishment. The survey results show that, across three jurisdictions, half of the judges found victim impact statements useful in all or most cases, with only 19% finding them useful in only a few cases, demonstrating that judges generally see these statements as valuable, despite some opposing views (Roberts & Edgar, 2006). Also, 47% of judges in three jurisdictions found that victim impact statements frequently or occasionally provided relevant information for sentencing that was not available from the trial or Crown submissions, reinforcing the judicial view that these statements serve as an important supplementary resource (Roberts & Edgar, 2006).

Nevertheless, judges are particularly cautious when using multiple VIS in instances involving several victims. While the inclusion of many testimonials can provide a more complete picture of the impact, it also raises concerns about the cumulative emotional influence on the court's decision-making process. Some judges are concerned that the emotional weight of many VIS may unwittingly lead to harsher penalties, jeopardizing the impartiality of legal proceedings (Smith, 2012).

In certain circumstances, judges are frustrated when VIS use inflammatory language or offer sentencing recommendations because such information is outside the original objective of the comments. In one such case the Court highlighted that, while judges occasionally come across victim impact statements containing inappropriate information, they are cautious in ensuring that such content does not affect their rulings. This shows the judiciary's effort to maintain impartiality and equitable sentencing methods, even when emotionally charged statements are made. Judges must then tread carefully in these cases to ensure that the offender's rights are upheld while simultaneously appreciating the victim's

right to express their emotions (*R. v. Nomm*, 2009, para. 14). The judicial balancing task of accepting victim input while maintaining the fairness of the trial highlights the difficulties of incorporating VIS into the sentencing process.

### **Legal Practitioner's Perspective on VIS**

Moving on to the viewpoints of legal counsel on usage of VIS in court proceedings. Existing research found out that both crown and defence counsel agreed on the overall effect of a Victim Impact Statement on the severity of the sentence. 50 percent of participants believed that a VIS would enhance the severity of a sentence, 27 percent thought it would diminish sentence severity, while the remaining participants perceived no effect (Bateman & Dalby, 2010).

The vast majority (77%) of legal counsel interviewed say VIS should be permitted, while support is divided between Crown and defense lawyers. Defense lawyers are often skeptical of VIS, concerned about potential consequences for the offender's rights and asking whether the procedure favors the individual over society as the victim. It is pointed that crown counsel are more likely to view VIS positively, particularly in terms of offering victims with closure and promoting their engagement in the legal system (Bateman & Dalby, 2010). This highlights an ongoing dispute about whether VIS adequately balances victim representation with a fair focus on the offender.

### **Strengths and Weaknesses of Research**

The research project used a literature review based on empirical studies, judicial decisions, and judges' questionnaires from the existing literature. This offers a different perspective on the emotional and legal aspects of the VIS. The focus on emotional and legal perspectives gave great insights into VIS, focusing not on sentencing outcomes but rather on the psychological gain they offer to the victim. In addition to this, research identified policy gaps and inconsistencies indicating how national standards mattered in making the variations

of VIS application uniform across regions. Case studies and judicial opinions, used in the research, were a silver lining as the study practically presented insights that can be remarkably useful for identifying how VIS is used or perceived in reality at the courts of justice. Moreover, source diversity ranged from academic research to government records and judges' narratives, balancing both emotional and legal components in providing an in-depth knowledge of the VIS.

One of the limitations of this study is that it relies on secondary data. The interaction with victims and judges was minimal. As a result, some of the findings of the study were indirect since the research relied on the interpretations that were done previously. Another limitation is that no longitudinal analysis was provided to indicate how long-term the effects of VIS are on the results of victims and sentences. Also, lack of representations of direct victim experiences were realized in this study and this limited inclusion reduces the depth of understanding in victim experiences. This can, in the future studies, be addressed through interviews or questionnaires with victims to gain more personal and diverse perspectives. The other issue was in the over-emphasis on sentencing outcomes, which may have overlooked the overall value of the VIS for victim satisfaction and restorative justice.

### **Discussion**

The discussion provides insights by examination of findings about the role of Victim Impact Statements in the Canadian legal system. The difficulties of integrating emotional assistance for victims with the principles of judicial fairness. It also identifies policy gaps following the 2015 legislative amendments and discusses the punitive and restorative approach of VIS and implications of VIS for sentencing equity.

#### **Balance Emotional Support and Judicial Fairness**

The use of VIS presents a major issue by advocating for victims' emotional demands along with the impartiality required for judicial fairness. Without a doubt, VIS allows

participation of victims to express the effect of the crime, giving them attention and legitimacy in a system that has traditionally prioritized offenders. This is especially helpful for victims who feel ignored throughout court proceedings. Though the emotional nature of these statements poses issues for judges, their conscience should follow that sentence judgments are objective and consistent with legal principles.

While VIS allows victims to express sadness, fury, or suffering, they can also add emotional biases into the trial. The problem emerges when judges, consciously or unconsciously, consider the emotional impact of a VIS in their sentencing choices, possibly leading to harsher penalties. Also, emotional bias is especially detrimental when multiple VIS are offered, as a collection of statements can elevate the perceived injury, raising the risk of a disproportionate punishment. This begs the dilemma of how courts should acknowledge victim participation while maintaining legal neutrality (Manikis, 2015; Roberts & Edgar, 2006).

The balance between these competing interests indicates the need for more specific procedural standards. Some argue for restricting the length or frequency of VIS to minimize emotional overload, while others propose educating judges to better manage emotional content without enabling it to impact sentencing outcomes. Regardless, the courts must ensure that VIS improves the victim's feeling of justice while maintaining the fairness and integrity of the legal system.

### **Policy Gaps: The Impact of 2015 Legislative Changes**

The 2015 revisions to Canada's Criminal Code increased the use of VIS, enabling victims to participate more fully during sentencing. These reforms were made to empower victims and give them a stronger voice in proceedings. Despite the beneficial aim of the amendments, major policy gaps persist, resulting in variations in how VIS is applied and interpreted among jurisdictions. One major concern is the variation in the quality and content

of VIS. Some victims may be assisted and guided in drafting their statements, but others are left to go through the process on their own, resulting in inconsistent presentation and efficacy. In certain circumstances, poorly crafted statements fail to reflect the full scope of the victim's damage, decreasing their potential impact (Manikis, 2022).

Another issue is a lack of defined processes for judges to evaluate and incorporate VIS into their decisions. While some jurisdictions provide judges with instruction on how to use VIS appropriately, others do not, resulting in variances in how these statements are weighed. As a result, sentencing decisions can vary depending on the presiding judge or location, undermining the purpose of fairness and uniformity in the legal system. Furthermore, legislative amendments have not adequately addressed the risk of victim re-traumatization. Victims are frequently left with the impression that their statements will impact sentence, only to be frustrated when the outcome remains same (Smith, 2012). This might lead to dissatisfaction with the legal system, focusing on the need for open communication about the function of VIS and its limitations on sentence outcomes.

These policy gaps shows the need for further legislative amendments. By adopting clear criteria for the production, presentation, and judicial use of VIS, the victims of crime may feel included and have equitable opportunity to engage meaningfully in the legal process. Additionally, increased consistency in judicial training would encourage more uniform sentencing techniques, lowering the possibility of arbitrary outcomes.

### **Inconsistent Impact of VIS on Sentence Outcomes**

The different impact of VIS on sentence outcomes raises questions regarding possible inequalities. As noted in the findings above, the presence and emotional state of VIS can vary greatly based on the sort of crime committed, the victim's personal circumstances, and the resources accessible to them. There may cases involving several victims in which many VIS are presented, judges in such cases may fail to manage the accumulating emotional weight,

resulting in biased decision-making and harsher penalties for the offenders (Roberts & Edgar, 2006). This gap can result in unintentional differences in sentencing. For example, offenders in high-profile or violent crime cases, where victims are more likely to present emotionally charged VIS, may get harsher punishments than those in less-publicized instances involving similar crimes. Such outcomes risk undermining the principle of proportionality in sentencing, which states that the punishment should be proportionate to the offense rather than the emotional effect given by victims.

Similarly, the absence of VIS in cases involving marginalized or vulnerable victims, for example, those with little access to legal resources may result in moderate punishments, even if the harm is significant. This raises questions regarding equality, as not all victims have equal access to the legal process. To overcome this issue, courts must create strategies to ensure that the presence or lack of VIS does not have an undue influence on sentence decisions.

### **Manage Multiple VIS and Sentencing Fairness**

The judges face significant issues when dealing with various VIS in cases involving multiple victims. While several statements can provide a more complete picture of the harm inflicted by the crime, they also place an emotional burden on the court. Therefore, judges must use caution in these cases to ensure that the overall impact of several VIS does not distort the sentence process. Some legal scholars suggest that many VIS can cause emotional inflation, in which the gravity of the act is increased by the volume of statements, potentially leading to unnecessarily punitive punishments (Janzen, 2021).

### **Punitive and Restorative Approach to VIS**

The conflict between punitive and restorative forms of justice is important in debates over the use of VIS in sentencing. These two frameworks represent different perspectives about how victims' voices should affect judicial decisions. The use of VIS is directly related

to these opposing perspectives: one focused on punishment and retribution and the other on healing and reconciliation (Manikis, 2015). Each approach has an impact for justice's purposes, victim roles, and sentencing proportionality.

The punitive model views victim involvement as a means of advocating need of harsher penalties. This approach represents the view that victims' participation increases sentencing harshness by stressing the harm done while others argue that the goal of VIS in this approach is to highlight the leniency of the judicial system and drive courts to render harsher decisions. Scholars contend that this trend promotes the prosecution, usually at the price of impartial justice, and serves to politicize victims' rights (Bottoms & Roberts, 2011). Furthermore, victims can be used as pawns in the politics of law and order, influenced to build public support for harsher policies (Young, 2001).

This punishing model has met strong opposition. Some claim that when victims are given participatory rights, they may seek revenge, resulting in disproportionate punishments that undermine the court system's fairness. This raises issues about judicial impartiality, since emotional narratives provided by VIS may overpower legal concepts and contribute to discrepancies in sentence outcomes. Opponents of using victim impact statements (VIS) as evidence of injury in sentencing contend that the severity of the punishment is determined by the type and circumstances of the crime, which are adequate to assess the seriousness of the offense and its potential impact on the victim, thus, within a retribution-based punishment approach, such statements are unnecessary (Janzen, 2020).

In contrast, the restorative model focuses on VIS's expressive and communicative functions. The objective of the statement is not to push for heavier sanctions, but rather to share the effect of the crime and promote understanding between victims and offenders (Bottoms & Roberts, 2011). Restorative justice promotes dialogue and accountability, promoting healing rather than punishment. In this approach, VIS are used to express harm,

provide emotional closure, and rebuild social bonds. The emphasis is on rebuilding relationships rather than isolating the offender with punitive measures. Despite their distinctions, these two models are frequently regarded as mutually exclusive, with restorative justice being incompatible with retributive goals. However, this distinction ignores the difficulties of many victims' experiences. Victims may request both acknowledgment of harm and fair sentence that reflects the gravity of the offense (Smith, 2012). Therefore, they should be combining parts from both models by allowing VIS to influence but not drive sentencing can provide a more balanced method.

Furthermore, VIS are more than just formal requirements; increased use of it can transform judicial culture toward a more trauma-informed approach. By addressing the psychological and long-term costs of crime, VIS promotes empathy within the legal system and may support non-traditional sentencing techniques such as restorative dialogues or mediation. This method encourages criminals to accept responsibility while also allowing victims to find emotional closure. Finally, the problem is to strike a balance between the necessity for full victim participation and the ideals of fairness and proportionality. Courts must create procedures to ensure that many VIS improve, not distort, the sentencing process. This could include giving judges clear guidelines on how to examine and combine various statements, ensuring that each perspective is heard without jeopardizing the outcome's fairness.

### **Recommendations**

The recommendations are suggested to address the issues surrounding VIS and to promote a more equitable and consistent application of VIS throughout Canada. A review of the current literature show that there is very limited data which is available to study the long-term effects of VIS upon victims and on sentencing results. Thus, longitudinal research is needed to know the emotional impact on victims as well as the judicial use of VIS over time

in order to understand the impact of these statements. The data will be important in influencing future decisions and ensuring that VIS meets its intended goals without creating unintended harm.

One of the significant issues in developing national VIS rules is the lack of consistency among jurisdictions. Also, without defined nationwide rules, how VIS are produced, presented, and reviewed varies greatly, resulting in sentence inequalities. The unified national rules would solve these issues and promote impartiality throughout the legal system. In addition, there is a need of coordinated national effort which would thereby enhance the consistency and transparency of VIS use, reducing the risk of arbitrary decisions and increasing trust in the judicial system. Further, sentencing fairness and victim participation must be improved. For that, judges should be instructed to record how they considered VIS in their sentence determinations, and independent oversight bodies could conduct analyses of sentencing decisions to look for potential disparities.

Next, the attention must also be directed toward enhancing public awareness and victim education. It is necessary to effectively address anticipations among victim's mind regarding the influence their statements may exert on sentencing outcomes. This may be done by directing educational efforts toward disadvantaged groups, thus assuring equal access to information and resources for all victims, regardless of socioeconomic status. Therefore, through the implementation of these recommendations, it will help to overcome the problems related to VIS and allow for more equitable and consistent application of these statements across Canada.

### **Conclusion**

This research analyzed the role of Victim Impact Statements on sentencing outcomes in the Canadian criminal justice system. It points out the inconsistencies between emotional aspects and judicial equity. Additionally, it has established two models influencing the

application or use of VIS: the punitive model, which focuses on harsher sentencing, and the restorative model, which promote healing and emotional closure. These two concepts are absolutely opposite, the research pointed out that many victims want both justice and healing, which requires to maintain balance between the two views. Moreover, the policies are made to widen the presence of the VIS in courts through literature, judicial judgments, and legislative development analysis.

Notably, the key findings identified from the research included the likeliness of emotional biases injected in sentencing, the difficulties of balancing victim participation with the need for impartiality in the legal process, and the inconsistent application across jurisdictions of VIS, especially since the 2015 Criminal Code changes. In this case, mixed handling by the courts of VIS establishes doubts on sentence equity and re-victimization. The study also recognized that although VIS have psychological benefits to victims, their long-term effect on victim recovery is not yet known.

The limitation of this study is that it relies on secondary data, reducing the direct contact with victims and judges alike. Also, the results of this study have not been able to capture specific information related to the experiences of victims or the evolving attitude of legal practitioners. Moreover, longitudinal studies further limit our knowledge of how much long-term influence VIS has on the victims themselves and on sentencing patterns.

The future research should adequately fill these gaps by incorporating qualitative interviews with victims, judges, and other relevant legal professionals for subjective accounts. This would be valuable in investigating the psychological impact of VIS over a period of time and would examine how they impact sentence determination. Furthermore, creating national guidelines for VIS will enable lower regional inconsistencies as well as a more uniform use within Canada as a whole. In short, while VIS offers victims an opportunity of being heard, their place in the legal system does not supersede the legal

principles and fairness. Hence, a balanced approach instilled with empathy and impartiality can help shape VIS into a powerful tool that serves justice, healing, and victim participation in legal proceedings.

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