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Efficacy of 'Victim Impact Statement' in Indian Criminal Justice System in the Light of International Experiences

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Abstract

India has one of the lengthiest and oldest criminal justice systems, which has continued since the Vedic period but the Britishers implemented it systematically. Primarily our Criminal Justice System was accused centric but nowadays the Indian courts' approach is shifting towards victim centric and thus, Victim Impact Statement (VIS) could play a pivotal role in bringing the criminal justice administration into action. The modern legal countries like the US, UK and Australia have already adopted VIS, India having one of the strongest legal systems in the world needs to adopt it without any hesitation. The Criminal Justice System now recognize the active role of the victim and can be helpful for the prosecutor also because they can analyze victim's physical, emotional and psychological level from the information given by the victim. In a recent judgment[1] Hon'ble Justice D.Y. Chandrachud has stressed on "testimony of Disabled witness/victims cannot be considered weak or inferior and further issued a guideline to make Criminal Justice System more disabled friendly". In a leading judgment,[2] the highest court of the land has very strongly advocated and recognized the role of the Victim Impact Statement in the justice delivery system. The Supreme Court believed that the Victim Impact Statement can be a game-changer. This paper explains the importance of the Victim Impact Statement in the criminal justice system and its effectiveness in justice delivery. We

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1 Patan Jamal Vani v. State of Andhra Pradesh, (2021) Crl. App. No. 452, (SC).
2 Mallikarjun Kodagil v. State of Karnataka (2018) (SC).

have also compared India with International Jurisdictions for better implications in different scenarios in the light of landmark judgments. The merits and demerits have been discussed throughout the paper and will also highlight its feasibility, potency and adverse effect, if any, on the sentencing process in India.

Introduction

The Victim's role in the Criminal Justice System has been of little significance. If the crime has been committed, then it has been considered that the crime has been committed against the state on the one hand and committed by the accused on the other hand. But with the passage of time, the position of the victim in the criminal justice system has changed. The major improvement which has been done by the various countries related to rights of victims which specifically granted the victims "right to say" in the criminal proceeding.[3]

The Input of the Victim at the stage of a criminal proceeding is divided into three categories:[4]

1. The role played by the victim in the sentencing process.
2. The role of the victim in the post-conviction stage.
3. Compensation to the victim and punishment to the accused person.

The United Nations, in the Seventh Congress adopted a "*Declaration on the Prevention of Crime and the Treatment of the Offender*"[5] which deals with victims of crime and abuse of power. In the declaration, Part A[6] specifically deals with the "views of the victim must be presented at the stages of criminal proceedings" considered to be imparting the victim a fair treatment.

In this paper, the Research Question is: Whether the Victim Impact Statement during the trial enhances the participation of the Victim in the proceeding or otherwise this statement gives an adverse effect on the Sentenced of Accused Person i.e., the Severe or the Lenient

3 Ministry of Law & Justice, *Toward Victim Friendly Responses and Procedures for Prosecuting Rape: A Study of Pre-trial and trial stages of rape Prosecutions in Delhi,* Government of India (Mar., 2015) https://doj.gov.in/page/towards-victim-friendly-responses-and-procedures-prosecuting-rape-study-pre-trial-and-trial.

4 *Id.*

5 U.N. Cong. 7th Sess., *Prevention of Crime and the Treatment of the Offendor,* U.N. Doc. A/CONF.121/22/Rev.1 (Aug. 26, 1985), https://digitallibrary.un.org/record/114498?ln=en.

6 *Id.* Part A, (On access to justice and fair treatment of crime victims).

which kind of Sentence after using the Victim Impact Statement?

Sentence to the accused person brings great satisfaction to the victim of the crime because the victim has been the most affected party whose interest cannot be ignored in any circumstances. But at the stage of sentence hearing, the accused enjoys a valuable right. The right which is enjoyed by the accused is the "right to be heard" before passing any sentence by the court of law and if this right of the accused is violated by the court, then sometimes it goes very root of the case and also vitiate the trial if the irregularity can't be cured by the court. But there is as such no provision for the hearing of the victim. To some extent, western countries have adopted this right in the term of "Victim Impact Statement". This term can also be referred to as "Victim Opinion Statement or the Victim Impact Evidence".[7]

The Victim Impact Statement means the statement given by the victim in any criminal proceeding of harm or the loss which is suffered by the victim at the time of the commission of the crime. According to the American jurisdiction, this term also includes the opinion of the victim related to the appropriate sentence to the accused person. This statement basically gives a mouthpiece to the victim's experience from that crime in the court of law so that the court can reach some conclusion from this statement while giving a sentence to the victim. The information given by the victim in the form of a statement that expresses the various harms obtained by the victim from that crime such as physical, emotional, psychological etc.[8]

Victim Impact Statement in International Perspective

This concept could be traced back to the 13th century, wherein the English Common Law, there was a dividing line between civil actions and criminal actions, the crown provided a mechanism to give the victim a right to speak. During the 18th century, the jurisdiction of the American Courts transformed from private action to state action and also the crime. Thus, from this, a new series of rights to the victim emerged in the judicial system of the various countries. The rights are given by the various jurisdictions not only to the victim but to the family of the deceased victim and also providing the opportunity of being heard at all the stages in the criminal justice process.[9]

7 K. Chockalingam, *Restitution to victims of crime in India–Recent developments,* 21(2) INDIAN JOURNAL OF CRIMINOLOGY (1993).

8 Andrew Sanders & Hoyle Morgan, *Victim Impact Statement: Don't work, can't work*, CRIM. L. REV. 4 (2001).

9 Mark Stevens, *Victim Impact Statements Considered in Sentencing*, 2(1) BERKELEY J. CRIM. L, 3 (2000).

The President's Task Force on Victims of Crime basically addressed the right of participation of victims at the stage of sentence hearing: "Victims do not have the right to present their views before the court of law. A judge without knowing the actual grievance from the victim's own mouth cannot evaluate the seriousness of the crime committed by the accused. So, the judge cannot give a valuable decision without giving the opportunity of being heard to the victim."[10] The United States Code under the Crime Victims' Rights Act[11] provided the various rights of the victim in which right to be heard in the proceeding and right not to exclude the victim from the proceeding unless the circumstances require. The evidence of victims will be held in camera and opportunity will be provided to the victim to directly address his grievances in the court proceedings. Hearing of the victim at this stage is crucial.

The US Congress passed in 1982 the Victim and Witness Protection Act, whose objective was to enhance the role of victims in the criminal justice system. This Act specifies the criteria to consult the victim in obtaining the views of the victim on the issues such as dismissal, plea negotiation etc. Also, this Act amended the Federal Rule of the Criminal Procedure i.e., Rule 32 includes the Victim Impact Statement in the report of pre-sentence which has to be supplied by the Probation of US Department to the sentencing judge. The report will include the information regarding the harm in the form of non-argumentative and will also include the medical impact assessment of the victim.[12] Rule 32(i) (4) which identifies the right to speak of the victim before imposing the sentence to the accused person. It is considered a mandatory duty on the court to inform the victim about this right to speak at the time of sentencing.[13] Senate's Statement highlights the purpose for giving the opportunity of being heard to the victim; "At the stage of sentencing when the victim invokes his right then it is believed that three types of victim impact have been provided to him such as victim's character, the impact of crime on the victim and to his family members and also the recommendations in the sentencing process."[14]

10 White House – Washington D.C, *President's Task Force on Victims of Crime: Final report*, Office for Victims of Crime (Dec., 1982), https://ovc.ojp.gov/library/publications/final-report-presidents-task-force-victims-crime#:~:text=President%20Ronald%20Reagan%20created%20the,victimized%20by%20crime%20every%20year.

11 United States Code, 1994, U.S. House of Representatives, § 377(1).

12 United States Justice for All Act, 2004, 108-405, U.S. House of Repre4sentatives; Crime Victims' Rights Act, 18. U.S.C, § 3771(a)(2).

13 150 Cong. Rec. S4268, *Crime Victims' Rights Act,* U.S. Senate (Apr. 22, 2004) https://www.congress.gov/congressional-record/2011/06/08/senate-section/article/S3607-3 (remarks of Sen Kyl).

14 Congress Rec, *supra* note 13.

In Canada, section 2 of the Victims of Crime Act, 1996[15] deals with the principles for the victims of crime in which the Victim Impact Statement is considered to be the essential part of the criminal justice process and the victim has the right to prepare the statement and after preparing this statement the court takes into consideration this statement at the stage of sentencing.

The International Criminal Court was the first International Court that provides recognition to the rights of the victim. The Rome Statute of ICC, 2002 made explicitly the provision for the right to participation to the victim and also includes the right to reparation to the victim.[16]

Rationale behind using the Victim Impact Statement

There are two models in countries like the USA which highlight the participatory role of the victims in the sentencing process. According to the first model of the USA Victim Impact Statement can be prepared in the written form and introduced at the time of sentence hearing which is attached with the pre-sentence report. The Second model of the USA provides the opportunity to the victim to give an oral account of his written disclosure.[17]

In the countries such as the U.S., Australia and India where the adversarial system exists which do not give much participatory rights to the victim at the stage of criminal proceedings. So, it is evident from this that the victim is considered to be a mute spectator in the proceeding or considered as a witness to the crime but various studies suggest that there has been growing emergence of this concept i.e., participation of the victim in the sentencing process in the criminal justice system. In the Criminal Justice System, the prosecutor represents the grievances of the victim before the court but with the emergence of this phenomenon, the victims have himself right to place before the court his grievances so that the court can convict the accused.[18] The rationale behind using the victim statement in the proceeding is to give a healing effect to the victim as well as to his family members. For example, the impact of a victim statement in the proceeding can be illustrated by an ex of robbery because, in this offence, the victim himself is in the best position before the court of law to explain the amount of money or other material things which has been lost

15 Victims of Crime Act, 1996, RSBC, Parliament (Canada), § 2.

16 U.N. GA Rome Statute of ICC, Jul. 17, 1998, art. 64(2), (2002).

17 G.S. Bajpai & Shirya Gauba, Victim Justice: A Paradigm Shift in Criminal Justice System in India, p. 65 (Thomson Reuters) (2016).

18 US, DOJ, *The Report on the President's Task Force on Victims of Crime,* Office of Justice – U.S. (May., 1986), https://www.ojp.gov/pdffiles1/ovc/102834.pdf, at p.9.

by the victim.[19]

Constitutionality of the Victim Impact Statement in the US

To strike down the unfair sentencing statutes, the principle of proportionality can be a well-recognized criterion. To impose liability on the accused person, neutral sentencing should be the key component. The use of the Victim Impact Statement in the sentencing process was initially addressed by the Supreme Court of US in the case of *Booth v. Maryland*,[20] Booth stabbed the elderly couple with a knife several times so that the couple could not identify the booth. The trial judge allowed the jury to take into account the Victim Impact Statement which will elaborate the impact of the incident on the victim as well as on his family members. The Supreme Court reverses the sentence of death and held that the jury cannot allow taking into account this type of statement in the death penalty proceedings. Thus, the Supreme Court of the US by 5 to 4 margins held that the use of the Victim Impact Statement is unconstitutional.

The reliance of the jury on the statement of the victim as well as to his family member could divert the jury from deciding the matter and the impact statement given by the victim can be inconsistent with the jury's decision process which has been required in the capital cases."[21] Thus, the court held that at the stage of sentencing, the use of victim impact statements was inconsistent with the Eighth Amendment.

In *Paynee v. Tennessee*[22] in this case, the Supreme Court overturned its earlier decision. The Court concluded that the Eighth Amendment was not a bar to the use of victim impact statements. A person named Payne killed a woman Christopher and Lacie, Christopher's two-year-old daughter but her three-year-old daughter Nicholas survived the incident. He was caught for the murder of the mother and the daughter, while deciding the penalty upon the accused, the four witnesses gave their testimony regarding the reputation of the accused person. On the other hand, from the prosecution side, the maternal grandmother of the surviving child i.e., Nicholas was allowed by the court to testify. The jury gave a death sentence to Payne which was appealed by him to the US Supreme Court regarding the objection raised by Payne and contended that the trial court should not allow the testify from the maternal grandmother. Payne relied on the US Supreme Court earlier decision in the Booth case and argued that this type of statement could not be admitted in the evidence

19 White House, *supra* note 10.

20 (1987) 482 U.S. 496.

21 *Id.*, at pp. 500-501.

22 (1991) 501 U.S. 808.

and also violated the Eighth Amendment rights. But the court rejected the contention and stated that:

> *"The State plays a pivotal role in the Criminal Justice System and is free in the death penalty as well as in other cases to adopt new procedure where the impact of the statement given by the victim could be said as another form or the method from which the victim informs the sentencing authority about the grievances caused by the accused person and decision of Booth case does not hold good and taking into account the victim impact statement serves the legitimate purpose."*[23]

Thus, the Supreme Court in this case finally overturned the decision given in the booth case and allowed the victim impact statement as evidence while deciding the sentencing in any case. The evidence of the Victim Impact Statement now can be accepted by the courts as part of the judicial process. The information given by the victim to the court regarding the grievances will give benefit to the victim.[24] Thus, the Court held that in the Victim Impact Process, judges should participate so that they can ensure that the victim has been given full opportunity to present their grievances at the sentencing stage.[25]

The debates continue regarding the use of victim impact statements in the criminal justice system and the role of enforcement agencies in this process. The law enforcement agencies play a very active role in this process because they provide the information to the victim about this right to participate in the proceeding from the very beginning. The opponent of using the victim impact statement argued that the law enforcement agencies will have to spend their valuable right in informing the victim about this participatory right and the accused will never be caught because of the involvement of the agencies in the rights of the victim.[26] In recent years, the enforcement agencies established the programs which related to the assistance to the victims and these programs provide various services to the victims of the crime such as informing the victim right to participation and the right to compensation. The victim service providers play a very active role in the organization of the program and also ensure that victims of crime are informed of their rights.[27] The criminal justice system now recognizes the active role of the victim in the dispensation of justice and can

23 115 L.Ed. 728-729

24 115 L.Ed. 734-735

25 115 L.Ed. 2d 735

26 Ellen K.Alexander & Janice H.Lord, *Impact Statements: A Victim's Right to Speak- A Nation's Responsibility to Listen,* OFFICE OF JUSTICE – U.S. DOJ (1992).

27 *Id.* at p.10.

be helpful for the prosecutor also because they can analyze the victim's physical, emotional and psychological level from the information given by the victim.

Effect of using Victim Impact Statement

The 'phrase effect of using victim impact statement' means the actual satisfaction of the victim while giving the statement regarding his views on the crime at the stage of sentencing in the criminal justice system. In 1981, the study conducted by the National Institute of Justice revealed that the satisfaction of the victim with the criminal justice system has been increased because of the satisfaction of the participation in the process.[28]Another study which was conducted in 1982 revealed that the participation of the victim in the process sometimes punished the accused severely. Robert Wells stated that using a victim impact statement sometimes recovered the victim from the psychological effect and also healed the wounds.[29] This participatory right of the victim sends a purposive message that the judicial system cares about the rights of the victim. Thus, providing the statement to the sentencing authority is a new phenomenon in the process of the criminal justice system and also helpful for the judges in determining the proper punishment for the accused.

Outcome of Sentencing by using Victim Impact Statement

According to Section 8(1) of the New Zealand Victim Offences Act, 1987 states that the primary function of the victim statement is to inform the decision-making authority because this statement will highlight the victim's own perception regarding his physical, mental and psychological harm which has been suffered by the victim as well as to his family members also. So, from using this statement, the judges can decide more seriously the sentence which must be imposed on the accused guilty of the crime while taking into account the victim statement but on the other hand, the critique of the victim impact statement may enhance the sentence of the accused person. An important point came into consideration that whether the use of victim impact statements will give severe punishment to the victim or not ?[30]

Sanders argued that this statement will not affect the decision-making process of the

28 Barbara Smith & Susan Hillanbrand, *Non-Stranger Violence: The Criminal Courts Responses,* 15(3) JUSTICE SYSTEM JOURNAL 3 (1992).

29 Dcborah P. Kelly, *Delivering Legal Services to Victims: An Evaluation and Prescription,* 9 JUSTICE SYSTEM JOURNAL, 62 (1982).

30 Andrew Ashworth, *Victim Impact Statements and Sentencing*, Criminal Law Review (1993) Westlaw UK at p.3.

authority but is helpful in deciding the case so that justice can be achieved to the victim. The court only uses this statement as evidence and this statement will give the accused severe punishment is only a misnomer. Another important issue that can be highlighted after taking into account the outcome of the statement is whether in the sentencing process, the use of victim impact statements will lead to unjust punishment to the accused or not ?[31]

There are two models existing in the criminal justice system, the first model is the conventional model of the criminal justice system in which offences have been committed by the accused only against the state and give primacy to the state to deal with the accused. According to Andrew Ashworth, "each case sentence must be proportionate according to the seriousness of the offence and based on the principle of protection to the society."[32] The second model in the criminal justice system is the restitutive model where the crime has been committed by the accused against the victim and under this model; the accused provides compensation to the victim. This restitutive model places the welfare of the victim at the topmost priority. According to Ashworth, participatory right in the criminal justice process in written or oral submission at the stage of sentencing is the core of the restitutive model and held that VIS will not cause unjust punishment to the accused.[33]

Analysis of Victim Impact Statement in Indian Context

In India, people generally believe that the Criminal Justice System does not provide sufficient legal remedies to the victims of the crime and is considered to be the most neglected person in the whole process of justice. From setting the criminal law into motion to the trial of the case, the entire focus of the criminal justice system is on the accused and the system completely forgets about the rights of the victim.[34] The accused has been provided all the rights during the pre-trial, trial and post-trial stages. With the advancement in the Criminal Justice System, the focus has not completely shifted on the victim but some provision has been changed to protect the rights of the victim in this system. In the Criminal Justice System, two types of rights have been provided to the victims of any crime such as (1) the Participatory right of the victim in the Criminal Justice Proceedings (2) the right to seek compensation. The main grievance of the victim in the Criminal Justice System is the inadequacy of the provision which allows the victim to participate in the proceeding.[35]

31 Sander & Morgan, *supra* note 8.

32 Andrew Ashworth, Sentencing and Justice pp. 69-72 (6ed Cambridge Univ. Press) (1992).

33 D. Miers, *The Responsibilities and Rights of Victims of Crime,* 55 MLR 482 (1992).

34 Bajpai & Gauba, *supra* note 17.

35 White House, *supra* note 10.

The Malimath Committee on the Reform of Criminal Justice specifically deals with the victim's perspective and recommends that the victim shall have the right to participate in the Criminal Trial. In *Shyam Narain v. State (NCT of Delhi),*[36] the court observed that the purpose of imposing the sentence on the victim is to realize the accused of his fault which sometimes cannot be cured because of the commission of the crime, not only against the society but also against the victim as well as to his family members. The purpose of giving punishment is to ensure a society that they will not suffer from the harm again and again. The principle of proportionality must be observed while deciding a case between when the offence has been committed on the one hand and the penalty imposed on the other hand. Thus, while deciding the case the court must adopt an approach from which judges can take into account the repercussions of the crime on the victim.

In the *State of M.P. v. Saleem,*[37] the Supreme Court held that the punishment imposed on the accused must not be irrelevant but also consistent with the repercussions of the crime on the victim.

In *Satya Prakash v. State,*[38] for the first time Delhi High Court in this case, evolved the concept of participation of the rights of the victim in the trial process and took into account the circumstances of the crime committed by the accused and also the impact of crime on the victims as well as to his family members. The Court balanced the sentencing process and compensation to the victim under Section 357/357A of the Criminal Procedure Code.

In road accident cases, when the victim died the most sufferer in these cases, the family members of the victim and the court observed that judges should take into consideration the effect of the crime on the family members of the victim and the court relied on the case of *Rattan Singh v. State of Punjab* where Justice Krishna Iyer, observed the weakness of jurisprudence where the law did not give much attention to the victims of the crime. The court observed that though the matter of this case falls under the domain of road accident cases, but now this is the time to import the concept of Victim Impact Statement which is enshrined in the western criminal justice system. The court held that summary inquiry should be conducted to ascertain the relevant facts and the required documents for deciding the matter. The SHO of the jurisdictional police station will conduct the summary inquiry and lodge a report such as "Victim Impact Report" and both the Victim Impact Report and the Police Report should be submitted in the road accident cases before the Metropolitan Magistrate.

36 (2013) 7 SCC 77.

37 (2005) 5 SCC 554.

38 (2013) 3 MWN (Cri) 373.

The Court directed in this case for the preparation of the Victim Impact report and held that: "It is a responsibility upon the judges to take into consideration the effect of crime and also the repercussion not only on the society but also on the victim and their family members and where the victim died such as in road accident cases, where the precious and valuable human life cannot be restored by the accused of the crime but giving the opportunity of being heard to the family members of the victims so that they can present their views on the sorrow will fulfil the objective of the criminal justice system and the compensation to the victim or in the case where the victim died, to the family members of the victim will provide some solace." The court highlighted this serious issue pertaining to the victims of road accident cases where the victims come from the lower strata and are the sole bread earner in the family. That is why providing compensation to the victim's family members will fulfil the needs of the family. The Court, in this case, elaborated the format for Victim Impact Report. In this report, the following aspect will be covered by the SHO such as the nature of injuries sustained, any medical treatment received by the victim and the loss of earnings from the incident etc. But in the western criminal justice system, the term used in the jurisprudence such as "Victim Impact Statement" because of the sensitivity attached to the victim.[39]

In *Mallikarjun Kodagil (Dead) v. State of Karnataka*[40] in this case, Supreme Court felt the need for Victim Impact Statement while awarding the convicted person an appropriate punishment at the stage of sentencing and also, in this case, the court highlighted various issues related to the protection of the rights of the victim because during the trial of any case the victim can be considered by the court as a witness in the proceeding but not as the victim of the crime. At the trial stage, the victim has to be represented by the prosecution in the criminal justice process and his impact statement of the crime remain unexpressed and there is no such provision in the criminal justice system that gives the participatory right to the victim but non participation of the victim in the process sometimes lead to the secondary victimization where the victim marginalized during the trial. The trial process has been organized in such a manner where the personal appearance of the victim is restricted at all the stages of the trial.

The Court relied in this case on a declaration such as the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power which led to the movement of empowerment of the rights of the victim and led to the various reforms in the criminal justice process. To provide the victim the right to protection and right to participation in the

39 (2013) 3 MWN (Cri) 373.

40 (2019) 2 SCC 752.

process and these statements provide most of the answers to the question. These statements can be made in any form such as oral or in written form by the victims of crime regarding how the crime and the criminal impacted on the life of the victim. So, these statements are in the form of providing additional information to the court which is not available before the court. In this Victim Impact Statement, certain types of aspects included such as medical expenses incurred in the treatment of the victim, lost wages etc. Thus, in this case, the court held that due recognition must be given to the Victim Impact Assessment so that the court can convict the accused for the appropriate sentence. Section 235(2) of the Criminal Procedure Code; give a right to hear to the accused person on the question of sentence. It is the mandatory duty of the judges to hear the accused and take into account all his material evidence while deciding the quantum of sentence of any case. The great disadvantage of this provision is that this right has been provided only to the accused person and not to the victim of any crime. The victim of crime can express his grievances only through the prosecution and there is no such provision in the Indian Criminal Justice System.[41]

The Victim Impact Assessment can be considered as an additional tool in the hands of the court who introduced this concept by an experiment in Delhi court. Hearing the victim at the stage of sentencing in person or through the impact statement could be crucial. So, considering the Victim Impact Statement in the court will help the court in taking the balanced approach i.e., deciding the quantum of sentence to the accused as well as the monetary compensation to the victim.[42]

Conclusion

The Victim Impact Statement has now been accepted in the Criminal Justice System of the western world and may be used in any type of case whether the cases of simple assault or the death penalty cases and using the victim impact statement will ensure fair justice to the victim and also ensure fair trial to the accused. Countries like the USA, Canada and Australia have made the Victim Impact Statement mandatory in their Criminal Justice System. It is high time that the Indian Criminal Justice System should also adopt this provision in its system. The Idea of using a victim impact statement is to give fair and equal treatment to both the parties to the proceedings and using this statement cannot be disadvantageous to the accused person because it protects the rights of the victim. To assess the factors i.e., aggravating as well as mitigating in deciding the quantum of sentence to the accused, so it will be appropriate for the court to hear the victim at the stage of sentencing.

41 The Code of Criminal Procedure, 1973, No. 2, Acts of Parliament, § 235(2).

42 Satya Prakash v. State (2013) 3 MW.N (Cri) 373.

Modern India needs a well modern Criminal Justice System, which must include a 'Victim Impact Statement', without which our whole Criminal Justice System seems incomplete. The laws enforcement agencies must inform the victim about this participatory right and the prosecutor must coordinate with the victim and the ultimate authority vested with the judges. For the effective use of this statement, the presence of the victim with the Public Prosecutor at the trial will give a new dimension to the criminal justice system. The victim in the criminal justice system has been bestowed with appeal right provided under the proviso to Section 372 of the Criminal Procedure Code.[43] Thus, the prosecutor will be under obligation to consult the accused at all the stages of the trial. Further, providing assistance to the victims of the crime is of great importance because sometimes the victim suffers irreparable harm which has a long-lasting impact on the victim. Therefore, the law enforcement agencies, as well as the judicial system of the country, should take into account the needs of the victims sincerely. Thus, the participative approach will generally have the potential to reduce the gap and to promote an inclusionary society and the judicial system of India should make necessary reforms for allowing the victim impact statement at the stage of sentencing. This statement will not affect the final judgments given by the court in any criminal case. It will provide the court with additional information and also ensures fairness in the process for the accused and the victim.

43 The Code of Criminal Procedure, *supra* 41, § 372.