

Summary

Introduction and central question

The attention afforded to victims of crime has increased considerably in the past decades. Thirty years ago it was safe to say that victims were the forgotten party of the criminal justice system, but today their role in the criminal procedure is substantial. One example of these developments is the right to deliver an oral Victim Impact Statement, granted to victims in the Netherlands in 2005. The oral Victim Impact Statement affords victims and survivors of severe crime the right to speak at trial about the crime's effect on their personal lives. The implementation of this right was accompanied by the possibility for victims to submit a written Victim Impact Statement, which is added to the file of the criminal case.

The Explanatory Memorandum of the Oral Victim Impact Statement Act mentions four goals. An oral Victim Impact Statement may contribute to the information provision to the trial judge and may serve both a general and specific preventative function. This study concerns the fourth goal of the Act: the Victim Impact Statement's contribution to the victim's emotional recovery.

The study's central question was:

To what extent has the Oral Victim Impact Statement Act met its primary goal for those entitled to invoke this law, namely as a beginning of emotional recovery through acknowledgement?

The following research questions have been derived from this central question:

1. How many victims and survivors use an oral and written Victim Impact Statement annually?
2. What motives do victims and survivors have to use or decline the opportunity of making an oral or written Victim Impact Statement?
3. Are these motives connected with other aspects/characteristics of the victims and their experiences? Does the crime they have experienced impact these motives?
4. What barriers are perceived to submit either modality? Do perceived barriers impact victims' choice?
5. How do victims evaluate the experience of submitting a written or oral Victim Impact Statement?
6. To what extent is making an oral Victim Impact Statement a positive or negative experience, and why? (Unrealistic expectations, secondary victimization etc.?)
7. To what extent are survivors of the opinion that the so-called circle of rights-bearers is sufficient?
8. To what extent do victims/survivors find the subject matter of their statement sufficient?
9. To what extent do victims/survivors find the overall balance of participation to be positive or negative?

Methods

The respondents were contacted through the Prosecutor's service. In a period of twelve months, from February 2009 until January 2010, 165 victims who were eligible to submit a Victim Impact Statement participated in the study. That amounts to 52% of the sample contacted for the survey. The dropout rate during the survey was 11%. Six victims decided to discontinue cooperation, while the project team was unable to contact twelve others for follow-up questionnaires.

The total group of participants consisted of three subgroups: speakers (those who made an oral Victim Impact Statement), writers (those who submitted a written, but not an oral Victim Impact

Statement) and non-participants (those who declined to make a Victim Impact Statement, either written or oral).

Three research methods were used in the study:

1. A quantitative, longitudinal survey;
2. Semi-structured interviews;
3. Observations in court.

Re. 1 Quantitative, longitudinal survey:

The quantitative longitudinal survey used a quasi-experimental, pre-test/post-test design. This design allowed for a comparison of the victim's situation before and after the trial and between the three subgroups (the speakers, the writers and the non-participants).

Respondents filled out a structured questionnaire two weeks before the hearing in their case (pre-test) and two weeks after (post-test). The pre-test was designed to fulfil two separate purposes: it served as a benchmark for the post-test and it explored what factors are implicated in the decision to participate in either modality of the Victim Impact Statement.

The first questionnaire contained the following constructs: demographics, features of the crime, motives and expectations concerning participation in both the oral and written Victim Impact Statement and psychological characteristics (post-traumatic stress, anger, anxiety, revenge, negative affectivity, social inhibition, trust in the law, control over the recovery process and post-traumatic growth). The second questionnaire contained the same psychological constructs as the pre-test. This allowed for an exploration of the psychological consequences of participation in the two modalities. In addition, the post-test queried the respondents' own opinion about participation in either an oral or written Victim Impact Statement.

Re. 2 Semi-structured interviews

Semi-structured interviews were conducted four weeks after the hearing. The purpose was to obtain qualitative information as well as to verify the results of the questionnaires. The interviews queried the following subjects: expectations and motives concerning the decision to participate (or not) in either modality of the Victim Impact Statement, the opinion on the chosen modality and the overall perception of participation. Interviews were conducted face-to-face or by telephone depending on the wishes of the respondent.

Re. 3 Observations in court

Speakers were observed in court during their oral Victim Impact Statement. Both objective and subjective features of participation were reviewed. Examples of the former were the length and subject of the impact statement and the question whether the victim was called upon to give evidence following his or her Victim Impact Statement. Examples of the latter were the extent to which the judge appeared to be genuinely interested in the victim's account, the way in which the suspect reacted and the emotions displayed by the victim.

Results

The research questions served as a guide for the discussion of the study's most important results. Due to the overlap between the research questions, the results of questions 2 and 3 (motives for participation) and 4 (barriers to participation), the results of question 7 (circle of rights-bearers) and 8 (subject matter of the statement) and the results of questions 5 and 6 (victims' experiences) and 9 (overall assessment) were reviewed together.

The use of the oral Victim Impact Statement

The study shows that the oral Victim Impact Statement is not used on a wide scale. Two methods of estimation converge on a number of participants of about 230 to 260 per year. The written Victim Impact Statements far outnumbers the oral ones. Most victims who refrain from using the oral Victim Impact Statement do so consciously. However, the oral Victim Impact Statement does meet a clear need for victims of crime, as will be shown in the discussion of the other research questions.

Characteristics and motives

Different characteristics of the respondents affected the decision to make an oral or written Victim Impact Statement. Two demographic characteristics were correlated with the decision to participate in the two modalities of Victim Impact Statement: gender and employment. Women are significantly more likely to use the oral Victim Impact Statement, while men are significantly more likely to decline participation in either modality. Victims who are currently in paid employment were significantly less likely to make an oral Victim Impact Statement. Other demographic characteristics (education, ethnicity) were not significantly correlated with the intention to participate.

Certain features of the crime suffered by the victim are also important. The severity of the crime and the time elapsed since its commission were correlated with participation in the two modalities. In the speakers-group the mean time since the crime was eighteen months, in the writers-group twelve months against six months for the non-participants. Victims of threats were less likely to participate, while co-victims of homicide were more likely to use the oral Victim Impact Statement.

The review of the psychological constructs on both pre-test and post-test revealed large differences between the groups. In both questionnaires, non-participants reported lower levels of post-traumatic stress, anxiety, negative affectivity, revenge and anger, a stronger sense of control over the recovery process and lower levels of post-traumatic growth than those who chose to participate in either modality. The results imply that Post-Traumatic Stress Disorder (PTSD) or severe, pathological anxiety will be a likely occurrence among participants (either speakers or writers), while this will not be the case among non-participants.

When viewed together in a regression analysis, the factors of gender, time elapsed since the commission of the offence and posttraumatic stress remain significant predictors of the choice to participate in either the oral or the written form of Victim Impact Statement. Paid employment, moreover, differentiates between the oral and the written forms of Victim Impact Statement.

In addition to these factors, the victim's own perception of the Victim Impact Statement is an important factor in the decision to participate. The oral and written forms of Victim Impact Statement are very similar, according to eligible victims. The respondents therefore agree that the choice of modality is a matter of preference. Victims who are concerned they might not be able to control their emotions in court choose to submit a written Victim Impact Statement. On the other hand, victims who stress the importance of being able to voice their own opinion in court use the oral Victim Impact Statement. Victims who think the oral Victim Impact Statement is a

good means to express the emotional consequences of the crime opt for its use, while those who are afraid that it may provide a distorted picture, opt for the written Victim Impact Statement.

The interviews revealed that communication, with the offender and the judicial authorities is the main reason for participation. The results therefore offer strong support for the independent value of 'victim voice'. Influencing the outcome is also important. Many victims want to be heard by the judge to influence the outcome of the case. The respondents nearly unanimously find the punishment of the offender to lack severity. A smaller portion of the respondents view participation as a means to cope with the emotional effects of the crime. Where the current literature concerning Victim Impact Statement categorizes communication/expression and coping together, the results of this study suggest that they are different purposes for participants and that the importance of the former outweighs the importance of the latter.

Non-participants find that their crime lacked severity and/or that their participation would not have much added value above filing a report with the police. These reasons may be assumed to coincide. For victims who have not been seriously affected by their victimisation, the expressive function may not be important. It appears that communicating the consequences to the authorities and the offender is only relevant when these consequences are sufficiently grave.

Limits of the oral Victim Impact Statement

In its current form the limits of the oral Victim Impact Statement are clear. The victim may only discuss the consequences of the crime and must do so within ten minutes. In addition, if the victim has passed away as a consequence of the crime the circle of rights bearers is limited by law to one person.

The time period is rarely a problem. Ten minutes is usually sufficient and judges will normally allow more time if necessary. Both the circle of rights bearers and the subject matter of the statement however are more problematic. Some victims noted that their satisfaction would have increased if they had been allowed to discuss the offender's punishment and the facts of the case and/or would have been allowed to influence the outcome of the case. However, the observations in court showed that victims did in fact discuss these subjects during their statements, but apparently without being aware of this.

The circle of rights bearers is an additional problem. The sample contained only a small number of survivors, to whom this rule applies. In all these cases, the fact that only one of the survivors was allowed to speak was considered to be a problem. Each of these respondents found they had to speak for others besides themselves.

Secondary victimisation

Before the implementation of the oral Victim Impact Statement, many commentators voiced concerns about secondary victimisation, for example, if speakers would be called as witnesses as a result of their statement. Other academics argued that the oral Victim Impact Statement could be therapeutically dangerous.

This survey does not offer much ground for these reservations. Summoning speakers to give evidence is a seldom occurrence, and neither the results of the impact nor the satisfaction measures revealed any evidence for this line of thinking. Participating victims are (very) satisfied and the results show no evidence of re-traumatization.

Only one clear case of secondary victimisation was observed. Poor implementation of this right has led some judges to prevent victims from using their right. This happened in five cases, but even then in only one case the victim was dissatisfied as a result. The other respondents stated their relief at being spared a stressful experience.

Experiences and overall assessment

According to the respondents themselves, participation was a success. They were satisfied with their statement and would recommend participation to other victims. They felt acknowledged, felt taken seriously and were glad they were given the opportunity to communicate the consequences of the crime to the authorities. Submitting an oral or written Victim Impact Statement also had a small positive effect on the perceived control over recovery and the experience of procedural justice. In addition it is noteworthy that respondents thought participation contributed to their emotional recovery, but did not diminish their anxiety or their anger towards the offender.

Conclusions and discussion

The main goal of this study was to review whether the oral Victim Impact Statement indeed helps participating victims recover from emotional damage. The answer to this question is complex.

The reduction in the most important indicators for emotional damage (post-traumatic stress, anxiety, anger) for speakers and writers does not differ from non-participants. In this sense the answer should be a simple 'no'.

However, a comparison of the pre-test scores between speakers and writers on the one hand and non-participants on the other reveals that the extent to which these groups can be directly compared is limited. Where the mean scores for speakers and writers suggests that many of them suffer from either PTSD or severe pathological anxiety, these stress and anxiety levels were rare among non-participants. In addition, the crimes committed against non-participants were relatively recent. These two factors suggest that most non-participants are following a normal, non-pathological recovery process. In this sequence victims may report severe problems in the direct aftermath of the crime, but these complaints will subside over the following months. In other words a further reduction of complaints is likely to be due to the passage of time. In contrast, both the fact that longer time had passed since they became victims and the high levels of symptoms of traumatic stress in the participating groups are signs of chronic post-traumatic stress. Complaints that may not decrease, without intervention.

Taken together, the reduction in symptoms of the non-participants may be expected, while this is not the case for the reduction in symptoms in the speakers and writers. It may well be that this reduction is, in part, due to their participation. We cannot rule out other explanations of this finding and highly recommend this topic for further research.

In addition, there are other indications of the positive contribution of the oral and written Victim Impact Statement to the emotional recovery of victims. A majority of participants perceived it to be effective in this sense. This result should be interpreted with caution, as this perception was not correlated with a reduction in stress, anxiety or anger. Still, the respondents' own opinion is noteworthy. They did not view their own emotional recovery in terms of reduction of anger and anxiety. It is therefore likely that they interpret emotional recovery in a different way. This may be connected to the contribution of both forms of Victim Impact Statement to experiences of procedural justice and of control over the recovery process. It may be that the influence of the Victim Impact Statement on emotional recovery is indirect.

Finally, we underline that there is no reason to presume that making an oral victim impact statement will lead to secondary victimisation. The study did not reveal any negative effects that would support this view.

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