

Further Readings

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VICTIM IMPACT STATEMENTS

Most states allow victims and/or victims' survivors to speak during the sentencing phase of trials as to the pain they have suffered as a result of the crime. Such proclamations, called "victim impact statements," are extremely controversial. Some legal experts posit that victims and/or victims' survivors have the right to speak publicly about the harm they have endured; other legal experts suggest that such statements encourage the trier of fact to base sentencing decisions on emotion, as opposed to fact. The presence of victim impact statements in capital trials has caused considerable debate, as social scientific research has suggested that juror, defendant, and victim characteristics play a significant role in how such declarations are perceived and, consequently, in juror decision-making processes in death penalty cases. The U.S. Supreme Court has ruled that victim impact statements are constitutional; however, social scientists have issued certain recommendations as to how the prejudicial nature of such statements can be minimized.

Victim impact statements outline the harm they have suffered as a result of the defendant's actions. Since the enactment of the Victim and Witness Protection Act (1982), most states allow the trier of fact (i.e., judge or jury) to take such statements into consideration when determining the sentence of the defendant. Victim impact statements may detail the following: (a) the physical, psychological, and financial impact that the crime has had on the lives of the victim and/or the victim's survivors; (b) the victim or victim's survivor's opinions about the crime and/or defendant; and (c) in murder cases, information about the personal characteristics of the deceased. In most states, victim impact statements cannot characterize the defendant in negative terms, nor can victim impact statements describe the type of punishment the victim or victim's survivors feel is appropriate for the defendant.

The presence of victim impact statements in the sentencing phase of trials is an extraordinarily controversial issue. The primary debate stems from the fact that victim impact statements are not evidence; rather, they simply serve as a context through which the jury should interpret the impact of the crime. Some legal experts have argued in favor of the admissibility of victim impact statements, suggesting that they give victims and victim's survivors a voice in court proceedings, allow for psychological healing and closure, promote sentences that are more reflective of the suffering endured, humanize the person who has been harmed, encourage other victims to come forward, and enhance the perception of procedural justice. Other legal experts have argued against the admissibility of such statements, positing that they foster inconsistencies in sentencing procedures, expose judicial proceedings to undue public pressure, and encourage jurors to base decisions on issues that are irrelevant to the facts at hand (i.e., emotion).

In no type of case are victim impact statements more debated than in capital (i.e., death penalty) trials. Two Supreme Court rulings are pivotal in discussing the impact that victim impact statements are allowed to have in death penalty cases. In *Booth v. Maryland* (1987), the Court concluded that the victim impact statements created a "constitutionally unacceptable risk" and violated the Eighth Amendment's prohibition against cruel and unusual punishment. The Court ruled that in a death penalty case, the jury's decision must be based on the characteristics of the defendant and/or crime and not on the impact of the crime on the victim's survivors. The Court posited that allowing victim impact statements to influence the jury's decision could lead it to base the sentence on juror sentiment, as opposed to the facts presented in court.

In *Payne v. Tennessee* (1991), the Court reversed its earlier decision and changed the role that victim impact statements were allowed to play in capital trials. *Payne v. Tennessee* held that the Eighth Amendment erects no prohibition against the admission of victim impact statements relating to both a victim's personal characteristics and the emotional impact that the crime has had on the victim's survivors. In summary, the Court ruled that such evidence is admissible during the sentencing phase of capital trials if the state legislature chooses to permit it. Finally, the Court concluded that victim impact statements jeopardize capital defendants' right to due process only if such declarations are "so unduly prejudicial that it renders the trial fundamentally unfair."

Social scientific research has suggested that the presence of victim impact statements affects the way in which jurors perceive the victim, the victim's survivors, and the defendant. Previous findings have also concluded that such declarations affect jurors' decision-making processes in capital trials. For example, earlier studies have found that jurors exposed to victim impact statements are more likely to think favorably of the victim and the victim's survivors than jurors who are not exposed to such declarations. Previous research has also suggested that the aforementioned attitudes translate into behavior: Capital defendants are more likely to receive the death sentence when victim impact statements are present than when they are absent.

Psycholegal data have also suggested that victim characteristics appear to affect the way victim impact statements are weighed. Specifically, victims with greater social standing in a community may both be more valued by the victim's survivors and have survivors who are more educated and, consequently, persuasive and eloquent. Consequently, the victimization of a person of higher social status may have more effect on a jury and ultimately influence the extent to which defendants are perceived as blameworthy.

Certain juror characteristics also appear to affect the way victim impact statements are perceived. For example, one study found that death-qualification status (i.e., a jurors' eligibility to hear a capital case based on their attitudes toward the death penalty) enhances jurors' susceptibility to victim impact statements. Specifically, when victim impact statements were presented, death-qualified jurors (i.e., jurors who are eligible to hear a capital case) were more likely to think favorably of both the victim and the victim's survivors.

Because of the prejudicial nature of victim impact statements, social scientists have issued several recommendations. First, psycholegal researchers have suggested that victim impact statements be limited in scope, particularly when describing the victim in ways that emphasize his or her high social status. Second, social scientists have recommended that restrictions be placed on the number of victims' survivors allowed to testify in court, so as to reduce the cumulative effect that such testimony has on the jury. Third, psycholegal researchers have advocated that the jury be prohibited from hearing descriptions of the defendant in dehumanizing terms (e.g., "animal," "monster"). Fourth, social scientists recommend that juries be given more guidance about the purpose of victim impact statements when they are admitted. Finally, some psycholegal

researchers suggest countering the effect of victim impact statements with execution impact statements. Such declarations involve informing the jury of the impact that the execution of the defendant would have on his or her survivors and serve to "level the playing field" between victims (who tend to be hyperindividualized) and defendants (who tend to be deindividualized). Although not constitutionally mandated, several states (e.g., Oregon, California) have approved the inclusion of such testimony in capital trials.

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See also Death Penalty; Death Qualification of Juries; U.S. Supreme Court

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VICTIMIZATION

Victimization can be defined as the act or process of someone being injured or damaged by another person. The resulting damage may be physical (e.g., bruises, broken bones) or psychological (e.g., posttraumatic stress disorder [PTSD], depression). Victimization is a frequent event that occurs within an interpersonal context, often involving an abuse of power, such as a parent who abuses a child; an adult child who abuses a frail, elderly parent; or a teacher who sexually abuses a student. Although past research on victimization has tended to be compartmentalized, a more integrative approach is needed not only because of the frequent comorbidity among the different types of victimization, but also because of the shared psychological issues. The shared core psychological issues extending across types of victimization include damage to interpersonal relationships and self. Although victimization may often involve traumatic experiences, trauma may not involve victimization. For example, stepping off a curb and falling and breaking an ankle might be a traumatic event; however, such an event does not define an experience of victimization because it is not an interpersonal event.

To understand victimization, several core themes need to be acknowledged. Contrary to a layperson's perspective, victimization is not a rare event that occurs only in a stranger-on-stranger context. On the contrary, victimization is an extraordinarily frequent event that most often occurs in, and adheres to, the ordinary roles of human life. Although stereotyped conceptions of victimization do occur (e.g., a woman raped by a stranger walking down a street at night) and are damaging and need to be addressed, these types of victimization are not the norm outside the context of a war. Rather, the most significant sources of victimization are those that arise out of our ordinary day-to-day roles, such as those of spouse, parent, child, and friend. Thus, victimization must be understood as an inherent part of human relationships.

Unfortunately, research and writing about victimization is often compartmentalized or balkanized. For

example, researchers who study child sexual abuse frequently do not consider the co-occurrence of other forms of victimization, such as physical abuse. Similarly, researchers who study physical abuse may fail to acknowledge the effects of witnessing domestic violence. This has led to a failure to appreciate the total context of the victimization. Furthermore, such balkanization has led to the failure of researchers to create conceptual models that are organized around general concepts of victimization. Instead, most research and most models of victimization are limited to a particular context. As the field has matured, there is growing recognition that such balkanization can lead to failures to recognize the similarities in these experiences. In particular, such balkanization has prevented researchers from recognizing the common core of the victimization experience: the need to focus on the interpersonal nature and consequence of victimization.

This entry does not discuss victimization that is related to social and political processes such as war. Although war and genocide are grim fields from which victimization springs, such events are beyond the scope of this entry and require their own level of analysis and consideration. Likewise, victimization that is the result of living in a socially disintegrated or impoverished state (e.g., dangerous neighborhoods or extreme poverty), while profoundly damaging to human beings, is not discussed here.

This entry focuses on phenomena that occur in the context of human relationships, particularly those relationships that are defined as the ordinary relationships in which people are involved. The experiences of victimization are defined not simply by who did it and what was done but, instead, by what core psychological process is involved. Such an integrative approach is a useful developmental stage in understanding the phenomena of victimization for a number of reasons. First, more and more researchers are finding that unique, isolated victimization may be rare and that, instead, multiple victimizations of the same person, occurring across time and context, are more typical. In short, there is an enormous amount of overlap among victimized populations in their exposure to what had been seen as distinct and unique victimization situations. As researchers have identified this process, what has come to be understood as a variation of the Matthew Principle is true—"He who has, receiveth; he who has not, receiveth not." That is, victimization has a far higher likelihood of occurring among certain groups and certain people, particularly those previously victimized.