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THE VICTIM'S RIGHT TO CONVEY AND HAVE VIEWS CONSIDERED IN DECISION-MAKING UNDER THE *CANADIAN VICTIMS BILL OF RIGHTS*

Analysis for
The Office of the Federal Ombudsperson for Victims of Crime

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Heard. Respected. **VICTIMS FIRST.**
Écoutées. Respectées. **LES VICTIMES D'ABORD.**



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Contents

Introduction	3
Conveying views and having them considered in pre-sentencing proceedings: An independent right in informing the public interest and the administration of justice	4
Victim participation in sentencing: A restrictive approach to conveying victim views under the CVBR and the VIS regime	6
Towards an independent victims' right to convey and have views considered under the CVBR in the context of sentencing	9
Hansard and Parliamentary intent	10
Language of Legislation and the role of judges in considering rights in the interest of the proper administration of justice	11
The victim impact statement regime: a broadened and flexible approach to victim views following the VBRA	13
Conclusion	21

Introduction

On July 23, 2015, the *Victims' Bill of Rights Act* (VBRA) came into force in Canada.¹ Enacted through Bill C-32, the legislation was intended to signal Parliament's commitment to strengthening the protection of victims' rights in Canada.² The VBRA was designed to entrench "clear statutory rights for victims"³ in federal law, and was understood as "an important step towards ensuring that victims not only obtain the information and support they need but are also able to participate in the justice system in a meaningful way".⁴ To this end, the VBRA created the *Canadian Victims Bill of Rights* (CVBR) and introduced several amendments to the *Criminal Code of Canada*, including a requirement that the *Gladue* legislative framework under s.718.2(e) be applied consistently with the harm done to victims and the community.

Several rights were entrenched under the CVBR, namely the right to information, the right to protection, the right to participation, and the right to restitution. The CVBR has placed victims' participation rights on a statutory footing, including the right to convey their views and have those views considered regarding decisions (s. 14), their right to present a victim impact statement (VIS) (s. 15), and their right to make a restitution request (s. 16).

This report examines developments regarding the right to participation under the CVBR, with a particular focus on section 14, which provides that victims have "the right to convey their views about decisions to be made by appropriate authorities in the criminal justice system that affect the victims' rights under this Act and to have those views considered". The analysis explores both the scope and limitations of this right across the various stages of the criminal legal process, with particular attention to its application at sentencing. While courts have generally recognized the broad participatory potential of section 14 at earlier stages of criminal proceedings, a more restrictive interpretative approach has often emerged in the sentencing context.

Drawing on Parliamentary debates, relevant case law interpreting section 14, and empirical research, this report argues that such restrictive interpretations do not fully reflect the legislative intent underlying the VBRA. Instead, it proposes a contextual interpretative framework that more closely aligns with the spirit and objectives of the legislation and facilitates meaningful victim participation in ways that serve the public interest.

The report proceeds in three sections. The first section examines how section 14 has been interpreted and implemented in pre-trial and pre-sentencing processes. The second section analyzes the more restrictive judicial approach that has emerged in the context of sentencing. The third section develops contextual interpretative arguments for a broader

¹ *Canadian Victims Bill of Rights*, SC 2015, c 13, s 2, ss 14, 15.

² *R v. Alkhalil*, 2023 BCSC 840 at para 15.

³ *House of Commons Debates*, 41-2, No 89 (26 May 2014) at 1225 (Hon. Peter van Lowe) online: <ourcommons.ca> [https://perma.cc/9N8C-TQRG].

⁴ 41st Parliament, 2nd Session, volume 147, # 176, February 20, 2015, pp.11455-456 Passage cited in *Canadian Broadcasting Corporation v. Canada (Border Service Agency)*, 2021 NSPC 48, at para 58.

understanding of section 14, suggesting that the right to convey and have victims' views considered should be recognized as an independent participatory right capable of operating at sentencing beyond the limits traditionally associated with the victim impact statement regime and as part of the public interest.

Conveying views and having them considered in pre-sentencing proceedings:
An independent right in informing the public interest
and the administration of justice

The CVBR has placed victim participation rights on a statutory footing, including the right to convey their views and have their views considered about decisions under section 14. Courts have interpreted these rights as creating several obligations for criminal justice actors, including prosecutors, police, and judges, to hear victims' views when making key decisions relating to prosecutions. Courts have also emphasized that such views are important in understanding and shaping the public interest and the proper administration of justice.

In *Schols*,⁵ the court was presented with an application for prosecutorial recusal by the accused on the basis that the prosecutor had engaged in witness tampering by seeking the victim's views regarding a resolution proposal. The court rejected the application and made important observations concerning victims' participatory rights in the context of resolution discussions. It recognized that the CVBR places new obligations on Crown counsel to respect statutorily endorsed rights, notably victims' right to convey their views about decisions under section 14, while specifying that "a Crown that ignores these statutory pronouncements is likely not discharging their duties to act in accordance with the public interest."⁶ Part of these rights and obligations would likely entail meeting with victims during a prosecution without this affecting prosecutorial discretion. Indeed, the court made clear that prosecutorial discretion remains a principle that must be preserved and respected under the CVBR, but this principle does not suggest that prosecutors should make decisions "on an island without any input from those affected by their decisions' as this would be inconsistent with the proper role of Crown counsel. Accordingly, the court expressed that "single-minded decisions" by the prosecution that focus on administrative efficiency, without consideration for victims or the public, would be likely contrary to the prosecutor's role as a quasi-minister of justice.

The judge in *Brideau*⁷ similarly recognized the relevance of victim perspectives as part of the public interest. This case involved an abuse of process application by an accused based on the prosecution's delay in filing charges of sexual assault. The delay occurred in part because police consulted with the victim before laying charges, and victim was initially not ready to proceed with a prosecution. The court dismissed the application and

⁵ *R v. Schols*, 2025 ABCJ 77.

⁶ *Id.* at para 14.

⁷ *R v. Brideau*, 2021 ONSC 189.

emphasized that the public interest requires that police consider the ability, capacity, and willingness of a complainant to participate in a prosecution at any particular time.⁸ While discretion by state agencies remains, it should be informed by the circumstances of the victim. According to the judge, the evidence demonstrated that police took the complainant's circumstances into account in exercising their discretion. This practice was found to be consistent with the CVBR, which provides under section 14 that victims have the right to convey their views about decisions to be made by appropriate authorities and to have those views considered. For these reasons, the delay and the practices followed by police in this case were not found to amount to bad faith or irrational conduct.

Further, even in instances unrelated to prosecutions, the CVBR has been understood as an important instrument for informing decisions that may affect the interests of victims. In *Canadian Broadcasting Corporation*,⁹ the court found that the CVBR – including the rights to convey their views under section 14 – applies to an unsealing application.

To support this finding, the judge examined the purpose and the object of the CVBR through an exercise of statutory interpretation, emphasizing that the interpretative exercise should be contextual and attentive to the spirit of the legislation. In doing so, the court relied on the *Interpretation Act*, which stipulates that every enactment is deemed remedial and shall be given fair, large, and liberal construction and interpretation to best ensure the attainment of its objectives.

Importantly, as part of its analysis, the court concluded that the cumulative effect of several interpretative sources – including Hansard excerpts from the Canadian House of Commons on the CVBR, the *United Nations' Declaration of Basic Principles of Justice for Victims of Crime Abuse of Power*, the language of the CVBR itself, and the *Interpretation Act* – supports an approach in which the rights and values underpinning the CVBR apply to unsealing applications. The court further emphasized that these rights are both procedural and substantive, and that judges must recognize them as part of their role in advancing the proper administration of justice. Contrary to certain sentencing decisions discussed in the next section, the court reached this conclusion despite the absence of a separate legislative provision specifically governing unsealing applications.

Finally, a judge recognized the relevance of conveying victim views under section 14 of the CVBR in the context of interim release pending sentencing under section 523(1)(b)(ii) of the *Criminal Code*. The court emphasized that the perspectives of victims constitute an important consideration, statutorily confirmed at sentencing under the VIS regime of the *Criminal Code*, which, according to the decision provides the procedural mechanism for implementing the rights under sections 14 and 15 of the CVBR in accordance with section 19(1).¹⁰

In this respect, the judge adopted a relatively restrictive interpretation of section 19(1) by referring to the VIS statutory provision as the relevant mechanism for exercising these

⁸ Id. at para 32.

⁹ *Canadian Broadcasting Corporation v Canada (Border Services Agency)*, 2021 NSPC 48.

¹⁰ *R v. AMB*, 2022 NSSC 203 at paras 77 – 78.

rights. At the same time, the decision relied on a sentencing provision that was not directly applicable to the circumstances of the case, as the proceeding did not involve the presentation of a VIS in the context of sentencing. Indeed, the judge considered victim impact based on the fear expressed by the victim during her trial testimony rather than through a victim impact statement as contemplated by section 722 of the *Criminal Code*.¹¹

While the judgment appears, in some respects, to adopt a restrictive view of section 19 – treating a “mechanism provided by law” as requiring a specific statutory provision – its reasoning may also be interpreted as implicitly recognizing that the rights protected by the CVBR possess a broader normative force. On this view, those rights may be capable of being implemented even in the absence of a specific legal mechanism allowing victims to convey their views in the context of interim release pending sentencing.

Victim participation in sentencing: A restrictive approach to conveying victim views under the CVBR and the VIS regime

Despite a broader application of section 14 in processes outside of sentencing, several courts have interpreted section 14 restrictively in the sentencing context. While in one case a judge even doubted the CVBR’s application to judges and the sentencing process, other decisions restricted section 14’s application in sentencing by highlighting that it can only be implemented through the VIS regime under the *Criminal Code* (CC) as there is no independent right to convey views in sentencing provided in statutory law.

Even prior to the VBRA’s enactment, the decision in *B.P.*,¹² a case concerning the admissibility of certain portions of a VIS, imposed several limitations on section 14, some of which were later followed in subsequent judgments.

First, the judge interpreted section 14 and the broader VBRA restrictively – claiming that the CVBR does not apply to judges or the sentencing process, stating that

Section 14 does not make it clear to whom victims are entitled to convey their views “about decisions” but it cannot be intended to apply to judges and the sentencing process. It can no more be relevant at sentencing than at trial, another judicial decision-making phase in the criminal justice process.¹³

Second, the court held that the VBRA provisions relating to sentencing cannot be used to interpret or create rights that are not otherwise recognized within another law – in this instance, the VIS regime under the *Criminal Code* (CC). Part of this reasoning rests on a restrictive approach to the CVBR, which views victims’ rights as exercised only through mechanisms provided by law pursuant to section 19 of the CVBR.

This interpretative approach differs from a contextual approach, which as will be discussed in the next section, recognizes that the values and rights reflected in the VBRA have a

¹¹ Id. at para 91.

¹² *R v. B.P.*, 2015 NSPC 34.

¹³ Id. at para 60.

broader application across the criminal legal process. Moreover, this reasoning also stems from a restrictive approach towards the VIS regime itself, which is seen as not allowing victims to express their views regarding the appropriate sentence. In discussing the relationship between the *Criminal Code*'s VIS regime and VBRA, the court stated that:

It would be absurd to view this provision of the *VBRA* as displacing the provisions I have been discussing that govern the procedure and content of victim impact statements. Section 14 cannot be interpreted to mean that victims will be able to side-step the *VBRA* provisions relating to victim impact statements and, in a sentencing hearing, “convey their views” about “decisions” (the sentence) “to be made by appropriate authorities” (the judge), in other words, to participate in the sentencing hearing subject to none of the constraints embedded in the applicable provisions of the *VBRA* and existing law.¹⁴

As will be discussed in the next section, several arguments support a less restrictive interpretation of the *Criminal Code*'s VIS regime and section 14 of the CVBR – particularly one that allows flexibility for victims to convey their views in multiple contexts under the VIS regime.

The restrictive approach, however, was followed and adopted in subsequent cases interpreting section 14 in the sentencing context. In *L.A.*,¹⁵ the court highlighted that this provision in the context of sentencing must be understood in light of the *Criminal Code*'s VIS regime. Accordingly, there cannot be a separate right to convey views in sentencing, independent from the VIS regime under the *Criminal Code*. The VIS regime was also interpreted restrictively to decline some victims the possibility to convey their views about the sentence and to be heard orally, rather than in writing.

Specifically, the case concerned an appeal by an offender challenging the length of his custodial sentence after the sentencing judge's failure to allow victims of sexual violence to make submissions regarding non-carceral responses. The appellant sought to introduce fresh evidence to demonstrate that his daughters did not wish for him to serve a lengthy prison term and that they had been prevented from making their views known to the sentencing judge, contrary to the CVBR.¹⁶ The appellant also argued that the sentencing judge erred by giving no effect to the mother's request for leniency to maintain the family unit and by refusing to hear the oral statement from one of the children, thereby breaching the provisions under the CVBR.

The Court of Appeal rejected the appeal, offering a restrictive interpretation of the CVBR. It held that while both the CVBR and the VIS regime under section 722 of the *Criminal Code* provide participatory rights to victims, a harmonious interpretation of these statutes indicates that the *Criminal Code* must determine the scope of those rights. In support, the court relied on section 19(1) of the CVBR, which states that victims' rights under the CVBR

¹⁴ *Id.* at 60.

¹⁵ *R v. LA*, 2023 SKCA 136

¹⁶ *Id.*

“are to be exercised through the mechanisms provided by law”, interpreting this as signalling that, in sentencing, the *only* mechanism for exercising these rights is through section 722 of the *Criminal Code* regime.¹⁷

The court further emphasized that the VIS regime is restrictive. Similar to *B.P.*, it also stated that the VIS regime espoused a restrictive approach to victim input, highlighting that section 722(1) required that “the content of the statement is restricted to a description of the physical or emotional harm... suffered by the victim as a result of the commission of the offence and the impact of the offence.”¹⁸ It then argued that 722(4) *Criminal Code* required that statements be in writing under form 34.2 of the VIS *Criminal Code* regime. It also cited *B.P.* to suggest that a restrictive interpretation of section 14 and the CVBR was appropriate considering that victims are not parties to proceedings and thus cannot influence the sentence.¹⁹ It highlighted that the overall tenor and Parliamentary will is to focus on the offence and the harm rather than allowing victim views to be heard. Finally, the court relied on a decision rendered prior to the CVBR, to affirm that previous caselaw remains relevant and had generally been interpreted in ways that do not allow victims to bring forward any views about the sentence.²⁰ Despite adding some nuance to this claim by highlighting that victim views relating to leniency are at times accepted, it limited this approach by stating that the law is less developed and less certain regarding when it is appropriate for a sentencing judge to hear submissions that request less punitive responses.

The dissenting judgment, while agreeing that CVBR rights are exercised through *Criminal Code* mechanisms, emphasized that section 722’s VIS regime provides both meaning and method for implementing section 14. It argued that sentencing judges have a positive duty to obtain and consider VIS, and that the refusal to hear or otherwise obtain victims’ statements in written form constituted an error in the present case. This view seems to be more aligned with the Supreme Court’s precision in *Friesen*, which highlights in a footnote that the *Criminal Code* and the CVBR govern the rules for hearing VIS and that they do not endorse the apparent refusal of the trial Crown and judge to permit the mother to present a VIS in a case of extortion.²¹

As will be discussed in section 3, a contextual interpretation – drawing on the analytical approach in *Canadian Broadcasting Corporation* – suggests that the CVBR applies directly to judges and the sentencing process. Accordingly, victims’ rights to convey their views and have them considered under section 14 can be recognized independently of the VIS regime, supporting a broader, more participatory approach to victim involvement at sentencing.

¹⁷ Id. at para 63

¹⁸ Id. at para 64

¹⁹ Id. at para 68 citing *R v. B.P.*, 2015 NSPC 34, at para 32-33.

²⁰ Id. at para 71 citing *R v. Gabriel* (1999), 137 *Criminal Code of Canada* (3d) 1 (Ont Sup Ct).

²¹ *R v. Friesen*, 2020 SCC 9 at footnote 5.

Towards an independent victims' right to convey and have views considered under the CVBR in the context of sentencing

This section offers a different approach to some of the restrictive claims made by several courts in the context of sentencing. It proposes a broader application and greater flexibility of the CVBR and VIS regime based on a contextual interpretational approach, which has been favoured by the Supreme Court of Canada. Moreover, as will be discussed, the VBRA has made some amendments to its VIS regime, providing victims with greater flexibility to convey their views regarding the sentence, including at the sentencing stage.

Broadcasting Corporation is an important decision that supports and applies a contextual interpretational framework in analyzing the CVBR. Although the case primarily focused on whether the CVBR – specifically privacy and participatory rights – applies to an unsealing application, it made significant interpretative remarks relevant to the application and implementation of the CVBR rights across the criminal justice system, including in sentencing. Importantly, the decision follows the Supreme Court of Canada's²² holding that a contextual interpretation – also referred to as a modern or liberal approach – must be retained when examining legislation. It makes clear that in Canadian legal interpretation, it is insufficient to consider only the legislative provision itself. Analysis must also include the broader language of legislation throughout its inception, the intent of Parliament as reflected in Hansard when adopting the CVBR, and reference to the *Interpretation Act*. As demonstrated in this case, this approach has given rise to a view that the applicability of the CVBR is broad and can extend to certain legal processes – including unsealing applications – as part of the Court's role in the administration of justice, even where no separate legislative mechanisms exist under the *Criminal Code* (CC) or other statutes. These lessons are key to adopting a broader, stand-alone recognition of rights under the CVBR, including the right for victims to convey their views and have them considered in sentencing, independently of the VIS regime.

The *Interpretation Act* and a contextual approach to legal interpretation

The Court makes clear that the *Interpretation Act*²³ is of significant assistance in determining the appropriate interpretative approach when analyzing legislation. This Act recognizes that every legislative enactment is deemed remedial and should be given a fair, large, and liberal construction and interpretation to ensure as best the attainment of its objectives.²⁴ This principle reflects the liberal or modern approach to interpretation, which seeks to understand the meaning of words in their proper context to ensure that the intent of the legislator is fulfilled. Accordingly, this approach is endorsed by the Supreme Court

²² *R. v. McIntosh*, 1995 CanLII 124 (SCC).

²³ *Interpretation Act*, R.S.C. 1985, c.I-21

²⁴ *Id.*

of Canada²⁵ and encompasses the *Interpretation Act* along with the various components discussed below.

Hansard and Parliamentary intent

The CVBR underwent several readings and was referred to the Standing Committee on Justice and Human Rights, which met nine times and reported back to the House after hearing 58 witnesses. Several comments were made by the then Minister of Justice and others during these debates, offering relevant insight into Parliament's intent behind the bill.

For instance, the then Minister of Justice made comments in the House of Commons suggesting a broadened and robust approach towards the entrenched victims' rights, including their participatory right to convey their views at every stage of the process. Specifically, he emphasized that he "cannot overstate the significance of this piece of legislation" and that "we see this bill as an important step towards ensuring that victims not only obtain the information and support they need but are also able to participate in the justice system in a meaningful way".²⁶ Moreover, this participatory approach suggests that, contrary to the restrictive interpretative approach in *B.P.*, discussed above, which stated that the CVBR does not apply to judges or to the sentencing process, Parliament intended the bill, as the Minister stated, to "extend rights to victims of crime at every stage of our criminal justice process (...) and in proceedings in the courts".²⁷

Similarly, the Minister and the Associate Minister of Natural Defence made remarks on the VBRA's quasi-constitutional status, emphasizing that it protects important values and incorporates certain goals in the criminal legal process.²⁸ The then Minister of Justice was also clear in highlighting the quasi-constitutional status of this legislation, highlighting that sections 20 to 24 of the CVBR "set out rules of interpretation, including a primacy clause. These provisions are meant to ensure that the bill is interpreted broadly and liberally, in a manner similar to other quasi-constitutional statutes such as human rights legislation. As the courts begin applying these provisions, the bill will take on greater force and provide clearer guidance in future cases"²⁹ Referring to statements made by the Minister and other parliamentarians, the court also noted that with this legislation, victims are to be given additional rights beyond those that existed under the *Criminal Code* at the time, and that these rights were meant to have substantive meaning through the actions taken pursuant to the new Act.³⁰ Arguably, an approach that relies on caselaw predating these

²⁵ *R. v. McIntosh*, 1995 CanLII 124 (SCC). As part of this approach see also Elmer Driedger in *Construction of Statutes* (2nd ed. 1983); Pierre-André Côté, *The Interpretation of Legislation in Canada* (2nd ed. 1991); Ruth Sullivan, *Driedger on the Construction of Statutes* (3rd ed. 1994).

²⁶ 41st Parliament, 2nd Session, volume 147, # 176, February 20, 2015, pp.11455-456. Passage cited in *Canadian Broadcasting Corporation v. Canada (Border Service Agency)*, 2021 NSPC 48, at para 58.

²⁷ *Id.*

²⁸ 41st Parliament, 2nd Session, volume 147, # 176, February 20, 2015, pp.11459.

²⁹ 41st Parliament, 2nd Session, volume 147, # 176, February 20, 2015, pp. 11455-456.

³⁰ 41st Parliament, 2nd Session, volume 147, # 176, February 20, 2015, pp.11455-456. Passage cited in *Canadian Broadcasting Corporation v. Canada (Border Service Agency)*, 2021 NSPC 48, at para 62.

amendments to restrict the rights provided by the CVBR, as occurred to restrict the VIS regime discussed below, runs counter to Parliament's intent.

Language of Legislation and the role of judges in considering rights in the interest of the proper administration of justice

As highlighted in *Canadian Broadcasting Corporation*, when interpreting a legislative provision, it is important to examine the language of the Act itself and to trace its history from inception. Several elements from this history are instructive in determining the scope and intent of the legislation. Most notably, the preamble is significant, as it emphasizes that victims' rights should be considered throughout the criminal justice system. For the purposes of the Act, the criminal justice system – referenced in sections 5 and 18(1) – encompasses all stages of the prosecutorial process, *including trial and sentencing*. The court relied on this preamble and legislative language to support the application of the CVBR rights in the context of a pre-trial unsealing proceeding, noting that it would be illogical for victims' interests to be considered at trial but not in this pre-trial proceeding.³¹ Contrary to remarks in *B.P.*, this reasoning recognizes that section 14 applies to judges and the sentencing process, and that judges also have obligations to implement these rights throughout the criminal process.

Additional language in the preamble – described by the court as “a crucial consideration”³² – states that the rights of victims of crime must be regarded as an important component of the proper administration of justice. The court emphasized that this constitutes “very strong language (...) it is not equivocal or uncertain language.”³³

In its reasoning, the Court further explained that, even in the absence of a provision within the *Criminal Code* or expressly allowing victims to convey their views or describe the impact of an unsealing application, a contextual interpretation relying on Hansard, the preamble, and specific provisions of the CVBR supports the conclusion that the court itself constitutes a relevant “mechanism provided by law” for the purposes of section 19(1).³⁴ Accordingly, the court interpreted section 19(1) – which states that the rights under the CVBR are to be exercised through “mechanisms provided by law” – as not referring exclusively to statutory provisions, contrary to restrictive interpretations discussed in the previous section.³⁵ Instead, the concept extends to the judiciary, which can be understood as a “mechanism provided by law” with an obligation to recognize and implement the CVBR rights in carrying out its role in advancing the administration of justice under the CVBR.³⁶ The court stated as follows:

The Court is a gatekeeper in many aspects of the administration of justice.
The rights and obligations, set out in the Act are key to the proper

³¹ Id. at para 106.

³² Id. at para 40.

³³ Id. at para 41 and 104.

³⁴ Id. at para 86.

³⁵ See e.g. *R v. LA*, 2023 SKCA 136 and *R v. B.P.*, 2015 NSPC 34.

³⁶ Id. at para 86-89.

administration of justice. There is nothing within the *CVBR*, when coupled with s. 487.3(2)(iv) and the debate leading up to its adoption, that could in any way be interpreted as not being applicable to the unsealing of judicial authorizations.

Such an interpretation is to use the words of Justice Bastarache in keeping with the ‘legislative spirit embodied’ in the *CVBR*.³⁷

Moreover, in addition to comments in Hansard seen above, the language of the legislation, which includes a primacy clause under section 22(1) of the *CVBR*, makes clear that the Act and the rights it protects possess a quasi-constitutional status. This characterization, subsequently reaffirmed by several legislative and judicial bodies,³⁸ is key in legal interpretation and holds that any conflict or interpretative ambiguity should be resolved in favour of the *VBRA*. This is relevant in interpreting the relationship between the *VIS* regime and the *CVBR* – making clear that any restrictive interpretation or conflicting understandings of the *VIS* regime must give precedence to the rights recognized under the *CVBR*. As will be discussed, this supports a broader approach to the consideration of victim views within the context of the *VIS* regime.

Relatedly, an analysis of the language of the *CVBR* indicates that the right to convey views (section 14), which applies at every stage of the process including sentencing, is distinct from the right to submit a *VIS* at sentencing (section 15 of the *CVBR*). The decision to establish these as separate rights under the *CVBR* suggests that different mechanisms operate under each provision. While the *VIS* regime primarily focuses on enabling the court to understand the impact of the offence on victims,³⁹ section 14 protects a broader right for victims to convey their views regarding decisions that affect their interests, which can include aspects of the *VIS* regime but not limited to that.

In brief, applying this overall contextual analysis to section 14, would suggest that in sentencing, this right would be considered independent and separate from the *VIS* regime, which should be implemented by the court in its role of advancing the administration of justice -- irrespective of a separate legislative regime in the *Criminal Code*. This challenges the view held in sentencing that the *CVBR* can only be implemented through a previously existing statutory mechanism. Moreover, as will be discussed in the next section, while the *VIS* contains certain limits to the views that would influence a sentence, it does not restrict the potential for victims to make claims under section 14.

³⁷ Id. at para 108-109, quoting *ATCO Gas & Pipelines Ltd. v. Alberta*, 2006 SCC 4 (CanLII), [2006] 1 S.C.R. 140, stated at para. 49.

³⁸ See: Standing Senate Committee on Legal and Constitutional Affairs (44th Parliament, 1st Session, 21 November 2024) online: < www.sencanada.ca>; *R c. Mund* 2024 QCCQ 5149 at para 68; *R c. Pryczek* 2024 QCCQ 7445 at para 98.

³⁹ See Marie Manikis, Victim impact statements at sentencing: Towards a clearer understanding of their aims” (2015) 65(2) *University of Toronto Law Journal* 85.

The victim impact statement regime: a broadened and flexible approach to victim views following the VBRA

As seen above, part of the restrictive interpretative approach adopted by several courts regarding the application of section 14 of the VBRA at sentencing rests on the notion that section 19(1) provides that the exercise of rights under the CVBR must occur through “mechanisms provided by law”, which is interpreted as requiring a specific legislative provision. In this sense, judges have relied on the VIS regime in the *Criminal Code* to interpret the scope of section 14 rights, highlighting that the VIS regime restricts the types of victim views that may be expressed. As discussed above, however, a contextual interpretation would understand the concept of “law” more broadly, encompassing judicial interpretation itself as part of the mechanisms through which the law operates. Under this view, courts form part of the legal mechanism responsible for recognizing and implementing victims’ rights as part of the proper administration of justice. This approach suggests that section 14 of the CVBR can be operate as a stand-alone right that does not need to be channelled through an existing legislative regime – such as the VIS framework – in order to be recognized at sentencing.

Despite the possibility of interpreting section 14 as an independent participatory right at sentencing, this section argues that even if the VIS regime plays a role in shaping how section 14 operates, courts have generally adopted an unduly restrictive interpretation of that regime. This restrictive approach fails to consider the intended impact of the CVBR on the VIS framework, which appears to have been more expansive than restrictive with respect to the admissibility of victim views relating to the sentence. Courts have frequently relied on case law predating the VBRA, as well as language contained in the VIS form, to suggest that victims’ section 14 right to convey their views at sentencing is limited to describing the harm caused by the offence and rarely, if ever, includes the ability to express views about the sentence itself. On this basis, some judges have concluded that section 14 cannot be interpreted as allowing victims to “side-step the CVBR provisions relating to victim impact statements, and in a sentencing hearing, convey their views about decisions (the sentence) to be made by appropriate authorities (the judge).”⁴⁰ One judge further suggested that, had Parliament intended to overturn the strong line of pre-existing case law limiting victims’ recommendations about sentencing, it would have done so in a clearer and more explicit manner.⁴¹

Contrary to this restrictive interpretation, however, a contextual analysis of the legislative history reveals that Parliament intended to allow victims to convey their views in ways extending beyond the mere articulation of the harms caused by the offender. Indeed, the VBRA introduced several amendments to the VIS regime that suggest a more flexible approach to the admissibility and reception of victim views about sentencing than existed prior to the legislation’s enactment. Several elements support this conclusion.

⁴⁰ *R v. B.P.*, 2015 NSPC 34 at para 60; see also the majority view in *R v. LA*, 2023 SKCA 136 at para 69; *R c Villeneuve*, 2024 QCCQ 5630 at para 29.

⁴¹ *R v. Beals*, 2023 ONSC 555 at para 86.

First, the VIS regime was amended to include Form 34.2, which specifies what may and may not be included in a VIS. Importantly, the form recognizes for the first time that victims may include, “with the court’s approval, opinion or recommendation about the sentence”.⁴² This language represents a notable legislative change, as the VIS regime prior to the VBRA did not expressly recognize this possibility.

Second, the amended *Criminal Code* provisions governing the VIS regime, as part of the VBRA, provide greater flexibility and accessibility for victims while also imposing additional obligations on judges and prosecutors.⁴³ For instance, victims now have the ability to make their own application for an adjournment in order to present evidence in alternative formats or with different content than the form provided.⁴⁴ These amendments underscore Parliament’s intention to facilitate the conveyance of victims’ views through means that extend beyond the traditional written VIS form. More broadly, they suggest an effort to expand the ways in which victims can communicate the impact of the offence and offer broader informative perspectives on the sentencing process.

Third, this specific provision generated significant legislative debate in Parliament prior to its adoption. Members of the opposition proposed an amendment to the provision that would have removed the possibility for victims to include opinions or recommendations about sentencing in their VIS. In explaining the amendment, they argued that victims would still have opportunities to provide input into sentencing, “but this would be in the manner that they do now,”⁴⁵ thereby preserving the *status quo* with the pre-existing limitation on the scope of victim participation. Prior caselaw had indeed recognized that victim recommendations may exceptionally be admitted, but only in narrow circumstances and typically at the court’s discretion – for example in the context of “a court authorized request, an aboriginal sentencing circle, or as an aspect of a prosecutorial submission that the victim seeks leniency for the offender which might not otherwise reasonably be expected in the circumstances.”⁴⁶

This restrictive position was consistent with the recommendations of the Canadian Bar Association (CBA), which urged Parliament to remove the reference allowing victims to include opinions or recommendations about sentencing.⁴⁷ The CBA cautioned that retaining this language would create “infinite possibilities beyond the existing list,” allowing courts to admit sentencing recommendations that extend far beyond the traditional scope of section 722 of the *Criminal Code*. As the CBA argued, “victims of crimes may certainly

⁴² Bill C-32, *An Act to enact the Canadian Victims Bill of Rights and to amend certain Acts*, 2nd Sess, 41st Parl, 2014, form 34.2, subsection 722(4) *Criminal Code* (second reading and as reported to the House of Commons on December 3rd, 2014), which stated that “Your statement must not include... except with the court’s approval, an opinion or recommendation about the sentence.”

⁴³ For instance, there is a new legislative requirement that judges inquire of the prosecutor if reasonable steps were taken to provide victims an opportunity to prepare a statement under section 722(2) *Criminal Code*.

⁴⁴ See the combination of newly added sections 722(3) and 722(9) of the *Criminal Code*’s VIS regime.

⁴⁵ *Standing Committee on Justice and Human Rights*, 41-2, No 56 (2 December 2014) at 1635 (Mr. Sean Casey) online: <ourcommons.ca> [https://perma.cc/4RFJ-65SZ].

⁴⁶ *R v. Gabriel* (1999), 1999 CanLII 15050 (ONSC), 137 *Criminal Code of Canada* (3d) 1 (Ont Sup Ct).

⁴⁷ National Criminal Justice Section Canadian Bar Association, *Bill C-32 – Victims Bill of Rights Act* (Ottawa: Canadian Bar Association, 2014) at p 7, online: < www.cba.org > [https://perma.cc/9Q7W-9C6Z].

be capable of describing the harm suffered, but for the most part are not equipped to make legally relevant or meaningful recommendations on the appropriate sentence.”⁴⁸

Of particular significance, however, is Parliament’s express rejection of this restrictive amendment. Despite the opposition’s concerns, the government opposed the proposal to remove the provision and chose to retain the language it had initially proposed, permitting victims, with the court’s approval, to include opinions or recommendations about sentencing. In opposing the amendment, the government stated in clear terms:

This amendment shouldn't be supported because it's contrary to the complete intent of the bill. The objective of the bill is to permit victims to express their opinions and for their opinions to be taken into consideration. Of course, the courts have always exercised their inherent jurisdiction to accept the views of victims on sentencing where it's deemed appropriate, and this is particularly used in sentencing circles. We will be voting against this amendment.⁴⁹

This debate concluded with the rejection of the proposed amendment, signaling Parliament’s intention to adopt a broader approach than that reflected in earlier caselaw. This legislative choice challenges the view expressed by several courts that the reformed VIS regime following the enactment of the CVBR merely reaffirms pre-existing rights or even supports a more restrictive approach to victim sentencing recommendations than that found in pre-CVBR jurisprudence.

Indeed, while *Gabriel*⁵⁰ provided a thoughtful discussion on the importance of limits to an open-ended *influence* of victim views – particularly where such views might risk increasing the severity of a sentence in a disproportionate manner – a flexible approach that respects the CVBR would nevertheless allow victims to *convey* and have their views *considered*, leaving it to the judge to determine whether and to what extent those views should influence the sentence.

As the concurrent judge emphasized in *L.A.*,⁵¹ the CVBR and the VIS regime are not necessarily in tension. Importantly, section 722 of the *Criminal Code*, which governs VIS, must be interpreted flexibly, as it was intended both to give meaning to and to provide a mechanism for implementing section 14 of the CVBR. According to this view, section 722 creates a positive duty on sentencing judges to receive and consider VIS and to make reasonable inquiries to facilitate their submission. Contrary to the majority’s reasoning, the concurring judge did not characterize the appellant’s argument as relying on an “absolute right” of victims to provide such statements under the CVBR. Rather, she agreed with the appellant’s claim that the sentencing judge erred by refusing to hear from the victims or by failing to take reasonable steps to obtain their statements in written form.

⁴⁸ *Id.*

⁴⁹ *Standing Committee on Justice and Human Rights*, 41-2, No 56 (2 December 2014) at 1635 (Mr. Robert Goguen) online: <ourcommons.ca> [https://perma.cc/9N8C-TQRG].

⁵⁰ *R v. Gabriel* (1999), 1999 CanLII 15050 (ONSC), 137 *Criminal Code of Canada* (3d) 1 (Ont Sup Ct).

⁵¹ *R v. LA*, 2023 SKCA 136

This interpretation, informed by the CVBR, suggests that victims should generally be able to convey their views unless there is a clear reason not to receive them. Such an approach does not grant victims a veto over sentencing decisions or confer party status upon them. Rather, it aligns more closely with the objectives of the VBRA and the participatory rights it introduced.

The list of situations identified in *Gabriel* in which victim recommendations were admissible under pre-CVBR case law would likewise remain relevant in the post-CVBR context. However, the majority in *L.A.* appears to adopt an even more restrictive approach than that reflected in the earlier jurisprudence. The majority justified this position on the basis that the law remains uncertain regarding when it is appropriate for sentencing judges to hear submissions that might be “downplaying the harm caused or request leniency,”⁵² particularly in light of the emphasis placed on the seriousness of harm in decisions such as *Friesen*⁵³ and the presence of mandatory minimum sentences in certain contexts, including offences involving domestic violence against minors.

This reasoning is flawed. The CVBR and its legislative history arguably clarifies, rather than obscures, the law in this area, particularly in situations already recognized in *Gabriel*. These circumstances would continue to apply even in the post-*Friesen* context, as victims’ perspectives relating to harm remain relevant considerations. Indeed, it would run contrary to the spirit and purpose of the CVBR to adopt an approach that is more restrictive in allowing victims to convey their views than the one that existed prior to its enactment.

Conveying views as relational and informing the public interest

In several of the cases discussed above involving pre-sentencing stages, courts recognize that victim views can contribute to informing the public interest and the proper administration of justice. This section highlights that the same is true at sentencing, where victim views can also be informative, particularly in contexts involving marginalized communities and complex power dynamics, including the state’s own contribution to offending. As will be seen, however, there is a difference between conveying views and having them influence the sentence.

Rather than adopting an approach such as that of the majority in *LA*, which treats victim views relating to alternatives to incarceration in domestic violence cases as inadmissible based on assumptions about victims’ capacity to make informed choices, judges should hear from victims and consider their views. Victims can provide insight into experiential dynamics, relational harms, and the potential impact of sentences on individuals and communities that may not otherwise be known by the court. Several decisions illustrate that judges sometimes make assumptions without hearing victim views,⁵⁴ disregard

⁵² Id. at para 73.

⁵³ *R v. Friesen*, 2020 SCC 9.

⁵⁴ For instance, in *R v. Arnaquq*, 2020 NUCJ 14 at para 52, the sentencing judge took judicial notice of the harm done to the families and friends of the victims as well as all of those taking interest in the proper administration of the justice system notwithstanding the absence of any victim impact statements were filed.

informed victim perspectives,⁵⁵ and attribute complex harms solely to the individual offender as a justification for imposing severe custodial sentences.⁵⁶ Moreover, some courts make assumptions about Indigenous legal traditions and their relationship with imprisonment without consultation with victims and communities.⁵⁷ Such reasoning overlooks the relational dimensions of wrongdoing and harm, including the ways in which the state itself can contribute to harmful conditions and the reproduction of colonial practices – considerations that could be inform sentencing decisions aimed at avoiding the perpetuation of criminogenic realities.

Few decisions recognize that victim views can play an important role at sentencing by informing judicial assumptions and limiting the influence of stereotypes, particularly in contexts involving marginalized individuals and complex social dynamics. For instance, in *Larivière*,⁵⁸ a case involving sexual violence, in which both the victim and the accused participated in a sentencing circle recommending that the accused not be incarcerated, the victim expressed the same view in her victim impact statement and indicated that she wished for the accused to continue participating in healing circles. In considering this position, the sentencing judge recognized the importance of the victim's perspective, observing that "for me to unilaterally dismiss the restorative justice process' recommendation...would display an intolerable degree of presumptuousness... but also would undermine the goal of having the complainant and the accused heal".⁵⁹ This approach is particularly relevant within the context of Bill C-16 which adds a framework to introduce restorative justice in the *Criminal Code* – making it clear that some of its guiding principles include measures that should take into consideration victim interests.⁶⁰

⁵⁵ In *R v. Mikijuk*, 2017 NUCJ 2 at para 45, a case in which an offender suffered from extreme alcohol addiction, the victim did not recommend a severe penitentiary sentence but rather that he would get the help he needed. Instead, the judge found that Mr. Mikijuk bears a high degree of responsibility for his actions and due to the prevalence of crime in that community, was given a severe sentence. Similarly, in *R c Guerrero Silva*, 2015 QCCA 1334 while the views of a victim of domestic violence valuing forgiveness and a closed treatment therapy were considered at sentencing, they were discarded and regarded as inappropriate on appeal.

⁵⁶ See e.g. in *R v. Iqalukjuaq*, 2020 NUCJ 15 at paras 30 – 31, in which a judge in a case where the victim declined to submit a statement, relied on assumptions regarding the harm caused to the victim and community to justify the imposition of a severe custodial sentence. Rather than seeing these harms as relational and implicating the state, the victim's vulnerability gave rise to harsher sentence towards the offender without any response by the state.

⁵⁷ See e.g. *R v. Arnaquq*, 2020 NUCJ 14 at para 54; *R v. Iqalukjuaq*, 2020 NUCJ 15 at para 34; *R v. Mikijuk*, 2017 NUCJ 2 at para 46.

⁵⁸ *R v. Lariviere*, 2021 ABQB 432

⁵⁹ *Id.* at para 106; In *R c Larouche*, 2022 QCCQ 6917 at para 26, a sentencing judge also recognized that sentencing judges cannot make assumptions regarding victims' views relating to the admissibility of evidence of juvenile pornography photographs as this would amount to a form of stereotype on the victim's perspective.

⁶⁰ *An Act to amend certain Acts in relation to criminal and correctional matters*, Bill C-16, 45th Parl, 1st Sess, 2025 (Can), section 715.46.

Victim perspectives are therefore relevant within an approach to sentencing that understands wrongdoing as relational.⁶¹ Such an approach recognizes that responsibility for wrongdoing in cases involving marginalized groups is not solely individual but may also reflect broader state failures. Accordingly, the state can also play a role in creating criminogenic realities through the production and maintenance of substantive inequalities, including colonial practices associated with certain systems of punishment and forms of imprisonment. Recognizing these dynamics is essential for tailoring sentencing responses that account for the social context of harm. In such contexts, victims may offer perspectives that facilitate safety and support, including through sentencing circles, community-based approaches, and other alternatives to imprisonment. These contributions can assist courts in crafting sentences that respond more effectively to harm while limiting the state's role in reproducing criminogenic conditions within marginalized communities. In this way, sentencing can serve a communicative function by acknowledging the state's criminogenic role and craft responses that can in part address such inequalities.

Evidence from certain domestic violence contexts, including those involving some Indigenous communities, suggests that effective safety response, do not involve imprisonment, which has shown to create more harms and perpetuate generational traumas. For instance, the Truth and Reconciliation Commission of Canada and the National Inquiry into Missing and Murdered Indigenous Women and Girls⁶² have called upon federal, provincial, and territorial governments to provide stable funding for community-based sanctions that offer meaningful alternatives to incarceration. These alternatives should be culturally appropriate, responsive to colonial histories, and attentive to the structural causes of offending. These recommendations align with empirical research indicating that effective interventions for intimate partner violence often occur when Indigenous communities control resources and coordinate justice responses, and when Indigenous women play a central role in designing programs.⁶³ Indigenous communities are best positioned to develop and implement such responses because of their proximity to the harms involved and their knowledge of community values and needs.⁶⁴ The Community Holistic Circle Healing Program in Hollow Water First Nation is a

⁶¹ Marie Manikis, "Recognising State Blame in Sentencing: A Communicative and Relational Framework" (2022) 81(2) Cambridge Law Journal 294-322.

⁶² Truth and Reconciliation Commission of Canada: "Honouring the Truth, Reconciling for the Future", Summary of the Final Report of the Truth and Reconciliation Commission of Canada, Call to Action 31; National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* (Ottawa, 2019), vol 1a.

⁶³ Angela Cameron, *Restorative Justice: A Literature Review* (Vancouver: The British Columbia Institute Against Family Violence, 2005) at 53; Donna Coker, "Restorative Justice, Navajo Peacemaking and Domestic Violence" (2006) 10:1 Theoretical Criminology 67; Andrea Smith, "Not an Indian Tradition: The Sexual Colonization of Native Peoples" (2023) 18:2 Hypatia 70.

⁶⁴ Cyndi Baskin, "Systemic Oppression, Violence and Healing in Aboriginal Families and Communities" in Ramona Alaggia and Cathy Vine, eds, *Cruel But Not Unusual: Violence in Families in Canada*, 3rd ed (Waterloo: Wilfred Laurier University Press, 2013); Sarah Deer, "Toward an Indigenous Jurisprudence of Rape"

relevant example of an Indigenous-developed model that has achieved notable success and demonstrates the potential of community-grounded approaches to addressing harm in ways that support both accountability and healing.⁶⁵

As noted by the CBA and reflected in several judicial decisions, a commonly held view is that victim perspectives regarding sentencing should generally be excluded because victims are not experts and may be unfamiliar with sentencing principles. However, conveying victim perspectives does not necessarily entail recommending specific sentences or expressing opinions about sentence severity. Rather, victim contributions can provide experiential knowledge about social contexts, relational harms, and lived realities that may not otherwise be available to decision-makers. While not all views should influence the sentence, victims' perspectives should nevertheless be heard so that courts can determine which contributions may be epistemically relevant, particularly in contexts involving substantive inequalities.

Importantly, recognizing a right to convey victim views and having judges consider them does not mean that all views must influence the sentence. The mere fact that an individual requests a certain result does not in itself carry normative weight. The validity of arguments brought forward by victims would be assessed on their alignment with an analysis of evidence and a public interest, rooted in substantive equality, rather than victims' personal, private, or subjective preferences.⁶⁶ For an argument to hold weight in such a framework, it must be justified and measured based on principles that an informed public – aware of the core values of substantive equality and respect – could accept.⁶⁷ Justified contributions could be informed by empirical, experiential, citizen science, and social science knowledge that can evolve in time.⁶⁸ For instance, victims within the various cases in this report could bring forward the contextual inequalities present in those cases and their documented impact on individuals, including those relating to gender, race, disability, and socio-economic status as part of the assessment of the evidentiary threshold and the public interest.

These contributions may include perspectives regarding victims' communities, the power dynamics in which they are situated, or state failures that contribute to harm and violence. Such insights can assist judges in crafting tailored sentencing responses that address the root causes of crime while also being attentive to victims' needs. In this sense, victim perspectives may help shape restorative or supervisory conditions within a sentence and enable judges to interpret sentencing objectives in ways that better reflect lived realities.

(2004) 14 *Kansas Journal of Law and Public Policy* 121; David Milward and Debra Parkes, "Gladue: Beyond Myth and Towards Implementation in Manitoba" (2012) 35:1 *Man LJ* 84; National Inquiry, *supra* note 62.

⁶⁵ An evaluation study found that the program contributed to reduced recidivism for such offences. See Joseph Couture et al., "A Cost-Benefit Analysis of Hollow Water's Community Holistic Circle Healing Process (Ottawa, Ont: Ministry of the Solicitor General, 2001).

⁶⁶ Marie Manikis, *Victims as Agents of State Accountability: A Comparative and Normative Analysis* (Oxford University Press 2026).

⁶⁷ *Id.*

⁶⁸ *Id.*

For example, victims may offer important perspectives about the harms they have suffered in relation to the offence, understood relationally and within a broader social context. This may include recognizing how state and systemic failures contribute to harmful conditions and unsafe environments for victims and offenders, thereby exacerbating the harm associated with the offence. Relevant considerations may include the absence of shelters, the availability of therapeutic or community-based programs, and other aspects of victims' lived realities. Such perspectives form part of the views that victims may convey and may serve the public interest by enabling judges to articulate sentencing decisions that acknowledge these structural factors and respond with approaches that are attentive to, and capable of addressing, these failures.

In brief, while courts have generally restricted section 14 to the victim impact statement (VIS) regime because of the limits within that framework regarding sentencing recommendations, conveying views at sentencing should not be understood as limited to expressing opinions about the sentence itself. Sentencing is a broader process that may involve discussions within sentencing circles, consultations with Indigenous communities, and the sharing of perspectives on relational wrongdoing, the dynamics of harm, and the needs of victims. In this sense, the participatory right protected by section 14 extends beyond a statement describing the harm suffered by victims and supports a broader understanding of victim perspectives within the sentencing process.

Conclusion

The jurisprudence examined in this report reveals a significant tension in the interpretation and implementation of victims' participatory rights under section 14 of the *Canadian Victims Bill of Rights* (CVBR). While courts have recognized the relevance of victim perspectives in several stages of the criminal process – including prosecutorial decision-making and other pre-trial contexts – they have adopted a markedly more restrictive approach at sentencing. In this context, some decisions have confined the right to convey and have victim views considered to the procedural mechanisms of the victim impact statement (VIS) regime under the *Criminal Code*, often relying on narrow interpretations of that regime and on pre-CVBR jurisprudence. Such an approach risks limiting the broader participatory rights that Parliament sought to entrench through the *Victims' Bill of Rights Act*.

A contextual approach to statutory interpretation provides a more coherent framework for understanding the scope of section 14. When interpreted in light of the modern principle of statutory interpretation, the *Interpretation Act*, parliamentary debates, and the language and purpose of the CVBR, section 14 emerges as a meaningful participatory right intended to apply across the criminal justice process, including sentencing. The preamble of the legislation and statements made during parliamentary debates emphasize that victims should be able to participate meaningfully in criminal justice proceedings and that their rights form part of the proper administration of justice. Decisions adopting a contextual approach demonstrate that CVBR rights may operate even where no specific procedural mechanism is explicitly provided in the *Criminal Code*, and that courts themselves may constitute a “mechanism provided by law” for the implementation of these rights.

The legislative amendments to the VIS regime introduced by the *Victims' Bill of Rights Act* further support a more flexible approach to victim participation at sentencing. By allowing victims, with the court's approval, to include opinions or recommendations regarding the sentence, Parliament signalled an intention to expand the range of perspectives that may be conveyed, rather than to preserve the more restrictive approach reflected in earlier case law. Interpreting both the VIS regime and section 14 in a manner that facilitates the meaningful conveyance of victim perspectives is therefore more consistent with the legislative intent underlying the CVBR.

Importantly, recognizing a broader participatory role for victims is not primarily about granting victims influence over the severity of sentences. Rather, victim contributions may provide valuable contextual knowledge about the relational dynamics of harm, the social realities surrounding offending, and the broader conditions that shape victimization and responses to it. Victims often possess experiential insights into power relations, community dynamics, and the consequences of criminal justice interventions that may not otherwise be visible within formal legal proceedings. These perspectives can assist courts in identifying contextual realities and in challenging assumptions that judges may otherwise make about victims' needs, preferences, or the most appropriate responses to harm.

Such contributions are particularly important in cases involving marginalized communities, where systemic inequalities, colonial histories, and institutional failures may shape both offending and victimization. In these contexts, victims may offer perspectives that illuminate relational harms and the broader conditions that contribute to violence, while also identifying responses that may better support safety, accountability, and healing. Hearing such perspectives can therefore assist courts in crafting sentencing responses that are more attentive to lived realities and less likely to reproduce criminogenic or unjust conditions. This approach would also be relevant in implementing the new alternative measures and restorative justice processes framework under Bill C-16, which as a guiding principle makes clear that victim interests as relevant considerations.

Recognizing section 14 as a meaningful participatory right does not confer party status on victims nor does it grant them authority over sentencing outcomes. The ultimate determination of a proportionate and principled sentence remains the responsibility of the court. Victim perspectives, like other forms of evidence or submissions, must be assessed according to their relevance and persuasiveness in light of established sentencing principles and the broader public interest.

Ultimately, a contextual and purposive interpretation of the CVBR better reflects the remedial nature of the legislation and Parliament's intention to enhance meaningful victim participation in the criminal justice system. By moving beyond restrictive interpretations that confine victim participation to narrow procedural channels, courts and complementary mechanisms recognized by law⁶⁹ can give fuller effect to the role that victim perspectives may play in contextualizing harms and their root causes, challenging untested assumptions, and informing responsive practices that take into account victim interests as part of the public interest.

⁶⁹ Mechanisms recognized by law that can be complementary to courts can include complaints mechanisms developed by ombudspersons and criminal justice agencies. See preliminary insights in Marie Manikis, "The Difficult Road to Accountability: A Study on Complaints Mechanisms to Investigate and Address Victims' Rights Violations" in J. Desrosiers, M-E Sylvestre, and M. Garcia, *Criminal Law Reform in Canada: Challenges and Possibilities* (Yvon Blais, 2017).