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Understanding the Relation Between Agency and Communion and Victim Impact Statements

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Abstract

Victim impact statements (VIS) have been widely introduced across different jurisdictions. Although early research examined the impact of VIS on sentencing outcomes, more recently researchers have focussed on their effects on victim posttraumatic stress symptoms. This article offers a different framework to this therapeutic approach. Instead, we emphasize that victims' affective experience can be conceptualized using the Big Two Framework of agency and communion. Victims suffer damage to their sense of agency—status, respect, and the like—and communion—their experiences of connectedness to others. VIS could provide an opportunity to restore these orientations to self and others. Our research offers an empirical investigation into this framework. Victims who delivered an oral VIS in a Dutch criminal court completed an online survey on their experiences ($N = 118$). In addition, we conducted in-depth interviews to enrich the information from the survey ($N = 24$). The results show that both agency and communion-related aspects are present when victims talk about their experiences. Victims, for instance, mention feeling stronger—agency and also to be able to help others—communion. The agency aspect of being heard is apparent both in the survey the interview results. These findings suggest that both agency and communion seem to play a role in the effects of delivering a VIS. Implications of the agency and communion approach are discussed.

Keywords Agency · Communion · Victim participation · Victim impact statements

Introduction

Since the 1960's, many jurisdictions across the Global North have reformed their criminal justice systems to provide a stronger procedural position for victims of crime (Groenhuijsen & Letschert, 2008). One way to do so is by means of Victim Impact Statements (VIS). A VIS is a written or oral statement made by the victim, most often addressed to the judge in a criminal case (Erez, 1991). VIS originated

in adversarial criminal systems, first in the United States, followed by the United Kingdom, and subsequently also in a number of countries in continental Europe with inquisitorial systems, including the Netherlands (Booth et al., 2018). More recently, scholars and policymakers have argued the therapeutic benefit to victims of submitting a VIS. In this article, we use Dutch research to explore a different conceptual approach; that VIS provide an opportunity for the demonstration of agency and communion (Bakan, 1966). We begin with an overview of debate about VIS and their aims and then discuss the literature on the presumed therapeutic effects. We next outline our alternative agency and communion framework. We demonstrate the framework in mixed-methods empirical research, focusing on the experience of victims in delivering a VIS in the Netherlands. The research investigated that extent to which victims expressed feelings of agency and communion in relation to preparing and delivering a VIS and what benefits (therapeutic or otherwise) victims experience from VIS. We first set the scene with a brief description of the role of victims in criminal

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justice in Europe, including the Netherlands, in order to situate the VIS in context.

The Different Roles and Contexts for Victims in European Criminal Justice

Within the different Member States of the European Union (EU), different roles and contexts exist for victims. These differences are relevant to understand how VIS is used. Reviewing the implementation of victims' rights across the EU, the Fundamental Rights Agency (FRA) (2019) distinguished three different models to categorise the victim's role. These models depend on the way the national criminal justice systems have conceptualized it. The 'type 1' countries, such as Germany and Poland, view the victimisation as a violation of the victims' individual rights. In these type 1 countries the victim herself is allowed to have an independent role in the criminal justice system, and can be a party to the proceedings. In 'Type 2' countries, such as the Netherlands, criminal law focuses on the harm that victims suffer after a crime and less on the victim herself. Victims are only a witness for the public prosecutor and play a smaller role in the criminal justice system. Given the focus on harm, the availability of a VIS provides victims with an opportunity to describe the impact or consequences of the victimization. 'Type 3' countries, for example France, view a person who suffers directly from a crime as the victim who then has the right to bring a civil action within the criminal justice process.

Despite the differing models of the victim's role within EU Member States, the EU offers clear standards for victims' rights to Member States that they are obliged to implement. That is, the 2012 directive on victims' rights (Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA).¹ This Directive specifies, for example, that EU Member States should provide victims with access to free victim support services (Art. 8). Further, the Directive lays down rules on victim participation in criminal proceedings. These rules include that victims have a 'right to be heard' (Art. 10), have 'a right to legal aid' (Art. 13), the 'right to be reimbursed for expenses as a result of participating in criminal proceedings' (Art. 14), and a 'right to protection during criminal proceedings' (Art. 20).

The right to be heard may be facilitated through a Victim Impact Statement. The VIS is offered in eight EU countries

including Austria, Belgium, Estonia, Finland, Luxembourg, the Netherlands, Poland, and Romania (Kunst et al., 2021). Some of these Member States lean more towards adversarial criminal processes and others are inquisitorial. Both types of system allow for VIS (Cassell, 2009). However, there are differences between the adversarial and inquisitorial systems that influence the delivery of the VIS. One such difference is that in an adversarial system, there is a clear procedural distinction between deciding the guilt and the sentence of a defendant. In an adversarial system VIS is submitted after conviction and before sentencing. In inquisitorial systems, the assessment of guilt and sentencing occurs during the same court hearing, this means that victims deliver a VIS when the suspect can still be acquitted (Braun, 2013; Kool & Verhage, 2014). Secondly, the role that the judges play in court is different. In an adversarial system, the court hearings are mostly led by the prosecutor and defence, with the judge overseeing and guaranteeing the appropriate trial procedure. In the inquisitorial system, judges have more control over the process by examining the evidence and questioning the witnesses themselves. Judges thus also have more control over the role the victim plays in the hearing, making pressure on the rights of the defendant less likely (Braun, 2013; Doak, 2005).

In many European and non-European countries where VIS has been introduced, some type of submission has also been made available to victims to deliver at stages other than in the criminal court. For instance, in victims are in some US jurisdictions are allowed to deliver a VIS during a plea or parole hearing (Roberts, 2009). Another example involves a law that was recently introduced in the Netherlands that provides victims the opportunity to deliver a VIS during a hearing on extending an offender's forensic psychiatric care when they are placed under a hospital order after a committed crime (Wet Uitbreiding Slachtofferrechten, 2021). In brief, the victim's right to be heard is not now viewed as a singular procedural moment.

Debates About VIS

Since its introduction, the VIS has been a topic of international debate. In broad terms, the main argument for VIS was that they provide a means for victims to have some "input" into criminal proceedings, input that gave them a place and a voice (Roberts & Erez, 2004, p. 226). The idea of "input" distinguished between two aims: that victims be able to express the effect of the crime in communication with others, and that the VIS influence the outcome of the legal procedure (Roberts & Erez, 2004). What is called the "expressive" and "impact" aims have influenced diverging arguments for and against VIS.

¹ See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32012L0029>

Arguments for the benefits of VIS accentuate its expressive or communication aim. Firstly, it is said that the VIS could provide judges with first-hand information about the consequences of the crime and the victims' needs. It was argued that this information could lead to a better fitting sentence as well as providing the judicial officer with an opportunity to acknowledge the harm done to the victim (Roberts, 2003). Secondly, VIS have been argued to have victimological benefits. This view observes that victims highly value the opportunity to participate actively in the legal procedure (Erez, 1991; Roberts, 2003). Another aspect is the emotional benefit that VIS is said to bring for victims, that it is cathartic (Erez, 1994). In particular, it is claimed that VIS could play a role in generating feelings of closure and empowerment (Bandes, 2022; Cassell, 2009). The view that VIS has emotional benefits resonates with the literatures on therapeutic jurisprudence (the law can function as a therapeutic agent) (Petrucci et al., 2003; Wexler, 2001) and on restorative justice (healing comes through communication and understanding) (Menkel-Meadow, 2007).

Objections against VIS generally focus on the second aim: that VIS should have an impact on or influence in legal decision-making (for a review, see Kunst et al., 2021). Firstly, some argue that VIS could lead to more severe sentences and endanger the proportionality of sentencing (e.g. Kool et al., 2002; Talbert, 1988). Secondly, specifically relevant to inquisitorial systems, it is argued that VIS may be prejudicial against defendants. In most inquisitorial systems, the delivery of VIS precedes the conviction and sentencing of the defendant. As such, the content of the VIS may suggest that the defendant has already been convicted (e.g. Myers & Greene, 2004). A different though related argument is that VIS are not beneficial for victims on the basis that they (mostly) do not allow victims to comment on the sentence itself. This argument suggests that due to the lack of evidentiary value of VIS, judges might ignore the content when deciding on a sentence, leading to victims feeling excluded or disappointed (Edwards, 2003; Sanders et al., 2001).

Similar to the international debates, there has been much contestation about VIS in Dutch policy and politics. When introduced in a limited form in 2005, it was believed that the VIS would better inform the judges about the circumstances and consequences of the alleged offending (Kool & Verhage, 2014). Additionally, it was believed that the defendant might realize the consequences of the crime and then not recidivate. It was thought that the greater attention to victims could also lead to preventing crime (Doornbos et al., 2020b). After implementation, the form of the VIS has been revised several times. In 2016, for instance, victims did not have to limit their VIS to the consequences of the crime, they could now speak freely about every topic. This particular change sparked heavy debate that the VIS could now generate a

disbalance between the role of the victim and the role of the defendant in that victims had a more prominent role in the court hearings (Doornbos et al., 2020b; Kool, 2019). Some have also argued that the research on the VIS is too empirical, or that it focuses too much on moral arguments, and that VIS has been implemented too soon, i.e. before pilot testing and evaluating the process (Geeraets & Veraart, 2017). The current study extends the Dutch research on VIS by exploring victims' views on and assessments about the expressive and communicative nature of the VIS. To do so, we need first to delve a little further into the purported therapeutic benefits of VIS.

Therapeutic Effects of VIS?

While the initial objective of implementing VIS was to strengthen the position of victims in the legal system, the focus quickly shifted towards psychological or therapeutic benefits for victims (Doornbos et al., 2020b; Kunst et al., 2021).

The interest in psychological or therapeutic benefits of interventions for victims may stem from the interest in trauma and the psychological symptoms that victims can suffer from after trauma. Studies showed that victimization could lead, for instance, to general distress, dissociation, reliving the experience, suicidality, and so on (e.g. Herman, 1992; Herman & Harvey, 1997). Additionally, the idea is widely spread that talking about trauma leads to less distress which helps a person to cope with emotions (Littrell, 2009). Taking the previous into account, it would seem to make sense to assume similar benefits from VIS, since VIS is an opportunity to talk about what happened. The goal of therapeutic benefits from VIS, therefore, is also widely assumed (e.g. Roberts & Erez, 2004). However, the robust research evidence for these assumptions has been sparse.

Given this, we suggest other conceptual frameworks for the benefit of VIS to victims may be a better fit in the judicial context. We offer three key arguments. Firstly, limited evidence of therapeutic benefits has been found regarding VIS. A Dutch longitudinal study using a longitudinal quantitative survey, interviews and observations aimed to identify "whether and if how delivering a written or oral contributed to the victim's emotional journey" (Lens et al., 2014, 2010). A survey was filled in by victims ($N = 143$) before and after the court hearing and the sample consisted of victims who did and those who did not deliver a VIS. The surveys included questions on motivation to (or not) deliver a VIS, and validated, standardized questionnaires on trauma and emotions, such as the Trauma Screening Questionnaire (TSQ) and the Dimensions of Anger Reactions Scale (DAR). Interviews ($N = 119$) were conducted four weeks after the trial and participants were asked,

among other matters, about motivations to (not) deliver VIS and the use of VIS. The pre- and post-test surveys found that victims who delivered a VIS did not score lower on posttraumatic stress symptoms such as anger or fear, after their use of VIS, and neither was there evidence of any significant increase or decrease in perceived control over their recovery process. However, in interviews the victims in this study did mention that using VIS made them feel good (Lens et al., 2010). The researchers suggest that these reasons for feeling good about VIS might lie elsewhere than the alleviation of posttraumatic stress symptoms.

Secondly, as Pemberton and Reynaers (2011) argue, the terms used to describe the therapeutic benefits, such as ‘restoring’, ‘recovery’ or ‘healing’ are not in line with the purpose of a criminal justice system. Further, such terms are vague, difficult to implement and problematic for researchers to measure in legal settings. As victims cannot return to the situation before victimization, none of these terms may be achievable (Pemberton et al., 2017). As Bandes has written about “closure”, it is “a term with no accepted psychological meaning” (2009, p. 1). At best, the terminology helps victims find words to impart almost inexplicable experiences, but at worst the terms deflect attention from unhelpful processes.

Thirdly, the court setting in which a VIS is delivered by victims is different from the setting of a therapeutic intervention. Courts and criminal procedure are “poorly designed” to remedy victimization from the victim’s perspective (Herman, 2005, p. 571). Delivering a VIS in court can even be quite an intimidating environment for victims (Kunst, et al., 2015). Additionally, VIS usually are a one-time occasion to share with others, while a therapeutic intervention consists of an evidence-based therapy with several different sessions. The therapeutic analogy falls flat.

Lastly, when we describe the emotional consequences of a crime that victims describe, we often use posttraumatic stress symptoms or other emotional disorder related words. However, research has shown that only a small percentage of victims suffer from posttraumatic stress symptoms (Kunst, 2015). Victimization is not the same as dealing with a psychological disorder after traumatization, and speaking in terms of posttraumatic stress symptoms might not be fitting for the majority of victims. When we hold onto this idea of therapeutic benefits, people’s affective experience becomes equated with (negative) emotions, often understood in terms of emotional disorder. In doing so, we dismiss a wider range of relevant affective experiences of victims (see Ratcliffe, 2017). This wider range includes experiencing respect, belonging, trust and connection, as well as feeling the ability to make sense and give meaning to experiences (Aho, 2019; Ratcliffe et al., 2014).

Theoretical Framework: The Big Two of Agency and Communion

Considering these problems associated with the purported therapeutic benefit of VIS, we argue that a different theoretical framework for studying VIS is needed. Sometimes described as the Big Two of social psychology, agency and communion are “two fundamental modalities in the existence of living forms” (Bakan, 1966 quoted in Pemberton et al., 2017, p. 683). Agency is a dimension with individualistic feelings, while communion encompasses connections to others. Abele and Wojciszke (2007) progress Bakan’s theory and view agency as “related to strivings to individuate and expand the self” and communion as “strivings to integrate the self in a larger social unit through caring for others” (p. 759). Attributed to agency are feelings of being independent, ambitious, competent, and attaining goals. Communion consists of cooperating with others, being interdependent and caring for others’ well-being (Abele & Wojciszke, 2007).

The concepts of agency and communion have been previously used in research into life histories as well as victimization experiences. Studies with victims reveal a diminished sense of agency, which can include feelings of loss of control, feeling powerless and lowered feelings of competence (Herman, 1992). In such circumstances, the concepts of agency and communion are said to underlie behavioural motivation to reconnect with others as well as for later narration of experience (Pemberton et al., 2017). Research with immigrant youth in the US has shown that the damage to or loss of agency is sometimes also described as ineffectiveness in achieving goals (McCabe & Dinh, 2016). Victimization can also lead to less trust in others, feelings of loneliness or losing the idea that the world is a just place. These losses have also been called alienation. Impairment to these two fundamental orientations serves to motivate those victimized to restore a sense of agency and communion (Simantov-Nachlieli et al., 2013).

In research into the narratives of sexual abuse survivors, Wilinsky and McCabe (2020) extend the previous work on agency and communion. This study comprised a narrative analysis of 117 VIS from victims of sexual abuse given in court at the sentencing of USA Gymnastics team doctor, Larry Nassar. Victims, for instance, spoke about not being able to continue with school, and thus feeling that they achieved less. They experienced this as a loss of agency. Further, victims mentioned feeling lonely or not being taken seriously by others as illustrations of damage to communion. The researchers identified sub-themes in the VIS being achievement/responsibility, power/impact, self-insight, and status/victory. Sub-themes on communion

were dialogue, unity/togetherness, love/friendship, and caring/help. The researchers suggested that “participants’ sense of communion is particularly harmed by their victimization, and that impact statements have agentic-based and communion-based functions” (2021, p. 236). The losses narrated by the victims in this study were not directly associated with posttraumatic stress symptoms.

We suggest that the concepts as well as the feelings of agency and communion provide a more universal framework for understanding victims’ motivations for and assessments of VIS considering the criminal justice context. While most victims of crime are familiar with a sense of powerlessness or alienation arising from their victimization, far fewer have psychological complaints and less are diagnosed with post-traumatic stress disorder. Agency and communion situate people in more open and public settings than do therapeutic responses to trauma. Improvements to their sense of well-being, unconnected to any posttraumatic stress symptoms, may also flow from the VIS (Kragting et al., 2022a). But these are secondary outcomes. We suggest an alternative, that victims experience restoration of their agency and communion with others when delivering a VIS.

Finally, besides the actual delivery in court, the process surrounding the VIS consists of a preparation and aftermath phase. All these phases should be studied to examine the multiple opportunities that the criminal process provides to restore agency and communion (Kragting et al., 2022a). The agency and communion framework are relatively new in a victimological context. Our study fills this gap.

The Current Study

The current study is part of a larger research project to evaluate the unrestricted oral delivery of the VIS in the Netherlands five years after implementation (Kragting et al., 2022a). Within this broader study, several different methods were used namely observations in court, interviews with professionals, interviews with victims, a victim survey, an analysis of VIS, and a literature study. Some questions within the research were similar to those used in the previously mentioned study by Lens et al. (2010) in order to compare the two studies.² For the current study, a smaller part of the victim survey and the interviews with victims were used. In addition, new questions on agency and communion were added. These questions were based on the sub-themes (described earlier) identified in analysis of VIS by Wilinsky and McCabe (2020). Counterparts to agency and communion items were also included in the survey, i.e.

ineffectiveness and alienation. The ineffectiveness sub-questions were negative achievement/responsibility and negative self-insight. The alienation sub-questions were negative caring/helping and negative unity/togetherness.

The current study focuses on the victims’ experiences with VIS in the Netherlands. In the Netherlands the oral delivery of VIS was introduced in limited form in 2005; a written form already existed, allowing victims of certain crimes to speak in court about the consequences they suffered after the crime (Doornbos et al., 2020a). This limited form of the VIS was evaluated after five years by Lens et al. (2010). That study found that the main reason victims gave for choosing to deliver a VIS was to be heard. This study also found that, for those victims who did not take up the availability of VIS, it was because half of the victims perceived it to be too limiting (Lens et al., 2010). After this evaluation, politicians suggested discarding the limitation in the VIS that victims should only speak about the emotional consequences of the crime (the Dutch Explanatory Memorandum of the Change of the Oral Victim Impact Statement Act [2014] (Doornbos et al., 2020a, 2020b). Mostly based on the evaluation by Lens et al. (2010), the Explanatory Memorandum argued that victims should be allowed to talk about every subject, including the guilt of the defendant and what sentence they would find fitting. This, it was argued, would be beneficial for some victims. Clear goals for this expanded version of the VIS, comparable to those formulated in 2005, were not defined. The unrestricted VIS was introduced in the Netherlands in 2016 and is evaluated in this study.

With a mixed-methods design, the current study sought to answer the following questions: (1) To what extent do victims express feelings of agency and communion in relation to preparing and delivering a VIS?, and (2) What (therapeutic or other) benefits do victims experience from VIS? Following Pemberton et al. (2017) we hypothesized that victims would reveal feelings of agency when delivering a VIS and that feelings of restoring communion might be present but less apparent. In addition, following Kunst (2015) and Lens et al. (2010), we hypothesized that we would find no therapeutic benefits in the form of reduced feelings of anger or anxiety would be revealed by victims after delivering a VIS.

Method

The study used a mixed-method design, including quantitative (online survey) and qualitative (interviews) methods. The quantitative results are designed to show the views of a larger group of victims, whereas the qualitative results offer an in-depth analysis of how victims experienced the VIS.

² The comparison is done in a different publication. See Kragting et al., (2022a).

Online Survey

Participants and Procedure

Participants of the online survey were victims who had recently (range 2–29 months) delivered their VIS. Participants were recruited through Victim Support Netherlands. All participants were assisted by Victim Support in preparing their VIS. Participants were eligible to participate in the study if they were over eighteen years old when they delivered their oral VIS in court, that the court case had taken place in 2020 or 2021, and that the case was now closed. In total, 3,795 victims were eligible to participate in the study.

Between January 2022 and May 2022, 696 letters were sent out to a random sample of the group of eligible victims. They received a letter from Victim Support, asking them to participate in the study. Attached to that letter was a letter from the researchers, providing information on the study, an URL and QR code to the online survey and an individual token to access the survey. The letter also included an URL and QR code to a non-response form, in which participants could elaborate on their reason not to participate.³ Victims could also request a paper survey, which could then be posted to their home address with a return envelope included. The questionnaire took around twenty minutes to fill in. After completing and returning the survey, participants received a virtual gift card of ten euros. Overall, a response was received from 118 individuals, generating a response rate of 14%.

Survey

The survey contained questions on demographic variables, crime characteristics, the experience of delivering the VIS in court, the experienced emotions and consequences, and items on agency and communion (see below). Most questions could be answered with options on a Likert scale of 1–5. The questionnaire is largely based on previous Dutch research on the VIS by Lens et al. (2010).

Thirteen additional items on agency and communion were constructed, containing four different sub-themes as developed by Wilinsky and McCabe (2020).

Data Analysis

Statistical Package for the Social Sciences (SPSS) software (version 26) was used to analyse the data. Descriptive statistics (percentages, means, standard deviations, sum scores)

³ Reasons not to participate included: 'Having no strong opinion on VIS', 'Not wanting to participate in scientific research', and 'Filling in the survey would bring back negative emotions'.

were calculated. A factor analysis was used to validate the agency and communion questions. The analysis showed two different sub-themes: agency and communion (9 items) and ineffectiveness and alienation (4 items). The overall reliability of the 13 items was good, $\alpha = 0.877$. Cronbach's alphas for the individual sub-themes were good for agency and communion ($\alpha = 0.789$; $\alpha = 0.895$). For alienation and ineffectiveness, the Cronbach's alphas were only mediocre to acceptable ($\alpha = 0.725$; $\alpha = 0.677$) (Field, 2013).

Interviews

Participants and Procedure

Participants of the interviews were victims who had delivered an oral VIS themselves or had let someone else orally present the VIS in court on their behalf and that they had used the VIS after 2016 (since the VIS was extended that year).

Four methods were used to recruit participants for the interviews: (1) The invitation letters that were sent for the survey provided an option to participate in an interview. (2) Victim's lawyers, Victim Support case managers, and peer-support groups were asked to share the invitation letters with eligible clients. (3) Victim Support Netherlands sent out the invitation through their online peer-support groups. (4) The invitation was shared on the social media of both the authors' research institute and Victim Support. The letters contained information about the study and the question to participate in the study. The social media invite was formulated in a shorter way than the letters and also contained information and a way to contact the researcher. Participants could contact the researcher themselves.

Twenty-four individuals were interviewed. The interviews were conducted from February 2022 until August 2022. Participants could choose between an online or a face-to-face interview. The online interviews ($n = 15$) were conducted through Zoom. The offline interviews ($n = 9$) were held at the home of the participant. The first eight interviews were conducted by two researchers; the following sixteen interviews were conducted by one researcher. The interviews took approximately 30–75 min. The interviews were recorded on a password-protected audio-recorder and transcribed ad verbatim. The quotes that were used for this article were translated from Dutch to English by the first author.

Interview Scheme

The interview scheme consisted of two parts. First, participants were asked to give an overview of what had happened to them since the beginning of the process of delivering the VIS and their experiences after the VIS. This gave the participants a way to structure their reflections on the process

in their own words. Second, a semi-structured questionnaire was administered based on a topic list. Participants were asked about the preparation of the VIS, the reactions they got from others either inside or outside the courtroom, and their overall experience regarding the VIS. No direct questions on feelings of agency and communion were asked to see if participants came up with aspects of agency and communion themselves.

Data Analysis

The interviews were analysed using the coding program Atlas.ti 8. The codebook was based on an open coding list on the basis of five interviews, with the addition of codes on agency and communion based on the online survey. The transcripts were coded by two different coders, using the same codebook. The inter-rater reliability was tested with three initial transcripts that were coded by both researchers, proving to be good. The data have been analysed following the four main themes of the interview: experience with VIS, preparation of VIS, and reactions from others. During coding, remarks about either agency or communion were specifically sought after.

Ethics

The study was approved by the Ethics Committee for Legal and Criminological Research (CERCO), from the legal faculty of the Vrije Universiteit Amsterdam.

Results

Online Survey

Participants

In total, 118 participants filled in the online survey of whom 70% was female, and 30% was male. Most participants were aged 21–30 years ($N=29$) and 31–40 years ($N=28$). Participants were mostly victims of serious violent crimes ($N=45$), stalking ($N=36$), and threats ($N=36$). Participants could be victims of multiple crimes. Most participants knew the offender (63%). Most participants that used the VIS were direct victims (94%); in the other cases, next of kin spoke. Participant characteristics are displayed in Table 1.

Assessment of and Experience with Delivering a VIS

Participants rated their experience with delivering a VIS to be positive on several different aspects. They rated it mostly positive overall on a scale from 1–10 ($M=7.52$, $SD=2.01$). Other items were scored on a scale from 1–5. Responses to

Table 1 Participant characteristics

		<i>N</i>	%
Gender	Female	83	70.3
	Male	35	29.7
Age	Under 21	4	3.4
	21–30	29	24.6
	31–40	28	23.7
	41–50	19	16.1
	51–60	19	16.1
	61–70	14	11.9
	Over 70	5	4.2
Crime ^a	(attempt of) homicide	16	13.6
	Serious violent crime	45	39.2
	Sexual crimes	11	9.3
	Traffic crime	3	2.5
	Stalking	36	30.5
	Threat	36	30.5
	Other	16	13.5
Relationship between victim and offender	Unknown offender	43	37.1
	Known offender	73	62.9
Victim type	Direct victim	111	94.1
	Next of kin	7	5.9

^aParticipants were allowed to check more than one option

these items were that they (the victim) would advise others in a comparable situation to make use of the VIS ($M=4.53$, $SD=0.09$) and did not regret delivering a VIS ($M=1.44$, $SD=0.96$). Furthermore, participants felt like the authorities understood their experience better ($M=4.28$, $SD=1.12$), felt recognition in the legal process ($M=4.15$, $SD=1.12$), and felt taken more seriously in the legal process ($M=4.14$, $SD=1.17$). Participants were positive about the items on the VIS making the outcome of the legal process more just ($M=3.55$, $SD=1.34$), the VIS helping to processing emotions regarding the crime ($M=3.52$, $SD=1.13$), being able to influence the legal process with using the VIS ($M=3.42$, $SD=1.37$), that the VIS made it easier for authorities to take the victim's experience into account when making decisions in the legal process ($M=3.79$, $SD=1.32$), and gaining self-confidence by using a VIS ($M=3.53$, $SD=1.34$). Participants were slightly positive on the idea that using the VIS led to pride ($M=3.21$, $SD=1.41$) and self-confidence ($M=3.53$, $SD=1.34$) (see Table 2).

Emotions Participants assessed that using VIS helped them to process emotions ($M=3.52$, $SD=1.14$). However, on specific emotions, victims indicated that using VIS minimally diminished feelings of anger ($M=1.67$, $SD=1.36$), feelings of revenge ($M=2.17$, $SD=1.22$), feelings of sadness ($M=2.41$, $SD=1.30$), and fear of the defendant ($M=2.23$,

Table 2 Victims' assessment of delivering a VIS

Item	<i>M</i>	<i>SD</i>
Advise others to use VIS	4.53	.09
Authorities understand situation better	4.28	1.12
Recognition in legal process	4.15	1.12
Taken seriously in legal process	4.14	1.17
Evoked strong emotions	3.81	1.30
Helped authorities to take victim's experience into account	3.79	1.32
VIS influenced outcome of legal process	3.55	1.34
Lead to feelings of self-confidence	3.53	1.34
Regret using VIS	1.44	.95

Table 3 Victims' emotional experience with delivering a VIS

Item	<i>M</i>	<i>SD</i>
VIS helped process emotions	3.52	1.14
Diminished feelings of sadness	2.41	1.30
Diminished feelings of fear of defendant	2.23	1.36
Diminished feelings of fear	2.18	1.22
Diminished feelings of revenge	2.17	1.22
Diminished feelings of anger	1.67	1.36

Table 4 Agency and communion items

Sub-theme	Item	<i>M</i>	<i>SD</i>
Agency	Helped me to share my voice/story	4.1	1.2
	Gave me insight in my own thoughts and feelings	3.4	1.3
	Helped me take control over my life	3.0	1.3
	Improved the way others see me	2.7	1.4
	Mean score agency items	3.3	1.0
	Total agency score	13.20	4.10
Communion	Helped me start a conversation on what happened	2.8	1.5
	Helped me to involve others in what happened	2.6	1.8
	Provided me the opportunity to help other victims	2.5	1.4
	Made me feel connected with my social surroundings	2.5	1.4
	Made me feel connected with other victims	2.4	1.1
	Mean score communion items	2.6	1.2
Ineffectiveness	Total score communion items	12.76	6.02
	Gave me a bad feeling about myself	1.7	1.2
Alienation	Were a wrong choice for me	1.6	1.1
	Was not taken seriously	2.0	1.4
	Diminished my trust in others	2.0	1.3

$SD=1.36$), or fear in general ($M=2.18$, $SD=1.22$) (see Table 3).

Agency and Communion

The mean scores on the agency total score ($M=3.3$, $SD=1.0$) and the communion total score ($M=2.6$, $SD=1.2$) are quite neutral. The variance within the items is quite big, so the group did not consist of only neutral participants but also positive and negative participants. This is also the case for the mean scores on the four individual agency items: that 'the VIS...' 'helped me take control over my life' ($M=3.0$, $SD=1.3$), 'gave me insight in my feelings and thoughts' ($M=3.4$, $SD=1.3$), 'improved the way others see me' ($M=2.7$, $SD=1.4$). The exception was the item 'the VIS helped me to share my voice/story,' which scored higher than the other items ($M=4.1$, $SD=1.2$).

The mean scores on the five communion items are also quite neutral: 'the VIS helped me involve others in what happened' ($M=2.6$, $SD=1.8$), 'helped me start a conversation with others about what happened' ($M=2.8$, $SD=1.5$), 'provided me the opportunity to help other victims' ($M=2.5$, $SD=1.4$), 'made me feel connected with my social surroundings' ($M=2.5$, $SD=1.4$), and 'made me feel connected with other victims' ($M=2.4$, $SD=1.1$). The sum scores of

the agency ($M = 13.20$, $SD = 4.10$) and communion items were ($M = 12.76$, $SD = 6.02$).

Participants overall disagreed with the alienation and ineffectiveness items. They did not believe using the VIS was a wrong choice ($M = 1.6$, $SD = 1.1$) and the VIS did not cause them to feel bad about themselves ($M = 1.7$, $SD = 1.2$). Besides, they did not feel like they were not taken seriously ($M = 2.0$, $SD = 1.4$) and the VIS did not diminish trust in others ($M = 2.0$, $SD = 1.3$). Agency, communion, alienation and ineffectiveness scores are displayed in Table 4.

Interviews

Participants

In total, 24 victims were interviewed. Fourteen of them were direct victims (V) of a serious violent or sexual crime or of a traffic crime. Ten of them were next of kin (N); they lost people due to homicide, a plane crash,⁴ or traffic crimes.

Motivations for and Experience with Delivering a VIS

Overall, the experience with delivering a VIS was positive. None of the participants had regrets. They felt like it accommodated space for them in the legal process: “*There is nothing you can do [when being victimized]. We are harmed and you want to talk about that [...] It is so important to be seen and heard through the [VIS]*” (N6). Even a disappointing outcome of the legal process did not change one participant’s positive feelings about the VIS: “*I’m happy I did it [...] Regardless of the disappointing outcome, I would not do anything differently if I were to come in a similar situation*” (N8). Participants had different motivations in delivering a VIS. One of these was for finality and confrontation: “*I hoped that I could end this process for myself when I could look [the defendant] in the face*” (V2).

Almost all participants would advise others in a similar situation to use the VIS for reasons that it helps process feelings and provides the freedom to use one’s own words, and that even though it is hard, it is worth doing so. The interviewees indicated that the expression of emotion should not be shielded away from. That freedom to decide for yourself what to share and which words to use seemed to play into feelings of agency, that of feeling in control.

Emotions in Delivering VIS Most participants dealt with a lot of emotions when delivering their VIS: “*They are such*

heavy emotions. I mean, you are angry, frustrated, you are furious: but also, powerlessness, guilty that you could not prevent the crime, sadness [...] it is too much” (N2). One participant, however, mentioned specifically not wanting to show emotions because she wanted to appear strong: “*I know that in that setting, everyone would understand if I showed emotions; I get that. I thought that my story would be stronger when I could just finish it at once*” (N8).

Effects of VIS All participants mentioned solely positive effects after using VIS and regularly mentioned aspects relating to agency and communion. In particular, participants mentioned that the option to participate in the legal process was essential to them in order to overcome feelings of helplessness during the process: “*You cannot do anything [...] Something happened to us and you want to share about that [...] I know it is the state versus the defendant, but we are the victims*” (N6).

Secondly, interviewees indicated that using a VIS provided a means to contribute fully a way to exercise control. Said one, who was a relative of the direct victim: “*It felt like we were fighting for justice for her [...] That is the only thing left you can do for her*” (N7). Another emphasised that the VIS brought back control to them and made them feel more powerful and proud: “*I thought to myself, this is my moment and I am going to take it [...]. I actually felt very proud that I was standing there*” (V11). Another interviewee indicated that VIS helped them to feel stronger: “*I felt very strong in that moment. I thought to myself, I am doing this [...] I persevered and delivered a strong VIS*” (V1).

Third, interviewees mentioned consequential benefits to their wider lives beyond delivering the VIS in the court: “*I notice I make decisions more easily [...] [The VIS helped me] to make myself heard. That is something very important to take away from it*” (V11). One victim specifically also added that the VIS provided an opportunity to help others, which made her feel better; this combines both communion and agency, since helping others is connected to others. This person said: “*Recently someone [in a similar situation] approached me for help [...] It makes me feel so good to be able to help others. I remember I felt very lonely. If you can help someone else only a little bit it gives you a great feeling*” (N7).

Preparation of VIS

The preparation of the VIS differed between interviewees. Some wrote the VIS at once: “*I just sat down for it. [...] One day I sat down with my laptop and thought: ‘this is it’. That is when it all came out, and then I wrote it down*” (V2). Others mentioned writing it down at once but changing it over the course of days, weeks or even months: “*I [have worked on it] for weeks, even months, I started over at least twenty*

⁴ The incident was the crash of the flight MH16 in which three accused were convicted for causing the crash and causing the killing of 298 people on board. See <https://www.prosecutionservice.nl/topics/mh17-plane-crash>

times” (V12). Some participants felt like they worked on it nonstop because it was always in the back of their minds: “When I was going somewhere, it popped back up and I felt like it had to be done differently. Then I came home and I started changing it up again” (N10). One participant mentioned how VIS helped them to clear their mind, which made conversations with others easier: “I dared to open up a little more to others. I think because I structured what happened better, it became easier for others to understand. So, it really does help with starting conversations” (V11).

Social Surroundings Furthermore, when participants talk about preparation of the VIS, they also mention different aspects relevant to communion. One person, for example, mentioned it helped them to start a conversation with others about what happened: “It is a reason to talk about it again [...] And to talk about how I feel. People do not really ask how I am doing regularly anymore” (N3). Some participants also mentioned the responses from friends and family that were there when they delivered their VIS were very important to them: “One friend told me: ‘Now I really get how you are feeling’ [...] Others said: ‘You spoke really well.’” (N9). One participant mentioned that her VIS was published online. She got a lot of responses: “I got so many messages, from friends and family, and also from strangers telling me: ‘it is great that you have done this, what you said about [victim] was really fitting, [victim] was such a sweet and social girl’” (N7). One participant also mentioned getting more critical responses from people she knew: “[They said]: ‘[...] you did not really speak your mind.’ I did not like that [...] they did not experience what happened, they did not feel it, they only hear about it” (N9).

Discussion of Findings

The aim of this mixed-method research was to empirically investigate the experience of victims who deliver a VIS in court. Specifically, we applied the agency and communion framework to evaluate its usefulness over that of therapeutic benefit. We found that, overall, victims had a positive experience with the VIS, rating it positively and advising others to use it. In line with the previous research by Lens et al. (2010) and the arguments of Kunst (2015), the survey results showed that, on victims’ self-assessment, there was no decrease in negative emotions following the delivering of a VIS. That is, there is no direct therapeutic benefit to delivering a VIS. The results of the items on agency and communion were neutral. The former showed some positive attribution by victims of them using the VIS in the legal process. Participants felt strongly that the VIS allowed them to make their voices heard. The findings on the communion

items were neutral. These results strengthen our argument that a therapeutic approach to VIS misses the mark.

In contrast, the qualitative interviews revealed that agency and communion do play a role in VIS. The results of the interviews showed that participants used terms linked to both agency and communion to elaborate on the (positive) experience they had with delivering a VIS. The results accord with many of the themes identified by Wilinsky and McCabe (2020) in their analysis of the words used in the VIS from victims of sexual abuse, who also found both agency and communion aspects in VIS. In the interviews, almost all participants mentioned different aspects of agency and communion that seem to play a big role in how they experienced the VIS. The opportunity to be heard and use their voice seems to play an important role. Besides, they felt like the VIS made them feel stronger, which, according to some participants, affected their daily life. When taking a closer look at the terms used in the online survey and the terms victims use in interviews, there seem to be some differences. For instance, the survey uses ‘taking back control of my life’, which participants do not widely recognize. However, in interviews, victims talk about not being able to do anything but use the VIS, and this would imply that the VIS provide an opportunity to take back a bit of the control they lost, but they might not experience it that way.

Our findings also support the ideas of Pemberton et al. (2017) that the VIS provides an opportunity for victims to communicate into a process that is ordinarily alienating. That opportunity was also not a single moment. The interviews identified that victims can experience a greater sense of agency and communion during the preparation, delivery and aftermath phase. Up until now, researchers have tended to focus only on the actual delivery in court as if this is a final cathartic moment. However, it is clear that it is the criminal justice *process* in which VIS takes place that is of interest to victims. The process allows for dynamic engagement and interaction.

Our study also shows that different research methods generate different results on the presence of agency and communion. Asking people about feelings of agency and communion in an online survey does help generate an overall picture. However, the questions asked and their phrasing might not be easy for participants to recognize. The terms might not be those they would use in ordinary language. This might mean that future research could use an iterative process with participants to craft more meaningful survey terms. On the other hand, the interview clearly provides participants with space and time to talk about their experiences in their own words. Since interviewees were not asked directly about agency and communion, they could share things relevant to them in their own words. It was in the analysis that we as researchers identified aspects fitting with orientations to agency and communion. Therefore, interviews

or the narrative analytic approach used by Wilinsky and McCabe (2020) might fit better with the narrative victims use to describe their experience. In the interviews, almost all participants mentioned aspects relevant to a sense of agency and communion. They mentioned being heard, using their voice, and standing up. Delivering the VIS helped them feel stronger—in the moment as well as in their daily life. Looking more closely at the terms used in the online survey and the words victims used in interviews, we noticed differences. For instance, the survey used ‘taking back control of my life’ but, in interviews, victims implied not being able to do anything in the process other than deliver a VIS. Researchers need to be more careful, we suggest, in listening closely to what people say and how they say it.

Strengths and Limitations

The strength of this study lies in the empirical approach to studying the (beneficial) effects of delivering a VIS. The mixed-method results provided both a relatively broad picture of victim assessments as well as more in-depth insight into their experiences. A quite large and diverse group of participants contributed to the study. We did not focus on victims of one specific crime. For instance, research on a similar topic by Wilinsky and McCabe (2020) focussed on victims of sexual abuse, and research by McCabe and Dinh (2016) consisted of a smaller sample than that in our current study. It is also a strength of the study that we sought to test a new theoretical framework and to move away from the focus on assumptions of posttraumatic stress in victims of crime. Instead, we demonstrate that the agency and communion framework provides a clear and verifiable framework to test the effects of certain victimological interventions.

However, this study is limited in specific ways. Firstly, participants were approached through victim support organizations, which might not provide a representative sample for all victims using a VIS. In addition, participation was voluntary, which could lead to a self-selection bias. The participant groups between the methods were not quite comparable, since the proportions of direct and indirect victims differ. Further, the response rate was relatively low (14%) albeit comparable to other online surveys, e.g. (Kragting et al., 2022b). These facts may lead to a bias. It is possible that only the most satisfied or dissatisfied participants decided to participate in the study. Satisfaction with the victim support organization through which the invitations were sent, might also influence the willingness to participate.

Additionally, previous research by Van de Ven (2022) shows that victims “are not always and immediately aware of their experiences and needs and they experience difficulties in articulating these matters” (pp. 147). In the case of this study, this might indicate that there are certain narratives

created by victims about their experiences that might differ from the real experience. This might have affected the way the participants spoke about their experiences. Due to the fact that participants were only questioned once, it is not possible to know how their narrative has formed and whether it is changing over time.

Another difficulty in this study was the differentiation between the use of the VIS and the judicial process as a whole. Since only one measurement was used, it is unclear if and in what way (the outcome of) the judicial process (un)consciously influences victims’ opinions on the VIS. One participant specifically showed the ability to differentiate the two in the interview. However, we were unable to examine whether all participants were able to do so.

Recommendations for Future Research

The VIS is a minor part of a victim’s journey after victimization. It is challenging to isolate the effects of delivering a VIS from the judicial process and the possible (in)formal support processes. Future research should focus on the victim participation journey within the criminal justice procedures, the motivation to participate, and the effects of that participation. It should not only try to isolate the VIS but also examine the effects of other interventions. In particular, while it seems clear that participation is a demonstration of victim agency, more research is needed into those aspects of victim participation that orient to communion. Some aspects demonstrated in this study such as sharing impact, contributing justice for others, and being heard in decision-making need closer examination.

In a similar vein, future research should also delve deeper into the idea of procedural justice as an underlying mechanism of the benefits of VIS. The opportunity to have your voice heard, to take a stand in court, express yourself and communicate might lead to victims feeling better treated (Pemberton et al., 2017). These different experiences could influence victims, and thus influence their opinion on (different aspects of) the judicial process. Additionally, it should take the different types of support into account. Many victims do not (only) receive formal support but lean on support from their social surroundings. The fact alone that victims were (not) in need of professional support cannot, for example, provide insight into their mental state. Longitudinal research on VIS could provide an opportunity to follow a victim during the complete process and measure the effects of the different steps.

Concluding Comment

In this study we applied a relatively novel framework to a long-existing debate on the effects on victims of delivering a VIS. No direct therapeutic benefit from delivering the VIS was identified by victims. Themes related to a sense of agency and communion were apparent in interviews with victims. Taken together, these results indicate that VIS offers opportunities for victims to restore a sense of themselves as an agent in their own life and in a wider public sphere. We need to understand more deeply the nuance that victims bring to their orientation to communion—is it only (or just) about acting in the public space of the court? What other interests might victims wish to bring to criminal justice? Finally, while the Big Two of agency and communion is a more fitting framework to apply to understand victim participation in criminal justice, more research is necessary. Researchers also need to be bolder in theorising the motivations and experiences of victim involvement in such a gruelling process. We need to look beyond concepts that are narrow and thin.

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Declarations

Competing interest The authors have no relevant financial or non-financial interests to disclose.

Ethical Approval The research was performed in line with the principles of the Declaration of Helsinki. Approval was granted by the ethics review board of the law faculty (CERCO) of the Vrije Universiteit, Amsterdam, The Netherlands on the 10th of July, 2021.

Consent to Participate Informed consent was obtained from all individual participants included in the study.

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