

# The Cost of Arbitrary Sentencing: Lessons for Legal Systems

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A legal system may be limited when its punishments are disconnected from victim impact. Law exists to measure harm, assign responsibility, and impose consequences proportionate to the damage caused. When punishment does not reflect the documented and permanent effects on victims, the law risks being perceived as procedural rather than fully effective.

## Impact as a Central Metric

In serious crimes—particularly violent crimes against minors—the harm inflicted is often long-term and non-reversible. Legal consequences should therefore consider the duration and severity of harm, rather than relying solely on standardized sentencing ranges that treat fundamentally different cases equivalently.

For example, a fixed-term sentence (e.g., 15 years) for a crime whose effects last a lifetime can create a mismatch between harm and consequence:

- The victim's injury has no expiration date
- The legal penalty does
- Proportionality may therefore be compromised

Proportionality cannot be meaningfully assessed without reference to victim impact. Systems that ignore this may prioritize administrative convenience over coherent legal reasoning.

## Arbitrary Sentencing and Systemic Risk

When punishment is not aligned with measurable impact, discretionary space expands. This can result in:

- Variation in sentencing across similar cases
- Influence of public or media pressure
- Perceptions of bias or inconsistency

Such variability can undermine legal predictability, which is a cornerstone of the rule of law.

## **Deterrence Is a Legal Function**

Deterrence is a key function of law. Penalties that are perceived as temporary or tolerable for irreversible harm may fail to achieve this preventive function.

If expected legal consequences do not correspond to the severity and permanence of harm inflicted, rational deterrence is reduced. This reflects a structural limitation in legal design rather than a philosophical disagreement.

## **Victim-Centered Sentencing Is Evidentiary**

Victim impact is often measurable through documented outcomes such as:

- Psychological trauma
- Long-term loss of quality of life
- Ongoing social, medical, or economic consequences

Disregarding this evidence in favor of uniform sentencing guidelines does not reflect neutrality; it can introduce systemic bias toward the offender. Incorporating victim impact strengthens proportionality and consistency.

## **Comparative Legal Perspective**

In many legal systems, including Afghanistan's traditional and statutory frameworks, crimes against minors are treated as irreversible harms, with corresponding penalties such as life imprisonment.

The legal principle is consistent:

- Permanent harm → permanent legal consequence

By contrast, time-limited penalties for permanent harms may create internal contradictions within legal reasoning.

## **Conclusion**

A legal system that:

- Assigns temporary punishment for permanent harm
- Maintains offenders at public expense without proportional incapacitation
- Omits victim impact from sentencing decisions

risks reducing proportionality and public confidence.

Integrating victim impact into sentencing provides an objective basis for proportionality, helps maintain system consistency, and strengthens public trust. This approach ensures that the law functions as a coherent, predictable system rather than a set of arbitrary procedures.