

***Victims' Rights, Human Rights and Criminal Justice – Reconceiving the Role of Third Parties, Jonathan Doak, Hart Publishing, Oxford and Portland, 2008 (ISBN 978-1-84113-603-4)***

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It is a standard practice in much criminological work on victims to begin with a précis of the development of victimological scholarship over the past few decades, before acknowledging the centrality of victims in contemporary criminal justice policy and procedure. In part, the restating of this history acknowledges how quickly and thoroughly victims have become pivotal actors within criminal justice policy; at least to the rationales ascribed to that policy, if not its actual objectives. Yet it also belies the fact that victims have been hugely important to criminal procedure historically. Indeed until the Norman kings, victims generally shouldered the financial and evidentiary responsibilities for prosecution (Shapland, Willmore et al 1985; Bianchi 1994).

Jonathan Doak's comprehensive analysis of victims' rights starts with a clear acknowledgment of this history. More than just interesting background material, his introduction allows the reader to engage with a narrative about the ongoing relationship between victims and criminal justice, not just over decades but over centuries. It is also a fitting approach for a book that extends criminology's interest in victims to other significant analytical frameworks, most importantly that of human rights. As we know, 'a concern with and for the victim of crime has become not just a symbolic reference point in government policy but the dominant one' (Walklate 2007:7). It is not surprising then, that victims have attracted attention in other fields of scholarship.

The theoretical interest in victims beyond criminology could bring with it some dangers. Not least of these is ignorance of the extensive critique of how public policy has engaged with 'the victim agenda'. For instance, the tendency of political rhetoric to cast victims and offenders as distinct and opposing categories has been strongly criticised by criminologists who point out that many victims are not motivated by vengeful punitiveness; or that many perpetrators have also been victimised. Unsurprisingly, this critical stance in the literature is rarely replicated in public policy or debate, which is often predicated on the assumption that the interests of victims and offenders are dichotomous and irreconcilable. As Stanko has argued, the increasing reliance on crime victim surveys as sources of criminal justice information has led crime to become understood primarily through the identification of victims: 'if a problem of crime is to be taken "seriously", it seems that a crime survey is one of the major devices used to demonstrate the pervasiveness of an issue and to advocate for sympathetic treatment of newly identified "victims"' (2000:15). It would be concerning if the engagement with victims by alternative analytical frameworks stemmed from a faddish interest rather than rigorous scholarship.

Ironically, the construction of victims within a human rights framework avoids this problem entirely. When viewed from the perspective of human rights, a victim has entitlements irrespective of the responses to or outcomes for an offender. By defining victims as beings with entitlements, the analysis moves away from any trap of a binary construction that pits victims against offenders.

In part, the conception of victims in terms of human rights enables policy responses to move away from standard (contemporary) approaches in criminal law that limit victim participation to status as a witness, if at all. Such shifting terrain is familiar territory for

human rights. For example, both theorists and activists have had to push to have economic and cultural rights recognised on an equal footing with the more familiar (and dominant) conceptions of civil and political rights. While Doak examines the prospects for victim participation in the criminal trial process, he also moves beyond this to consider victims' rights in terms of access to justice, including protection from victimisation and rights to reparation.

Yet, in other ways, Doak remains committed to the legal approach that assumes procedural reforms flowing from human rights instruments constitute a tangible realisation of rights for individuals. He charts what he terms easy 'wins' in claiming rights for victims, through so-called social or service rights, such as the allocation of compensation for injuries or harm; and in terms of practical support like counselling services. More substantive rights, such as the right to be present or represented at proceedings like hearings have been much harder to win, he argues. The value placed on such procedural rights is important, but primarily to legal scholars and actors within the system. Doak joins the many legal scholars who assume that the realisation of human rights is dependent upon the procedural changes that flow from the incorporation of human rights in domestic instruments such as the *Human Rights Act 1998 (UK)*.

What is interesting about this approach is its insistence that procedural rights are concrete; that they are not just representative of a process but constitute a positive outcome on their own. This assumption is often reflected in mental health law, where the fact that a person has a right to legal representation in a hearing about their compulsory treatment is perceived as the patient's safeguard. The significance of such 'safeguards' might pale in comparison with the right to refuse treatment, at least for patients themselves. Yet in the eyes of the law, the fact of the patient having been represented in a legal proceeding is sufficient to confirm that they have been accorded their entitlements in terms of human rights.

The point of this critique is not to discount the significance of procedural standing; nor to deny the importance of direct attendance or legal representation in processes that impact upon individual lives. The point is simply that, for the crime victim in a compensation hearing, just as for the psychiatric patient seeking discharge from hospital, any formal standing they have is unlikely to be of greater consequence than its outcome, such as a decision made by a court. As Doak acknowledges, the language of rights can mask the reality that many of the practices sought by victims are still not enshrined in law, policy or procedure.

This book engages with many of the most important questions that arise from the theoretical interaction between criminal justice and human rights frameworks; and from the practical involvement of victims in criminal justice. It is written in an accessible style and should be of interest to a wide range of readers, including policy-makers and researchers. While its focus is primarily the English criminal justice system, it moves between domestic and international developments, further broadening its appeal. Most importantly, it recognises that the landscape of victims' rights is constantly changing; and that we have only just begun to understand the implications of these changes.

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