EDITORIAL
VICTIMS OF CRIME, OFFENDERS AND COMMUNITIES

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There has been a deluge of recent initiatives in the UK which the government says are aimed at 're-balancing' the criminal justice system. In our view, this notion of re-balancing rests upon a false premise, that taking rights away from defendants will automatically improve the situation of victims. As a number of commentators have pointed out (Garland, 2001; Hickman, 2004; Jackson, 2004; Goodey, 2005; Williams, forthcoming), it is incorrect to assume:

> that a 'zero sum game' needs to be played whereby advancing the rights of defendants can lead only to losses for victims and, conversely, diminishing the rights and interests of the defence will automatically enure to the benefit of the prosecution (Jackson, 2004: 66).

Nevertheless, the re-balancing analogy continues to appear in political speeches and in policy documents (Home Office, 2001; 2002). The prime minister put the argument particularly starkly:

> We will rebalance the system emphatically in favour of victims of crime. Offenders get away too easily (quoted in Ahmed, 2002).

He has made a number of similar statements since then. Indeed, the scales of justice appear to have offenders on one side and victims and the community on the other, if the government's Justice for All White Paper (Home Office et al, 2002: 14) is to be taken literally: it states that the government's programme of criminal justice reform has

> a single clear priority […] to rebalance the criminal justice system in favour of the victim and the community.

Not only does this unhelpfully counterpoise offenders and victims, but also offenders and the community, in the process implying that the interests of victims and the community are always necessarily in harmony and, indeed, that offenders have no community. We return to this issue below.

As a consequence of this approach, the politicisation of victim issues has increased apace, and incremental or evidence-led changes have at times been replaced by gimmickry (the controversy over adding surcharges to fines and fixed penalty payments in order to provide a source of income for the new Victims' Fund comes to mind: see below). One is bound to

suspect that this politicisation is part of a deliberate strategy to flush out opposition to victim-focused changes, so that opponents can be accused of woolly-minded, sentimental support for the civil liberties of criminals. The attempt to justify harsher sentencing of offenders and curtailment of civil liberties in the name of victims is not new, and it is part of an international trend, but it has yet to be effectively challenged in England and Wales.

Nevertheless, many of the recent changes – both to the law and to policies in various criminal justice agencies – have been very welcome. This special issue is timely, featuring mainly British research on victims of crime soon after the first legislation devoted specifically to victims enters the statute book in England and Wales. The Domestic Violence, Crime and Victims Act received royal assent in November 2004, and seems likely to be implemented relatively quickly: some provisions came into force immediately, and one was introduced before the Act became law (the establishment of a central Victims' Advisory Panel). It is undoubtedly an important piece of legislation: it makes significant (and controversial) changes to the law on domestic violence; it establishes a system for reviewing official handling of cases of 'domestic homicide'; it introduces surcharges on fines and fixed penalties which will contribute to the cost of a new Victims Fund; it allows the Criminal Injuries Compensation Authority to recover from offenders the money paid to their victims; it widens victims' rights to receive and give information in cases where offenders are sentenced to imprisonment, to include those who are sent to special hospitals due to mental illness; perhaps most importantly, it introduces a Code of Practice for Victims and a Commissioner for Victims and Witnesses.

While these are not the first statutory rights for victims of crime in the UK, their breadth is unprecedented. The Code of Practice will apply to all criminal justice agencies and also to Victim Support and the Witness Service (it has been circulated for internal consultation for an unusually long period prior to the parliamentary debates on the legislation, and the Act requires further, public consultation). Although it is likely to have significant limitations (for example, it will not apply to health and safety law or to sentencers), the Code of Practice replaces the vague, toothless and ideologically-driven Victim's Charters with something far more satisfactory. The new Commissioner will be independent, with a rôle which includes promoting the interests of victims and witnesses, 'encouraging good practice in the treatment of victims and witnesses' (section 49 (1) (b)), reviewing the Code of Practice and advising ministers on victim policy.

Although the Act expanded considerably during its passage, the main body of the legislation was surprisingly uncontroversial. The major arguments in Parliament related to the changes to the law on domestic violence and the new surcharges. The new provisions on domestic violence make breaching a non-molestation order a criminal offence in its own right, recognise same-sex couples as cohabiting for legal purposes, make common assault an arrestable offence and allow courts to make restraining orders even in cases where the defendant has been acquitted if this is considered necessary to prevent harassment. They were criticised in some quarters as unnecessary: changes to police training and practice might have more consequences than providing them with new legal

powers (Padfield and Crowley, 2003; Jones, 2004). They undoubtedly reduce the rights of those accused of domestic violence. The provisions in relation to surcharges were amended in response to lobbying, principally by interest groups claiming to represent motorists, although there are important issues of principle at stake. Comments on the effects of these arrangements upon victims are premature until it is clear how they will work in practice, but it is unfortunate that debate on the surcharges focused almost exclusively on the supposed persecution of motorists, and the question of whether it is appropriate to surcharge all offenders in order to pay for victim services received little attention.

Alongside the new law, new policies have also been arriving in great numbers. To mention only a few initiatives, it is worth noting that prosecutors have been given extra duties in relation to keeping complainants and witnesses informed; the programme of alterations of and replacements to court buildings has made it possible to introduce special measures for witnesses in a greater proportion of courts; the plans to punish witnesses for failing to attend court have been dropped in favour of further proposals to improve the experience of giving evidence and to provide more support those who agree to do so; local witness protection arrangements are being improved and the *No Witness, No Justice* reforms are being introduced at local level so that witnesses can have a single point of contact with the criminal justice system. To some extent, these changes are to be evaluated: the British Crime Survey questions on victim satisfaction are to be broadened to cover a wider range of services (Home Office, 2003a) and some significant changes are being piloted and evaluated (for example, the restorative justice pilot projects: see Shapland et al, 2004; and special measures for witnesses as these become increasingly available: see Angle et al, 2004; Hamlyn et al, 2004).

At the same time, however, there is some unease among victim support agencies about the direction of government policy in relation to funding. The minister has made it clear to Victim Support that 'the likelihood of extra resources is slim' after a period of substantial growth in central government funding for its work (Potter, 2004), and the national Rape Crisis Federation has had its funding withdrawn by the Home Office, which forced its closure in 2003 (Jones and Westmarland, 2004). Negotiations continue about the possibility of obtaining renewed funding from the new Victims Fund, but there will have been a two-year hiatus even if these are successful. Important voices have consequently been excluded from national and local debates on victim services, and multi-agency partnership work has undoubtedly suffered (Jones, 2004). The Home Office advocates joined-up criminal justice services, but there is little sign of them here. The UK is one of few western European countries not to fund services of this kind.

The *British Journal of Community Justice* aims to be both topical and relevant to practice in criminal justice agencies. We feel that the current special issue on victims of crime fully reflects these aspirations.

Gwyneth Boswell's article in this issue of the journal draws attention to a neglected issue, the victimisation of children and young people, and addresses causation as well as prevalence. In doing so, Boswell draws attention to another way in which the metaphor of 'the balance' is misleading. To insist that individuals must be either on one side or the other – either a victim or an offender – obscures the reality that many offenders have been victims of crime and vice versa. In the case of offenders, their experience of victimisation may be causally implicated in their offending. The evidence of a causal link may be elusive, but whether or not such a link can be demonstrated, the article demonstrates how misleading it is to attempt to separate victims and offenders conceptually as if they were discrete rather than overlapping groups. It also draws attention to the need for improved awareness and training, and better inter-agency working, to address the problems described. The dynamics of abuse and victimisation across generations are complex, and professionals need to understand them much better.

Jacki Tapley's contribution draws upon several pieces of empirical research to consider victims' own views about the services they receive from the criminal justice system. She takes the promise to 're-balance' criminal justice in victims' favour at face value and tests it against what the research reveals about victims' expectations and experiences. Importantly, the research reviewed includes a replication of an influential earlier study (Shapland et al, 1985), something which is done all too rarely in criminological research generally, and in victimology in particular. It also draws upon previous work on the treatment of the victim as a 'consumer' or 'customer' of criminal justice services and its consequences, which include a narrower than necessary view of victims' needs and a tendency to disempower (or even infantilise) victims (Williams, 1999; Zaubermann, 2000; Rock, 2004). At its worst, this tendency can lead to victims being drawn into unwelcome levels of participation in decision-making (discussed further below). Tapley also provides fresh evidence of the difficulties in implementing (or failure fully to implement) government policy on Victim Personal Statements, confirming the findings of the probation inspectorate (HMIP, 2003: 10) that 'Victim personal statements … did not appear to have been made generally available to probation areas…'. Sadly, her research also confirms previous findings in this country about victims' high levels of dissatisfaction when they did complete such statements (Sanders et al, 2001). Victim statements may prove to be another example of the kinds of innovation deplored by Padfield and Crowley (2003: 97), who wrote in relation to the Bill which eventually became the 2004 Act that

> The reality of the service offered to defendants, victims and witnesses is not improved by simply passing yet more legislation. Indeed, the gap between the theoretical protections offered by statute and the reality to be seen in practice seems in danger of growing ever wider.

Topically, the article considers some concerns within criminal justice agencies about the implications of the Domestic Violence, Crime and Victims Act 2004 – particularly in relation to implementing new responsibilities within existing resources. How familiar this is in UK victim policy. The local research projects reported upon here seem highly

practical and applied, without being uncritical or merely 'administrative' criminology. If implemented, her recommendations are likely to result in real improvements to services for victims – and they have wider implications than in the area in which the research was conducted. However, Tapley concludes that the UK government's initiatives in this field lack integration or, indeed, any 'coherent theoretical framework' at all.

Jacki Tapley's article refers to the 'responsibilization' of victims (an ugly neologism popularised by David Garland [2001]). A development of Tapley's argument might offer an interesting challenge to the notion of a skewed balance between offenders on the one hand and communities and victims on the other, as posited in *Justice for All*. Responsibilization imposes duties upon us all, for example to protect ourselves against crime. Does it also entail new duties for victims, as suggested by communitarians such as Clear and Karp (2000)? They argue that victims can reasonably be seen as 'having responsibilities', at least in certain contexts, in that:

> their goal is to recover their capacity to fully function in the community. Recovery begins when the victim articulates the losses, intangible as well as tangible, and estimates the resources, financial and otherwise, needed to restore the losses (Clear and Karp, 2000: 23).

In return, victims receive community support to help with their recovery. Ideally, in this model, victims become part of a network of mutual obligations. In the great majority of cases, especially in urban settings, this would appear to be a rather naïve expectation, and there is a danger that it places new and potentially unwelcome obligations upon victims. Previous experience suggests that parts of the victims' movement will vocally oppose such developments in this country on the grounds that victims should not be drawn unwillingly into sentencing decisions or new forms of participation in the criminal justice system which they have not themselves sought (see for example Reeves and Wright, 1995). It may be that the experimental Community Justice Centre in North Liverpool (to be discussed in a future edition of this journal) may demonstrate new possibilities of this kind, as Clear and Karp argue has happened in New York, but it is too early to say. Certainly the expectation that victims take on new obligations is very different from the limited empowerment model of victim involvement currently favoured in the UK, whereby victims can choose to 'buy-in' to certain specified forms of involvement – or not (Sanders, 2002).

Although the current UK government's emphasis upon evidence-based policy is broadly welcome, it has encouraged researchers and others to pay greater attention to what counts as evidence. This is not merely a dry, epistemological question: the whole 'what works' movement in probation and youth justice depends upon definitions of what kinds of evidence are acceptable, and if some approaches to research and evaluation are privileged over others, this also has implications for what is subsequently implemented, as George Mair has pointed out in a previous edition of this journal (Mair, 2004) and elsewhere. In this issue, Aidan Wilcox, Carolyn Hoyle and Richard Young focus on a particular aspect

of this question in relation to the evaluation of restorative justice. As Wilcox has pointed out previously (2003), research design which is imposed centrally can disrupt potentially useful qualitative evaluation of new initiatives. While there is undoubtedly a place for large-scale quantitative research, for example in measuring changes in aggregate levels of victim satisfaction with particular programmes, it may not always be able to determine why these changes are occurring or how decisions were made about who to allocate to the programme in question. Restorative justice is a particularly good example of a field where what is meant by success is highly contested: reconviction rates are significant, but it may be equally important to measure the levels of satisfaction with the *process* of the parties to it. The objectives of those involved may differ widely: 'what works' then becomes a complex question. As an evaluative tool, quantitative research may fail to establish how well programmes are being implemented. The authors argue, with evidence, for a more rounded approach, incorporating both qualitative and quantitative methods, if research is to measure 'what works for whom and under what circumstances'. Those responsible for setting up new victim services and for evaluating them would do well to listen.

Our only overseas contribution in this edition relates to victim contact work by probation staff in New Zealand. Polly Cunningham and Anita Gibbs' article offers interesting parallels with the similar rôle of some specialist and generic staff in probation areas in England and Wales, but it is of significant interest in its own right. The place of reparation within family group conferences has not previously attracted much research interest, and although it was not the central concern of the study on which this article is based, it is significant that discussions of financial compensation often opened the door to longer-term contact with victims of crime by probation workers. The question of 'what works for victims' has also yet to be researched on any substantial scale, although the authors review the existing literature briefly and draw attention to the need for further research in this area. Staff working with victims in New Zealand generally do so as generic practitioners, and they clearly feel that this aspect of their work is undervalued, insufficiently planned and under-resourced. Encouragingly, victims themselves valued probation intervention of the kinds offered, and the great majority found it helpful to be kept informed and consulted. However, there are aspects of police and probation policy which can clearly benefit from the findings of the research in terms of improving their services to victims and their legitimacy in victims' eyes. Victims themselves in some cases requested meetings with the offender, a clear sign that restorative justice initiatives might have a larger part to play than is possible under the existing structures. This, too, suggests the need for clearer policy on the part of probation in New Zealand, which has legal duties in relation to victims but no defined framework or philosophy within which they can operate.

Some common themes emerge from these articles. The need for victim policy to be based upon evidence rather than on political rhetoric is common to several of the contributions (Wilcox et al, Tapley, Cunningham and Gibbs). For too long the managers and policy-makers in England and Wales have concentrated their attention upon 'what works' with offenders, and too little thought has been given to what constitutes effective – or even

satisfactory – interaction by criminal justice agencies with victims. Part of the answer is suggested by another recurrent theme in these papers (Boswell, Cunningham and Gibbs): inter agency work needs to be strengthened considerably. Similarly, staff training on working with victims has lagged behind initiatives in other areas (Boswell, Tapley, Cunningham and Gibbs). More generally, the papers remind us of existing victimological knowledge: the common attempts by politicians and policy-makers to make hard and fast distinctions between victims and offenders are mistaken, and rights and responsibilities cannot be imposed upon victims of crime without corresponding increases in resources and expertise. The question of 'what works' for victims of crime is a complex one, which we are only beginning to work out how to address.

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