

Victims: continuing to carry the burden of justice

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Traditionally western societies have paid scant regard to the needs of victims of crime. Those suffering interpersonal violence, especially rape victims, have often been twice victimised, once by their offender, once by their offender-oriented criminal justice system. Following the recent general election in the UK, it is timely to think about the state victims are in as compared with times past. It is now commonplace to observe that victims of crime have a rapidly-changing role in the criminal justice system in England and Wales. Many changes have been introduced, particularly since 1990, aimed at, 're-balancing' the system in favour of victims (and, by implication, at the expense of offenders) and, it is now almost sixty years since Steven Shafer (1960:8) described the crime victim as the Cinderella of the criminal justice system. Since Shafer described the victim in this way, criminal justice policies across the globe have been mobilised to bring the victim centre stage with policies increasingly framed in terms of the needs and rights of the victim, and justified in their name. Some of the changes made in recent years, such as the measures to protect witnesses in court, have apparently been effective in improving victims' position yet victimological research continues to be sceptical in its conclusions about the extent to which policies advocated in the name of the victim are inevitably a good thing. It is paramount that such inquiry continues and is extended to unpick precisely who policies are good for and how they relate to standards of justice.

According to Duggan and Heap (2014) the Coalition Government has been responsible for the creation of a new era of dealing with victims of crime and in particular with the control of the post-crime victim experience. They are highly critical of the manner in which victims have been politicised, demarcated, prioritised and responsabilised leading to a position where victims find themselves increasingly burdened in the pursuit of justice. For these commentators on the ASB, Crime and Policing Act (2014) and the Victims' Right to Review, the Coalition years evidence an era that is accepting of the inevitability of harm and victimisation and which is characterised by policies that have ushered in 'administrated hierarchized victimisation'.

The *Code of Practice for Victims of Crime* (2013) was probably the last most significant victim-related publication emanating from the Ministry of Justice during the previous Government's administration. This Victims' Code is perhaps best summarised as the twenty-first century version of the Victim's Charter, which was originally published by the Home Office in 1990. That Charter's full title was: *The Victim's Charter: A Statement of the Rights for Victims of Crime*. It claimed to set out for the first time the rights and entitlements of victims of crime. The revised version, published six years later in 1996, tellingly had a different sub-title *The Victim's Charter: A Statement of Service Standards for Victims of Crime*, a more realistic reflection of the actual contents. The *Code of Practice for Victims of Crime* 2013 is a 78-page code comprising 19 entitlements for victims of crime. The first of these suggests victims of crime are entitled to a needs

assessment. The last is about making a complaint. Together the words entitled and entitlements appear 201 times and these words are used alongside the less frequently used words duties and duty – 29 references. Common phrases are ‘putting victim’s first’ and ‘vulnerable victims’.

If we take this document as approximately indicative of the current state of victim-oriented policy, rights-based vocabularies remain noticeably absent. Minimum standards covering 14 different service providers are listed as being covered by the code. It would seem that victims of crime continue to occupy a position defined by their need rather than by any notion of rights. This mirrors the conclusion arrived at twenty years ago by Rob Mawby who was then commenting upon the ethos of Victim Support, the Victim’s Charter and Criminal Injuries Compensation. So, has anything changed?

Is the updated code of good practice adequate? Do such guidelines go far enough? Have victims of crime been used as a pawn in the so-called re-balancing of the criminal justice system? Twenty-first century victims can have various expectations and they have a range of ‘entitlements’. They can expect to be treated with dignity and respect and to be kept informed about decisions that are relevant to the criminal justice processing of their case. However, the attempt to re-balance the system in this way is based upon a misunderstanding of the nature of victimisation and also of the delicate balance between rights and offender accountability in criminal justice. The entitlements victims now have cannot be mobilised to keep offenders out of court or to justify tougher sentences. Victims’ opinions are important but they should not be led to expect their input will have any effect on sentencing. Recent research by Hester (2013) into rape cases and the criminal justice system in the North East of England found that three quarters of the cases dropped out at the police stage with many of these involving very vulnerable victims such as those with extensive mental health problems. Measures to protect rape victims in court (who fall into the ‘vulnerable victim’ category) seem to be having little impact with the attrition rate or ‘drop out’ in such cases remaining stubbornly problematic.

Victimological and criminological inquiry is ever more important in critiquing and steering victim policies to ensure they are positively impactful on the lived experience of those unfortunate enough to have been criminally victimised. Some of the changes made to the criminal justice process in recent years have been cosmetic, and are the result of politicians’ attempts to please the voting public rather than to make real improvements to the treatment of victims. Such gimmicks are among the factors which can result in victims of crime being subjected to secondary victimisation as witnesses in court, revictimised by the criminal justice system. Establishing what the needs of victims of crime are and matching these needs with effective support is difficult enough. It is perhaps even harder without legal rights. The *Victims’ Code* suggests that victims embark on a ‘journey through the criminal justice system’. At the British Criminology Conference *Voyages of critical discovery* 30 June – 3rd July 2015, along with my colleague Matt Jones, I will be suggesting that victims are unlikely to experience as smooth a passage in their voyage through our criminal justice system that any Government intent on ‘putting victims first’ might wish for. Now is the time to take

stock empirically regarding our academic understanding of the victim and to consider new, creative ways to capture victim experiences within the criminal justice system.

Duggan, M. And Heap, V. (2014) *Administrating Victimisation*. London: Sage Pivot.

Home Office (1990) *The Victim's Charter: A Statement of the Rights for Victims of Crime*. London: Home Office.

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Ministry of Justice (2013) *Code of Practice for Victims of Crime*. London: Ministry of Justice.

Hester, M. (2013) *From Report to Court: Rape cases and the criminal justice system in the North East Executive Summary* Bristol: University of Bristol in association with the Northern Rock Foundation.

Schafer, S. (1960) *Restitution to victims of crime*. London: Stevens and Sons.
