

# Who does the law work for?

Changes are needed urgently to make the criminal justice system more victim-centred.

*Sarah Perman  
Media and Public  
Relations Officer  
Victim Support*

Until recently, victims of crime - unlike defendants - did not have rights in the criminal justice system of England and Wales. In the past, professional codes of conduct ignored the effects of crime on victims; and the lack of regard for victims was also shown in the shortage of information and explanation given to victims about developments in their cases. But now there is increasing recognition that victims of crime are consumers of justice and should be treated with understanding and respect. Recent changes in policy and practice have helped to establish the concept of victims' rights. There is now a Victim's Charter as well as a Courts Charter. However, there are still problems in implementing victim-centred services throughout the criminal justice system, and the Government needs to give more resources to schemes which help the victims of crime.

The idea that there are consumers of criminal justice has been well rehearsed over the last decade. It is now broadly accepted that there are users of criminal justice: victims, witnesses, defendants and their friends and relatives. Each group now has some rights within the criminal justice system. There are guidelines and procedures about how each group should be treated. They can expect to come away from their contact with the system knowing that decisions have been made, or having acquired certain gains or outcomes.

However, the concept of the victim as the consumer of criminal justice is not straightforward. Victims suffer the direct effects of crime: the inconvenience of a theft, the anger caused by a burglary, the trauma and stress of serious violence, such as sexual crime or murder. They expect society to take responsibility for what has happened to them and they require the criminal justice system to bring the offender to justice and to make further amends on their behalf.

The criminal justice system understands society rather than the citizen as the true consumer of criminal justice. English law represents the 'people' not the individual victim of crime. By intervening in a criminal act committed by one person against another, the state has assumed responsibility to deal with the offender in the interest of a just society. Historically, the state has no complementary responsibility to assist the offended party in recovering from the crime. The victim of crime has expectations of services and outcomes which

the state fails to meet precisely because of the historical definition of its role.

Victims should have rights and the criminal justice system should have responsibilities for the care of victims. Victims should expect to encounter sensitivity, understanding and respect, not only because of their personal suffering as victims of crime, but because of the additional burdens the criminal justice system imposes on them in requiring them to help with the prosecution of the offender.

## Victims' dissatisfaction

All too often in the past the criminal justice system has failed in its obligations to victims of crime. No one agency has had responsibility for victims. Professional training and professional codes of conduct of organisations working in the criminal justice system have ignored the effects of crime on victims, and how these effects could be exacerbated by insensitive comments or neglectful behaviour. The lack of regard for victims is also shown by the shortage of information and explanation which victims are given about the developments in their cases.

Until recently, victims, unlike defendants, did not have rights in the criminal justice system. In particular, they did not have the right to information and explanation about their cases. Victim Support - the national charity which helps victims of crime - receives hundreds of complaints each year from people who are



not informed about the progress and outcome of their case. Victims often do not know whether a suspect has been arrested and charged, whether he has been given bail and the conditions of bail, sometimes even the verdict and sentence. People who have endured months of waiting for the case to come to court sometimes miss the hearing because they are not informed of the date. In some courts, victims' families have to sit in the public gallery with crime spectators while the intimate details of their relatives' lives are discussed. Some victims first learn about developments in their cases from the local press. Pejorative comments or unjustified slurs on victims from the bench are often reproduced verbatim in local papers. And many victims only find that the offender has been given bail or is on temporary release from prison when they come face to face with him in the street.

The disregard for victims leaves many feeling that their involvement with the criminal justice system was as harmful as the actual crime itself, and they describe feeling like 'victims twice over'. The insensitivity of the criminal justice system towards victims can seriously disrupt their recovery from crime. The family who arrived for the trial of their daughter's murderer and were refused admission because the public gallery was full will find it difficult to recover from the deep wound inflicted upon them by insensitive officials.

### **The development of victims' rights**

Ten years ago an increased awareness of the needs of victims led many criminal justice agencies to improve their policies and practices involving victims of crime. In 1983 the British Crime Survey<sup>1</sup> was published, estimating for the first time the number of crimes which actually occur in relation to those which are reported to the police. It recorded the anxiety and distress felt by many victims of crime. In the same year rules governing the work of probation officers and magistrates were amended to allow staff to include work with Victim Support in their duties. In 1985 the

General Assembly of the United Nations adopted the Declaration of Basic Principles of Justice for Victims of Crime<sup>2</sup> which emphasised the need for better treatment of victims in the criminal justice process. Since 1985 the Home Office has regularly convened a multi-disciplinary Victims' Steering Group to promote policies aimed at improving the treatment of victims. Two Home Office leaflets<sup>3</sup> published in 1988 and 1989 for the first time gave victims advice and information about compensation, Victim Support and attending court.

The idea that victims had rights and that they could expect recognition from the various parts of the criminal justice system was tangibly expressed in 1990 when the government published the Victim's Charter: A Statement of the Rights of Victims of Crime<sup>4</sup>. This, followed by the publication of the Courts Charter<sup>5</sup> in 1992, laid down standards for the treatment of victims from the time the crime was reported right through to attending court and the release of the offenders from prison. For the first time, victims were told who had responsibility for keeping them informed about their case. They were told, for example, that it was the responsibility of the police to find out the extent of the victim's loss or injury, and that the police would pass this information to the Crown Prosecution Service (CPS) who would ensure that no victim lost the right to compensation from the offender. The charters also informed victims of their rights to information and explanation, with, for example, the police responsible for telling the victim of a serious offence when the accused is released on bail.

The charters marked a significant step in the development of victims' rights. Since their publication, criminal justice personnel have been trying to tackle the discrepancies between what the charters say on paper with what happens in practice. Spurred on by their recognition as major stakeholders in the system of justice, victims themselves now have higher expectations of how they should be treated, and are demanding more rights. Victims are becoming more vocal and better organised, with small groups of aggrieved

1 Hough, M and Mayhew, P *The British Crime Survey: first report. Home Office Research Study No. 76.* London : HMSO, 1983.

2 *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* New York: United Nations, 1986.

3 *Victims of Crime* London: Home Office, 1988; *Witness in Court* London: Home Office, 1989.

4 Home Office *Victim's Charter: A Statement of the Rights of Victims of Crime* London: HMSO, 1990.

5 Lord Chancellor's Department *The Courts Charter* London HMSO, 1992.



victims regularly making their views known in the national and local press.

### Revised approaches

Different arms of the criminal justice system are now listening to these views and are revising their approach towards victims of crime. The Royal Commission on Criminal Justice made a number of recommendations<sup>6</sup> relating to victims and witnesses, many of which have been endorsed by the Home Secretary and are gradually being translated into policy. In November 1993 the CPS published a set of standards of service for victims of crime<sup>7</sup>. This enables the victim's interests to be taken into account in decisions to prosecute, and allows the victim's concerns about bail to be communicated to the court. Families of murder victims should now be offered an interview with the CPS so that decisions to discontinue cases or reduce charges can be explained. These interviews are not yet available for victims of other crimes.

The Lord Chancellor's Department is also reviewing its policies with regard to victims of crime. A recent circular<sup>8</sup> issued to chief clerks of courts requested that, where possible, victims and witnesses be allowed to visit the court in advance of the trial for an explanation of rules and procedures. Special seating is also requested for victims and their families in the most sensitive cases.

### The difficulties in establishing victims' rights

These initiatives go some way in addressing the traditionally invidious position of victims in the criminal justice system. Many more legal and administrative policies and practices need to be overhauled before victims feel they have real rights. Negotiating these rights is a long and arduous battle. The criminal justice process was designed with priorities other than those of meeting the needs of the victims, and extending victims' rights brings the victim into conflict with other consumers of criminal justice.

Giving evidence in court exemplifies the conflict between the main users: victims

and offenders. Many witnesses, particularly those for the prosecution, feel frightened and vulnerable when giving evidence. Special measures have been introduced to allay their fears. Some victims and witnesses can, at the discretion of the judge, write their name and address on a piece of paper so that their details are not disclosed to the defence. Screens and video links have been introduced in some courts for particularly vulnerable victims. These measures are, however, rarely used. Defence counsel protest that their use casts a heavy inference of guilt on the accused before the witness has even given evidence and hence the defendant might not have a fair trial. The defence also argues that justice should be seen to be done, and that the defendant has the right to see who is accusing him. There have also been practical problems, and the CPS has sometimes been reluctant to use these measures.

Child witnesses, for example, may now give their evidence from behind a screen which prevents them from seeing or being seen by the defendant. As a result of the Criminal Justice Acts of 1988 and 1990, they are allowed to sit in a separate room and relay their evidence to the court room through a linked video system<sup>9</sup>. However, this protection is solely at the discretion of the judge, and recent research<sup>10</sup> suggests that it is not used as often as it could be. There are also strict rules about the support which can be offered to vulnerable witnesses. In one recent case reported to Victim Support, a mother who was sitting with her young daughter in a video room put her arm around the child when she became upset, and said, 'Don't worry, you're doing well.' The evidence was stopped on the grounds that the mother was encouraging a particular line of evidence.

It is arguable that whilst England and Wales retain an adversarial system of justice, where the prosecution takes place for the benefit of the state, no amount of fine tuning will ever satisfy the needs of victims and witnesses. Other services have to be provided which are more specifically focused on victims as the main priority. Services for victims which do exist are,

6 *Report of the Royal Commission on Criminal Justice* London: HMSO, 1993, Cm 2263.

7 *Statement of Purpose and Values* London: Crown Prosecution Service, 1993.

8 Lord Chancellor's Department *Victims, Defendants, Relatives and Witnesses Circular* dated 8 October 1991.

9 *The 1989 Pigot Report* (Home Office Report of the Home Office Advisory Group on Video Evidence London: HMSO, 1989) proposed a series of reforms, including the admission of videotaped evidence - not all have been implemented.

10 Plotnikoff, J *Victims of Crime in Community Care*, 24 March 1994, pp22-23.





however, significantly restricted in their ability to deliver because of severe financial restraints.

### **Compensation and support**

State compensation for victims of violence was introduced in the United Kingdom as long ago as 1964. The present Criminal Injuries Compensation Board was set up to acknowledge the harm which has been done to victims of violent crime. It demonstrates, on behalf of society as a whole, that criminal acts should not be tolerated and that the state should make amends for the injury suffered by the victim by making financial awards. Yet criminal injuries compensation is only available to a tiny minority of victims: those who have suffered the most serious violent crime. Victims of property crime are ineligible for the scheme, and anyone whose injuries are judged to be worth less than £1,000 receives no financial recognition. In April this year the Government changed the scheme to a tariff based system<sup>11</sup>. The level at which some of the tariffs were set greatly reduced the amount which some victims could receive in compensation. Families of murder victims, people with multiple injuries, and child abuse victims are three groups who are likely to receive much less compensation when the new arrangements come into effect. Many victims believe that the changes to the scheme are further evidence of the lack of true concern for people who have suffered crime.

#### **Victim Support**

A more comprehensive service for victims is offered by Victim Support<sup>12</sup>. The charity began as a small project in Bristol in 1974. A group of professionals working with offenders became concerned about the lack of support for victims of crime. They set up a pilot project to consider the experiences of victims and give them help.

Twenty years on, Victim Support is a national association of 371 schemes which cover the whole country. It is a voluntary organisation supported by public funds and its service is free. Volunteers, trained and managed by paid staff in local Victim Support schemes, offer information,

practical help and emotional support to people who suffer crime. Victim Support offers a range of services for victims, including advice on compensation and insurance matters, information on police and court procedures, and liaison with the local authority and other organisations on the victim's behalf. The organisation has a branch in Crown Courts called Witness Service. Volunteers based with the Witness Service can arrange pre-trial visits to the court room. They can find separate seating for victims away from defendants, and they can accompany witnesses into the court room when they are called to give evidence. The bulk of Victim Support's work lies in giving victims emotional support as they try to come to terms with their reactions to the crime, and as they try to cope with the confusing process of the criminal justice system.

#### **More resources needed**

Although Victim Support provides what is probably the most developed victim service in the world, it does not have sufficient resources to support everyone who needs help. Most schemes across the country are struggling to maintain their service in the face of a rapid rise in crime rates. Many schemes are unable to develop their services in important areas like domestic violence or racial harassment because of a lack of sufficient funding. Currently, only one in four victims of crime is actually seen by a Victim Support volunteer, and there is little availability of professional psychiatric or legal help when victims develop more complicated problems.

More resources need to be devoted to services which address victims' needs. The criminal justice system itself must sharpen up its act for victims of crime. The ground work on victims' rights must be bolstered by new policies and practices which treat victims with increased sensitivity and respect. Victims deserve a better deal, not only because they have been wronged by crime, but because without their cooperation, the state could not bring offenders to book. Issues about 'rights' are far from simple, but they must be tackled if victims are to believe that justice is being done ■

11 Home Office and Scottish Office Home and Health Department *Compensating Victims of Violent Crime: Changes to the Criminal Injuries Compensation Scheme* London: HMSO, 1993, Cm 2423.

12 For further information about Victim Support and a list of publications, contact Victim Support, Cranmer House, 39 Brixton Road, London SW9 6DZ.

