Crime, Victims and Policy
International Contexts, Local Experiences

Edited by
Dean Wilson
University of Sussex, UK
and
Stuart Ross
University of Melbourne, Australia

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Dean Wilson and Stuart Ross (editors)
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This chapter begins with the introduction of state-funded victim compensation schemes in the 1960s; then it describes the growth of victim support services before exploring the debate on victims’ rights. Next it canvasses developments such as restorative justice, which were offered as sources of better justice for victims of crime. This chapter ends with an overview of the drivers for a national approach to harmonise victims’ rights and victim assistance throughout Australia but also draws attention to the emphasis on procedural justice, especially the advent of commissioners and other reforms intended to individually and collectively give victims stronger voices in their dealings with Australia’s criminal justice systems. Overall, the chapter demonstrates that the focus on improving justice for victims has shifted remarkably from monetary compensation and other victim assistance towards initially passive victims’ rights and currently active participatory rights. This trend is not, however, unique to Australia.

1960s: Statutory, state-funded victim compensation

The earliest practical example of the influence of victimological concern began with the establishment of statutory, state-funded victim compensation schemes. The modern debate on such schemes dates back to a proposal in the late 1950s by British Magistrate Margaret Fry (1959). She recommended that the state compensate victims of crime because most offenders were impecunious, so they could not pay restitution. Her recommendation sat well with the post-World War II concept of the welfare state’s responsibility to assist citizens in times of distress. State-funded victim compensation was therefore initially regarded as a breakthrough in community empathy toward victims and the taking of responsibility by governments for the adverse consequences of failed crime prevention (Breckenton 2003, p. 1). Alternatively, such compensation could be looked upon as a ‘band aid’ to cover complex and challenging issues.

In the late 1960s and 1970s, Australia’s states introduced state-funded compensation for the pecuniary and non-pecuniary effects of crime, especially violent crime. New South Wales was the first Australian jurisdiction to introduce a state-funded victim compensation scheme with the enactment of the Criminal Injuries Compensation Act in 1967, followed by Queensland’s insertion of chapter LXVA in its Criminal Code in 1968. South Australia enacted its Criminal Injuries Compensation Act in 1969; Western Australia enacted an Act with the same short title in 1970 and both Victoria in 1972 and Tasmania in 1976 did likewise.
Parliamentarians in favour of state-funded victim compensation in each of the respective state parliaments proclaimed an awareness of the impact of violent offences upon victims — sometimes described as ‘innocent victims of violent crime’ (Office of Crime Statistics 1989). Consistent with this notion of an ‘ideal victim’ (Christie 1986), victims of primarily violent crimes — those who did not contribute to their victimisation but who also reported offences, co-operated with police investigators and accepted their responsibilities as witnesses for public prosecutions — have been considered worthy of state-funded compensation in all of Australia’s state and territory jurisdictions. Rather than explicitly accept liability for failing to prevent crime and/or protect citizens, parliaments provided for those who suffered misfortune but also shifted some responsibility for crime and its harm from criminal to victim (Wardlaw 1979, p. 146). In South Australia, for instance, the victim must engage a lawyer, commence proceedings in the District (Civil) court, nominating the state as the first defendant and the actual offender as the second defendant, then prove the alleged offence beyond reasonable doubt as well as prove on balance the personal injury resulted from the offence.

Australia’s first statutory, state-funded compensation schemes provided modest lump-sum payments intended as limited reparation rather than full compensation as might be attainable via civil prosecution for damages. Since their introduction, these schemes have varied across jurisdictions, primarily in terms of the crimes for which victims are eligible for compensation, maximum awards and methods of administration. All schemes have encountered difficulty assessing intangible or non-pecuniary damages, such as pain and suffering. In New South Wales a so-named maims table was used until reforms in 2013, whereas in South Australia a 0-50 point scale is used; in Victoria a Victim Assistance Tribunal determines the sum based on a tiered scale said to be relative to the seriousness of the offence (O’Connell and Fletcher in press).

Research in other countries, particularly the United States (see, e.g. Elias 1983), suggests that statutory, state-funded compensation schemes might not achieve their aims, such as encouraging more victims to report offences and assisting victims in distress, and may instead engender dissatisfaction as well as be counter-therapeutic (Elias 1983; O’Connell and Fletcher in press). Conversely, Australian research has shown that most victims were not alienated by the process to attain compensation and many were appreciative on receiving a payment as recognition by the state of the harm done to them (Justice Strategy Unit (JSU) 2000a and 2000b; Office of Crime Statistics 1989; Victorian Community Council against Violence 1994). According to one review of all eight victim compensation schemes in Australia, compensation can assist victims of domestic violence deal with the aftermath of such violence at both a practical and symbolic level (Barrett Meyering 2010; see also Dawson and Zada 1999), whereas other reviews, each focusing on a particular state, identified barriers preventing domestic violence victims from submitting eligible claims (New South Wales (Whitney 1997); Victoria (Lantz and D’Arcy 2000); Western Australia (Jurevics 1996); Queensland (Forster 2002)). In Australia, some critics also query whether victims’ interests and the public interest in helping them would be better served if, rather than giving lump-sum compensation payments, governments spent more on counselling, other treatment and practical assistance (Freckelton 1997, 2003; Holder 1999; JSU 2000b). This debate has dominated much discourse on victim compensation since the mid-1990s—on which more will be said below. Suffice it to say that by the 1970s statutory, state-funded victim compensation had become an integral part of criminal justice policy in Australia.

1970s: Advent of the victims’ movement and growth of victim assistance

Insofar as victimology is also said to be a social movement, it received its impetus from the women’s movement in the 1970s that was spurred on by the civil rights movement in the 1960s. The former began to draw attention to the unenviable and essentially powerless position of victims of sexual crimes and domestic violence in particular (Law Reform Commission of the ACT 1993; O’Connell 2005; Sallman and Chappell 1982; Scutt 1982, 1983; Sumner 1991; Whitrod 1986). They exerted pressure on governments that resulted in the establishment of crisis centres for victims of rape and other sexual assault and shelters or refuges for women escaping domestic violence.

In South Australia in the mid-1970s, for instance, a rape and sexual assault service was set up in a public hospital, a women’s shelter was opened and a Crisis Care Service was open 24 hours a day and 7 days a week, which was funded to, among other functions, assist police attending domestic violence incidents (JSU 1999; Paterson 1996; Sumner 1991). The growing awareness of these victims’ needs coupled with victim activism served as a foundation for more generic crime victim self-help organisations to emerge.

Towards the end of this decade, families of homicide victims were able to harness the momentum in seeking support services and demanding
legislative and procedural reform. In 1979, for instance, parents of homicide victims and concerned citizens gathered to form the Victims of Crime Service (VOCS) in South Australia, and during the 1980s a similar impetus led to the opening of the Victims of Crime Assistance League (VOCAL) in Victoria. Later, other organisations were set up, such as VOCAL in the Australian Capital Territory (ACT), New South Wales and Queensland. All these organisations shared a sense of injustice for victims dealing with the criminal justice system. They also often had close ties with the police; for example, the first patron of VOCS was a former Commissioner of Queensland Police and the Victoria Police Commissioner was a strong advocate for VOCAL.

Connected by common concerns and goals, these in the main volunteer organisations collaborated 'ad hoc' under the auspices of Australasia Victim Support (Paterson 1990), which is the predecessor organisation to Victim Support Australasia (VSA). There is, however, a notable difference insofar as the former membership was a mix of non-government organisations and government agencies, while the latter is dominated by government agencies. Although VSA has published several notable policies on good practice in victim assistance, it has not made the same inroads in terms of influencing governments' policies as have peak bodies representing specific categories of victims, such as the National Association of Services against Sexual Violence. This situation contrasts to the one in Britain where Victim Support UK (a non-government organisation providing victim assistance and lobbying for crime victims) attained such success that by the turn of the century it was perceived as an active adjunct to the criminal justice system and a major source of influence on government policy in a manner that perhaps inadvertently marginalised other victim organisations, such as those for victims of sex offences (Crawford 2000; Strang 2002). Since the election of the Conservative/Liberal Democrat Coalition Government, Victim Support UK's power has eroded as funding has been reallocated to local commissioners of police and diverse victims' interests (Reeves and Mulley 2000; Victim Support UK 2012).

Professionalisation became the second phase in the development of victim assistance across Australia (O'Connell 2005). Several of the volunteer victim-based organisations employed professionals largely from the social work field. These professionals assist in the diagnosis and treatment of victims as well as in advocating for victims and agitating for victims' rights. As happened in the United States, Canada and Britain, the social work paradigm became the most influential in setting the victim service-provision agendas. That paradigm prevails throughout Australia, no matter whether the assistance is delivered by a non-government organisation or a government agency. Limiting or reducing the adverse effects of crime became and largely remains the main objective of providing victim assistance.

The third phase in the evolution of victim assistance might crudely be described as the era of government takeovers. In the 1990s some of the non-government organisations became victims themselves of government choices about methods of service delivery and commitment of resources. The demise of VOCAL due to the establishment of the government-run Victims Referral and Assistance Scheme in Victoria (O'Connell 2000) and the reclaiming of the once outsourced victim services in the Australian Capital Territory (ACT Reference Group 2006) and Tasmania are prime examples. Governments then asserted that their responses were focused on the 'adequacy of service provision' (Keating 2001, p. 22) and improving practical outcomes for victims of crime (Griffin 2000).

Victim assistance programmes continue to be state and territory based, and they are delivered by a combination of government agencies and non-government organisations. There are some common elements. For example, all jurisdictions provide counselling services for victims of violent crimes. There are also differences in eligibility requirements. The availability of services also differs between jurisdictions. For example, while the counselling services provided by Queensland are limited to victims residing in that state, Western Australia provides services to victims of offences committed in Western Australia irrespective of where the victim resides. New South Wales Victims Services has approved counsellors in several other jurisdictions, so victims of crime in that state who return to their home state or territory can retain counselling. Adult victims of any crime in South Australia can access counselling via the Victim Support Service (VSS), which is a non-government but government-funded organisation. The VSS does not operate any victim assistance in any other state or territory, so counselling is not readily available to victims of a crime that happened in South Australia but who subsequently return to their home state or territory.

It is not uncommon for victims to experience their victimisation in a state or territory other than that in which they reside (e.g. while holidaying interstate) or to move away from the state or territory in which they were victimised. It is inequitable that a victim's ability to access victim assistance programmes is fettered by state and territory boundaries. It is in the interest of the victim's rehabilitation to have 'portable' access to services. Information, assessment, referral and therapeutic
services as well as reparation should be available and accessible to victims of crime — certainly, this is a right in international law (United Nations 1985; see also United Nations 1989, 1990).

Some steps have been taken to ameliorate jurisdictional impediments to a national approach to victim assistance. For instance, Northern Territory’s Crime Victim Support Unit has paid for counselling for victims who have returned to their home state; and, the authorities in New South Wales and South Australia are negotiating an administrative agreement so that New South Wales citizens who become victims of crime in South Australia can receive counselling in their home state paid from the Victims of Crime Fund in South Australia. South Australia residents who are victims of crime in other places can already receive free counselling in that state and apply for compensation (by way of ex gratia payment) if the place where the crime happened does not have a state-funded victim compensation scheme.

Although there is a consensus that extensive social, health and welfare services are necessary if the needs of victims are to be properly met (Grabosky 1989), there is a paucity of empirical evidence to show whether the various victim assistance programmes are meeting these needs. The one-shot victim surveys (e.g. Erez et al. 1994; JSU 2000a) available are useful but also unsatisfactory in yielding the kind of knowledge required to ensure that such programmes are well designed, properly implemented and, most importantly, matched to victims’ needs that change over time.

United States’ research, however, reported a mismatch between victims’ needs and the range of services provided by victim support organisations, which the researchers attributed in part to the dominance of the social work paradigm. British research (Jones and Mawby 2003) also found a mismatch between the range of services offered by Victim Support UK and the expectations of some victims. The researchers suggested this might be a consequence of the manner in which Victim Support UK expanded from a localised organisation helping victims of criminal trespass on their dwellings into a national organisation endeavouring to cater to all victims’ divergent needs and interests, yet remaining attached to its traditional ways of doing business.

Findings in Australia indicate the existence of a similar mismatch. For example, only four in ten victims surveyed in South Australia were satisfied with the Victim Support Service (Erez et al. 1994, p. 55); victims who identified a preference for a particular type of assistance focused on practical needs, such as help to prevent further crime, assistance in dealing with insurance companies and legal advice on entitlements (JSU 2000a). In addition, victims of theft wanted their property returned or replaced (O’Connell 2003).

Six in ten victim respondents from South Australia and Western Australia who had sought assistance did so to receive support with their role in the criminal justice process, including assistance in preparing for court and/or help with understanding the court process in particular (Ross et al. 2009, p. 110). Many of these victims had no experience with the criminal justice system, so they wanted information on their role and responsibilities. About one in five victim respondents wanted help with specific aspects of the process, such as a referral to legal services, assistance writing impact statements, help attaining information from police or help with applying for restitution or compensation. Although some victim respondents sought counselling or psychological assistance, more commonly victims wanted the opportunity to talk about their experience with other people who had experienced similar crimes. When all responses from those who mentioned support and emotional impact were combined, only about one half of victim respondents who had dealt with a victim support service had done so primarily for assistance with the emotional effects of the crime.

This ongoing debate on the mismatch between victims’ perceived needs and victims’ real needs is used as a valid reason to shift away from compensation schemes towards financial assistance schemes that might better cater to victims’ practical needs as well as expand services like helplines (see, e.g. Holder 2002; 2008; Joint Select Committee on Victims Compensation 2000; JSU 1999; Victim Services NSW 2012; Wade 1996). This debate has served another purpose with respect to the aims of victim assistance in that most victim support agencies and organisations throughout Australia now look upon crime prevention as a part of their core business, which comes in addition to their longstanding common goal of advancing victims’ rights. Unlike victimologists, however, victims and their advocates have tended to support popular policies such as declarations or charters that extant victims’ rights but might, despite their lofty intention, have little positive impact on the way public officials treat victims of crime (see later in this chapter).

1980s: Promulgation of victims’ rights

During the 1980s, victims, their advocates and others moved from the initial focus on compensation and support services to reintegrating victims into the criminal justice systems across Australia. In 1981 a committee of inquiry into victims of crime in South Australia reported
on providing adequate information on criminal victimisation; co-ordinating victim assistance programmes and other initiatives, improving and expanding victim support services; reforming court procedures; and amending laws, including those governing statutory state-funded victim compensation. The committee concluded, 'Among the most pressing needs of crime victims is the need for sympathy and understanding, qualities which do not flow from ignorance' (1981, p. 12). The findings became a road map for systemic reform, with several of its 67 recommendations becoming grounds for asserting victims' rights.

In October 1985, the Government for South Australia promulgated Australia's first version of the Declaration for Victims of Crime, consisting of 17 principles (Summer 1985). These principles were, and now are, often called rights because a right may be guaranteed by law, a basic entitlement recognised by an international agreement or a claim grounded in social morality. Some of the principles in the South Australia Declaration were enshrined in law, such as principle 12 reflected in the Bail Act 1985 that requires a bail authority to take into account victims' perceived safety concerns and principle 14 augmented by the Criminal Law (Sentencing) Act 1988 that provides for victim impact statements. All of the principles pre-empted but also replicated many aspects of the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), and the principles were founded on morally rooted concepts such as fairness and justice. In the context of public policy, Holder (2002) argued that such a declaration emanates from one of two perspectives. The declaration as a proclamation of rights tends to be more individualistic, and in some cases it provides for redress for those whose rights are not respected, which is a point O'Connell (2009a) traces back to the Magna Carta. The declaration as a statement of principles provides 'a framework and a benchmark system' that can affect, for instance, the allocation of resources and can influence the manner in which victim services are operated (Holder 2002). Perhaps, in being more consistent with the concept of systemic change, the Government of South Australia reinforced the importance of its Declaration by instructing all relevant government agencies 'to ensure that their dealings with victims were in accordance with the rights' (Summer 1991, p. 4). Moreover, the Government did not introduce any mechanism for victims to enforce their rights.

A couple of years later, the Victorian Sentencing Committee (1987, 1988) and the Tasmanian Inter-Departmental Committee on Victims of Crime (1989) recommended similar rights in these states. The Victorian Sentencing Committee, however, did not recommend the introduction of victim impact statements, whereas a Northern Territory Report (Murphy 1989) on such statements recommended their introduction. In addition, both the Victorian Legal and Constitutional Committee on Victim Support (1987) and the New South Wales Task Force on Services for Victims of Crime (1987) recommended a range of entitlements that are tantamount to rights for victims of crime. Thus, South Australia's leadership in formulating victims' rights (Grabosky 1989) became a 'major step in victim reform' (Summer 1991, p. 3).

A Charter of Rights for Victims of Crime was later produced by the New South Wales Government (VOCAL 1989, p. 15), while in Victoria a Statement of Principles stipulating victims' entitlements was circulated (Attorney-General's Department (Victoria) 1991; VOCAL 1990, p. 13). The former initially gave only victims of sexual assault or other serious personal violence the right to make an impact statement, whereas the latter omitted such a right for any victim of crime. A Declaration of Victims' Rights modelled on the one in South Australia was recommended as an administrative direction in Tasmania in 1989 (VOCAL 1990, p. 9), which included an entitlement for victims to have information about the harm done to them presented to a sentencing court, though that right was omitted in a later version adopted by the Government in 1991. Despite the omission, Counsel for the Crown in Tasmania reported in 1996 that impact statements were made in accordance with the original declaration and under s.385(11) of that state's criminal code.


In 1990, the National Committee on Violence (1990, p. xxxviii) recommended that 'with appropriate safeguards against abuse by either the Crown or the defence, victim impact statements should be introduced in all jurisdictions', which has happened, except in the federal

The debate on victim impact statements initially centred on – and indeed in some jurisdictions still centres on – whether a criminal court when passing sentence should consider the effects of the crime on the victim, especially the victim of homicide (Booth 2005). Furthermore, even in those jurisdictions that have settled the debate in favour of courts receiving victim impact statements, there is much controversy over whether the victim should be able to participate directly in the process as happens in some other countries – for example, the French *parte civile*. Several jurisdictions do, however, oblige prosecutors to apply for a restitution or compensation order on behalf of the victim. South Australia is the only jurisdiction to acknowledge in law that a victim can comment on the sentence itself in an impact statement (s.7C Criminal Law (Sentencing) Act 1988). Another issue that is not settled is whether victims should be allowed to make statements about harm that was not reasonably foreseen by offenders (Garkawe 2006; JSU 1999; Leader-Elliott 2006).

Australian research on victim impact statements has produced mixed findings. Ideological opponents have described these statements as a symbolic way of catering to victims’ emotions (Douglas and Later 1994). In contrast, Erez argues that ‘to resist victims input because...it is subjective... is to suggest there is an objective way to measure harm’ (1994, p. 188). In at least one state there was a consensus among police, prosecutors and defence lawyers that impact statements should be retained as a right for victims (Mansell and Indermaur 1997; see also Erez et al. 1996). Some research suggests that victim satisfaction with sentences has not improved (Erez et al. 1994), whereas other research suggests that victims who felt supported in writing their statement, were kept informed and felt the process of preparing and presenting their statement gave them ‘voice’ have a greater sense of procedural justice (Ross et al. 2009). Victims who felt the court did not acknowledge their impact statement were more likely to be dissatisfied (O’Connell 2009b). Professionals in criminal justice in several states have similarly observed the importance victims’ place on ‘having a voice’, ‘being heard’, ‘being believed’ and having their version of the incident vindicated (Bluet-Boyd and Fileborn 2014; see also Holder in this volume).

Regarding the courts, Booth has observed that victims’ impact statements ‘allow the court to more accurately determine the seriousness of the offence, make an informed sentencing decision and enhance proportionality and accuracy in sentencing’ (2005, p. 60). Surveys in South Australia (O’Connell 2009b) and Victoria (Victim Support Agency 2009) found that 73% and 66%, respectively, of the judicial respondents believed victim impact statements to be useful in most cases in which they are submitted. In the South Australia survey, only one respondent felt such statements were useful in just a few cases. Some courts have recognised the relevance of the harm done to victims in their decisions (JSU 1999; see, e.g. R v F (1991) 111 ALR 541; R v Dowlan [1998] 1 VR 123; R v Dupas [2007] VSC 305).

Victim impact statements allow victims to participate in sentencing, but some victims and their advocates seek greater participation in the criminal justice process. For instance, the founding patron of the Victim Support Service in South Australia, Ray Whitrod, expressed his disappointment that the first version of the Declaration on Victims’ Rights in Australia was ‘short of what is required’ regarding victim participation (Whitrod 1986, p. 82). Australia’s first Commissioner for Victims’ Rights has argued that victims should be allowed legal counsel throughout the criminal justice process (O’Connell 2013), which other commentators have to varying degrees supported (Kirchengast 2011, 2013; Symons 2013); and, for example, a magistrate has suggested that victim statements warrant further discussion during the pre-trial conference (Cannon 2012; see also Flynn 2012). Conversely, the Victorian Sentencing Committee held that allowing the victim to be an equal party in criminal proceedings would be ‘regressive’ and a ‘downgrading of... important principles forming part of the criminal justice system’ (1988, p. 543). It took another decade before any significant advances were made in victims’ participatory rights.

1990s: Consolidating victims’ rights yet contracting victim compensation

As the 1980s closed and the 1990s began, two national forums examined victims’ rights. Both the Australian Police Ministers Council (APMC) and the Standing Committee of Attorneys-General (SCAG) discussed papers on a National Charter on Victims’ Rights. In November 1989 the South Australian commissioner of police presented the APMC with a proposal to establish a national charter of victims’ rights and to minimise the risk of victimisation based on the tenets of crime prevention.
In June 1993, SCAG endorsed a National Charter for Victims' Rights in Australia, which was modelled on the United Nations' Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power and consistent with the Economic and Social Council resolution 1989/57 that in part called for action to ensure victims are kept informed of their rights, given information on the progress of criminal proceedings and made aware of opportunities to attain restitution or compensation from the offender. The Charter sets minimum standards for the treatment of victims in the criminal justice system. It recognises that victims should:

- be treated with compassion and respect for their dignity;
- be afforded access to services;
- be informed of their rights;
- be informed of the progress of proceedings;
- be allowed to present their views at the appropriate stages of the proceedings;
- be afforded measures to protect their privacy, ensure their safety and minimise their inconvenience.

The SCAG secretariat was tasked with monitoring the implementation of the Charter. In 1996, after the secretariat reported that all states and territories had taken steps towards the implementation of the Charter, victims' rights dropped off the SCAG agenda for over a decade. Whereas the momentum among politicians to advance victims' rights nationally waned, some federal agencies—in particular the Australian Federal Police and the Commonwealth Office of the Director of Public Prosecutions—were formulating victim-oriented policies and practices. States and territories continued to review aspects of their declarations or charters while re-examining their victim assistance programmes. Although each jurisdiction implemented developments across Australia, each took a state-centric approach to reform.

Several states and one territory determined to revisit their responses to crime victims' needs. One innovation which emerged from reviews was the appointment in the ACT of the first independent statutory officer dedicated to advancing the rights and interests of crime victims. The appointment of the Victims of Crime Coordinator was an important milestone in the path to enforceable victims' rights. The Coordinator could receive victims' complaints against public officials and consult on them before making recommendations to the Attorney-General. The coordinator also advised on the effective and efficient use of government resources to help victims deal with the effects of crime.

South Australia's review on victims of crime, which commenced in 1999, became a 'blueprint' for more than a decade of reform (JSU 1999, 2000a, 2000b). It also provided the government with a rationale for enshrining the administrative declaration on victims' rights into the Victims of Crime Act, as well as a platform upon which to appoint Australia's second Victims of Crime Coordinator as an independent advisor to the Attorney-General.

Meanwhile, in Victoria the Kennett Liberal (conservative) Government pointed to the recommendations made by an inquiry by the Victims' Task Force of the Victorian Community Council against Violence (1994) as justification for a major overhaul of that state's responses to victims of violent crime (Wade 1996). The Inquiry had reported on the responsiveness of the criminal justice system to crime victims' needs and their rights; queried the effectiveness of existing victim assistance programmes and support services; and highlighted the 'special needs' of certain classes of victims. Of particular concern, the Inquiry identified a 'real need' for victim assistance programmes and support services to be 'grounded within the context of a strategic approach', and recommended that 'an integrated victim assistance regime with professional and community interfaces' was necessary (Victims Referral and Assistance Service (VRAS) 1998, p. 1). For this purpose, in 1997 VRAS was established as a 'single centralised referral and assistance service' primarily for victims of violent crime (VRAS 1998, p. 2).

Five years on an inquiry into VRAS and other victim services across Victoria again reported that service delivery was fragmented and poorly coordinated. A lack of coordination resulted in inconsistent service standards. A lack of standard protocols between service providers, among other factors, negatively impacted the effectiveness of a range of victim support services (Department of Justice 2002). The inquiry recommended 'new directions' including the establishment of the Victims Support Agency to be tasked with the responsibility of integrating the provision of victim services.

Coupled with the introduction of counselling and other therapeutic regimes was a dramatic shift away from lump-sum compensation payments for non-tangible losses resulting from violent crime. Hon Jan Wade (1996), then attorney-general in Victoria, argued that research available to her challenged the worth of lump-sum compensation payments. Preckelton (2003), however, asserted that the backlash against lump-sum payments was fuelled by the government's desire to
cut expenditures rather than being based on the evidence of the effects of violent crime on victims. O'Connell and Fletcher (in press) point also to the speculation that victims of violent crime exaggerate their injuries and the subsequent effects to attain compensation, which suggests some victims seek to profit from crime.

The Victorian approach has been adapted to suit local circumstances in the ACT, Northern Territory and Queensland and recently in New South Wales. The ACT Victim Support Working Party (1998) recommended a 'mixed model of service' that would include a community-based, government-funded, generic victim support service and a reformed criminal injuries compensation scheme that focuses on financial assistance for medical and psychological services and any additional sum upon completion of rehabilitative support. Holder (1999), as the statutorily independent ACT Victims of Crime Coordinator, urged the ACT Parliament's Standing Committee on Justice and Community Safety to follow the Working Group's recommendation.

Wilson et al. (2001) identified gaps in Queensland's regime of crime victim services and recommended strategies to integrate and coordinate services in that state. Rather than establishing a new government agency, they nominated the existing Families, Youth and Community Care Queensland to be the lead agency in providing core functions but also acting as a link between victims and other support services. More recently, the Government for Queensland appointed a Victims of Crime Coordinator and established Victim Assist Queensland to assist the recovery of victims of crime who have been injured as a result of an act of violence and to administer funding for support services and the Victims LinkUp telephone service (Queensland Government 2014; State of Queensland 2009).

Although many victims and some victim advocates express ongoing support for lump-sum monetary victim compensation, others argued there is a paucity of evidence to demonstrate that such payments achieve desired outcomes for either victims or the state. O'Connell and Fletcher (in press) found little empirical research in the relevant literature that substantiates the various rationales for state-funded victim compensation. Indeed, there has been little advance in knowledge since Holder (1999) observed, 'It is very unsatisfactory that there should be no research anywhere that actually asks crime victims whether the pain and suffering component of compensation actually alleviated their trauma' (p. 13). She also concluded that a 'narrow focus on “financial compensation” for an individual’s injury without consideration of the rehabilitative effect of such awards nor of the totality of victims’ needs is seriously flawed' (p. 15). Yet, Fletcher and O'Connell (in press) observed that many victims perceive compensation as a right or fundamental entitlement and a means to hold offenders accountable for the harm done. Further, many victims believe the state should provide both counselling or other support and compensation (see also Joint Select Committee on Victims Compensation 1997a, b, c; Justice Strategy Unit 2000b; Victorian Community Council against Violence 1994). The debate, however, is an example of a broader debate on ‘what’ to provide victims with and ‘how’ to provide for victims’ needs.

Victims have not always been the beneficiaries of such debate. Indeed, in most Australian jurisdictions it has helped fuel a ‘backlash’ against the expenditure involved in state funding of compensation schemes for criminal injuries (Freckelton 2003). Since the mid-1990s an era of ‘victim-blaming’ has played out in the majority of Australia’s jurisdictions. Claims began to attain prominence that some victims contributed to their own victimisation; some victims exaggerated their injuries and the effects; and some victims do not deserve state-funded compensation. As more victims lodged applications for compensation and costs to the state increased, victims’ needs became pitted against economic discourse on the financial viability of such schemes (Joint Select Committee on Victims Compensation 1997c; Justice Strategy Unit 2000b). Furthermore, according to Freckelton (2003), ‘The alternative of criminal injuries compensation schemes in which the principal source for victim assistance is the offender has become swept up in the law and order movement and the movement toward restorative justice’ (p.1).

The 1990s ended with the release of a national study on victims’ rights and victim assistance (Cook et al. 1999). In most Australian states and territories, specialist and generic victim services existed. Common elements were referral, information provision, telephone and short-term counselling, crisis intervention and some court support. There was also, however, a lack of long-term counselling and other support options for those victims seriously affected and a short-fall in services for victims of less serious offenses where victims often required practical help rather than therapy. The study in addition confirmed the importance of integration and coordination within and across jurisdictions. Moreover, a lack of coordination and, in some programmes, the misallocation of resources was received by respondents throughout Australia as ‘major problems with victim assistance. In particular, the authors of the study concluded that the smaller states, such as South Australia and the Australia Capital Territory, appeared to have ‘relatively good coordination and communication among services, facilitated by their smaller
population size' (Graycar 1999, p. 2). Additionally, the study exposed gaps in victim assistance for culturally and linguistically diverse peoples and those victims who lived in remote and rural communities (Cook et al. 1999; see also JSU 1999).

2000s: The promise of better justice by giving victims stronger rights

Connections between some elements of the victim movement and the law and order movement have been evident since the 1980s. Several victim organisations, for instance, have openly criticised sentences perceived to be lenient (Harding 1994). This is not surprising given that victim surveys often show many victims themselves believe sentences in their cases were lenient (Erez et al. 1994; JSU 2000a). Regarding offenders' sentences, victims have regularly called for tougher sentences, including greater use of imprisonment. Some victims also favoured greater use of restitution and compensation orders. Victims who perceived the sentences were not completed or enforced also expressed dissatisfaction, even anger (Erez et al. 1994; Gardner 1989, 1990; JSU 2000a; O'Connell 2006; see also Holder 2014).

Many politicians succumbed to the pressure and willingly embraced the demands of disgruntled victims and public. Maximum sentences for some offences were raised and the numbers of offenders imprisoned continued to grow (ABS 2013). Between 1984 and 2012, the imprisonment rate almost doubled. One Australian jurisdiction introduced a law to allow the victim of a convicted offender up to 12 months after conviction to apply to that court for a restitution order while another introduced a law to provide for a 'mandatory' restitution whenever an offender is found guilty of a property offence. Neither has proven to be of practical assistance for the majority of victims of crime (see, e.g. Warner and Gawlick 2003).

The focus on the victim also influenced the search for alternatives to the adversarial approach to criminal justice – for instance, restorative justice. Interest in restorative justice began in the 1970s and 1980s. It was influenced by the social movements of the 1960s that identified the high levels of imprisonment of offenders, particularly of Indigenous people, and also by the lack of concern for victims of crime. By the 1990s Australia's first restorative justice programmes had begun; the concept subsequently gained much traction in the 2000s. In 2000 the United Nations Congress on Crime and Criminal Justice drafted a proposal for United Nations Basic Principles on Restorative Justice (2002) to encourage, among other things, use of restorative justice by member-states, such as Australia, at all stages of criminal justice systems (National Justice CEOs Group 2011).

In Australia several criminologists dominated the debate on the meaning of restorative justice. Braithwaite (1998, 2002) emphasised the values underpinning such justice: that those that constrain the process to prevent it from being oppressive (e.g. non-domination and empowerment); values that guide the process and can be used to measure success (e.g. restoration and compassion); and values that describe certain outcomes of the process (e.g. remorse and apology). Daly (2003), on the other hand, identified core elements, all of which might not be realised in practice. These elements include that the offender admits the offence, or at least does not deny responsibility, as restorative justice is not concerned with fact-finding but with the post-adjudication phase of the criminal process. In addition, the offender and the victim meet at a face-to-face meeting, which might also involve supporters of both parties and other relevant people. Furthermore, the process enables victims to tell their stories while providing opportunities for offenders to be held accountable (Garkawe 1999).

Restorative justice programmes – following the family conference approach introduced in Wagga Wagga by New South Wales Police in 1991 and embedded in South Australia's youth justice system in 1994 as well as the RISE pilot in the ACT – were implemented across Australia primarily to deal with young offenders (Daly 2003; Strang 2002; Strang et al. 1999). Inquiries, for example – the Children in State Care Commission in South Australia (2008) and the National Council to Reduce Violence Against Women and their Children (2009) – recommended exploration of the use of restorative justice to deal with sexual and family violence. As well, Australia's attorneys-general later endorsed national protocols on restorative justice. Currently, restorative justice is legislated in all states and territories.

Research yet again has produced mixed results. Offenders, victims and other participants are sometimes unable or unwilling to think and act in restorative ways (Daly 2003). Offenders may remain unmoved by victims' stories and may withhold apologies, and victims may remain angry and/or fearful and may refuse to accept that offenders are contrite or apologetic (Hayes 2006). Victim participation is also low in some jurisdictions (O'Connell and Hayes 2012; Office of Crime Statistics and Research (SA) 2000, 2005); and smaller proportions of victims are satisfied with conference outcomes (Strang et al. 1999). That said, Maxwell and Hayes (2006; see also Trimboli 2007) reported that, on balance,
offenders and victims emerge from restorative programmes with a positive view of the process.

Despite the expansion of restorative justice programmes, the criminal trial remains the most visible means of tackling crime in Australia; similarly, the push for victims to have legal rights within the criminal justice system has persisted. The focus, however, in this decade included victims’ rights to assistance and information as well as alienated victims asserting their participatory rights. In New South Wales and South Australia, for instance, a greater emphasis on procedural rights resulted in amendments that provide for the right to be consulted before charge decisions are varied, and in South Australia, it resulted in stronger laws on victim ‘indirect’ participation in bail hearings and ‘direct’ participation in parole hearings (see, e.g. ss.7, 9A and 10 of the Victims of Crime Act 2001 (SA); ss.6.5(2) and 6.16 of the Victims Rights and Support Act 2013 (NSW)).

Australian research revealed shortcomings in the implementation of victims’ rights declarations and charters. In South Australia, two surveys (Ezze et al. 1994; Gardner 1990) revealed that despite the declaration on victims’ rights, many victims felt that they did not get the information they needed and that too many public officials treated them ambivalently. A review of victims of crime (JSU 1999, 2000) revealed similarly negative matters but also positive matters attributable to the declaration and steps taken to implement it. Western Australia reviews done in the same era produced both negative and positive findings (Keating 2001; Wilkie et al. 1992). Collectively, positive findings included improvements in police treatment of victims, more support during criminal proceedings and better access to therapeutic assistance, such as counselling.

The New South Wales statutory review of its victims’ legislation (New South Wales Victim Services 2004; see also Curtis and Pankhurst 2003) noted that ‘many victims, friends and families of victims, and victim support groups observed that the terms of the Charter are simply not being followed by government departments and agencies in their dealings with victims’ (p. 47). The ACT Department of Justice and Community Safety (2008) issued a paper on the operation of the Victims of Crime Act 1994 (ACT) and noted similar concerns. It cited the Victims of Crime Support Program Annual Report 2006–2007, in which the Victims of Crime Coordinator highlighted ‘individual cases of agencies failing to adhere to governing principles contained in the Act, inconsistencies between agencies in their application or implementation of the governing principles, and problems in addressing the failures of these bodies to implement the Act’s requirements’ (p. 21). Likewise adverse findings have been made throughout Australia. For example, Queensland’s review of operation of the Criminal Offence Victims Act found shortcomings and proposed three approaches to strengthen compliance: a compliance regulatory approach; an increased oversight approach; and a managerialistic approach (Department of Justice and Attorney-General 1988). Similarly, Western Australia’s Auditor General (2012; see also Social Systems and Evaluation 1997) found that the West Australia Police does not have satisfactory processes and practices to ensure that victims are consistently referred to victim support and that the Victim Support Service has not ensured that other victim agencies or organisations are adequately aware of its services.

In its 2005 community consultation paper on a Victims’ Charter, the Victorian Department of Justice examined monitoring and compliance models from other Australian jurisdictions and overseas. The paper concluded that ‘there is a need for the provisions of a Victims’ Charter to be clearly articulated and for a well co-ordinated implementation process and compliance mechanisms to be established’ (p. 37). The Victim Support Agency was tasked to lead the implementation, to raise citizens’ and practitioners’ awareness on victims’ right and to receive victims’ grievances. Four years after the Charter was introduced, Victoria Police (2009, p. 18) conceded a compliance rate of 75 per cent, while the Aboriginal Family Violence Prevention and Legal Service (2010, pp. 139–141) in that state reported that police did not follow up adequately with many victims and that victims encountered difficulties accessing information about the progress of investigations.

All the research and inquiries revealed that there are still gaps in the ways public officials treat victims and in how the criminal justice system responds to victims. While states and territories promised reforms to strengthen victims’ rights, the Commonwealth Government continued (as it had done in the 1980s during discourse on the United Nations Declaration on Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)) internationally advocating for crime victims’ rights. In 2005 Australia’s attorney-general joined other Commonwealth Senior Law Officers in communicating a Statement of Basic Principles of Justice for Victims of Crime (Commonwealth Secretariat 2005). Notwithstanding Australia’s endorsement of the United Nations Declaration in 1985, the National Charter on Victims’ Rights endorsed by Australia’s attorney-general in 1996 and the Commonwealth Nations Statement in 2005, successive Commonwealth governments opposed a federal charter on victims’ rights. Then in 2008, the Federal Minister for Home Affairs announced that the Commonwealth Government would introduce
a charter on rights for victims of federal offences. Also that year the Federal Attorney-General's Department hosted the Summit on Justice, comprising several workgroups. The workgroup on victims of crime recommended a federal charter on victims' rights modelled on a draft convention promulgated by the World Society of Victimology (WSV) and its partners (INTERVICT 2014). However, this recommendation was not acted upon. Contrary to the pledge, Australia still does not have a federal charter on crime victims' rights.

That same year, the first independent, statutory Commissioner for Victims' Rights was appointed in South Australia. The Commissioner advises the government on how to effectively and efficiently use available resources to help victims; assists victims dealing with public agencies and the criminal justice system; reviews the effect of the law on victims; monitors the compliance of public officials and agencies with the Declaration Governing Treatment of Victims of Crime; and reports annually to Parliament. The Commissioner can also consult public officials on the treatment of victims and recommend that an official or agency make a written apology to a victim where there has been a breach of the Declaration. Having appraised the Commissioner's authorities, an ACT inquiry concluded that South Australia has the first enforceable victims' rights in Australia. Although this might be correct in general terms, South Australia, prior to the appointment of the Commissioner, enacted a law to protect the privacy of victim information maintained on the Victim Register in Correctional Services. A breach of that law is punishable by a fine of up to $10,000. That said, no Australia Charter or Declaration comprises legally enforceable rights; indeed, some specifically prescribe that violations do not give rise to either criminal or civil proceedings. Yet, all have introduced ways to resolve victims' grievances when those rights are violated. Most substantiated complaints result in disciplinary proceedings. In the ACT, New South Wales, Queensland and Victoria, for example, a public official who breaches a guideline or right can face disciplinary proceedings within his or her own agency.

South Australia's Commissioner for Victims' Rights (Attorney-General's Department (Australia) 2008) also became embroiled in the debate on a federal charter on victims' rights and victim participation at key stages in the federal criminal justice process. In addition to making a written submission to the federal attorney-general, he spoke as an expert at a meeting of the SCAG. In light of the Australian Government's expressed willingness to 'open the doors of justice' to victims of federal offences, the Commissioner proposed a national office for victims of crime, similar to the one in the United States, to help coordinate Australia's international and domestic responses to victims' needs and their rights (O'Connell 2008).

As the decade closed, Holder aptly surmised that in all Australian jurisdictions 'a pragmatic though piecemeal approach to addressing the unmet needs and rights of crime victims has resulted in law reform and service responses that traverse humanitarian, welfare and justice domains. A range of legislative and administrative instruments have been applied in the States and Territories to reflect the obligations of the UN Declaration' (2008, p. 5). States and territories faced continued demands for improvement in victim assistance and stronger procedural rights, such as a much more active role in bail hearings, in charge bargaining and in sentencing. Paradoxically, governments of states and territories knew public officials were not meeting their victims' rights obligations, in part because budgetary constraints impeded the allocation of adequate resources; yet, several governments demonstrated an unfettered desire to impose even greater and more far-reaching obligations on public officials. Attempts to promulgate a federal charter on victims' rights, however, remained stalled.

2010s: A fundamental shift towards collaboration and cooperation

As this decade began, Australia's Federal Attorney-General's Department withdrew as the chair of the National Victims of Crime Workgroup established in 2008 by Attorneys-General. The Attorney-General for New South Wales and his counterpart in South Australia agreed to co-chair the Workgroup. The Workgroup identified a number of drivers for the advent of victims' rights. They observed that underlying these drivers is the victim's lack of standing in criminal proceedings other than as witness for the state. They also determined that a major challenge is to ensure that the victims' rights reforms are mirrored in day to day administrative realities.

Contrary to the ideals underpinning victims' rights, the Workgroup reported to Attorneys-General that, across all states and territories, victims expressed concerns about the following:

- the lack of information about the process and progress of the investigation, personal safety and/or protection, the adjudication process and determination of the charge or reason for accepting a plea and the progress of the prosecution;
• the failure of authorities to involve them in key decisions that affect them, such as bail, charge bargaining, formulation of ‘statements of fact’ and whether to prosecute;
• the lack of opportunities for input into consideration of sentencing options and offender management;
• the ambivalent and disrespectful attitude and behaviours of police, prosecutors, court staff, judges and magistrates as well as other public officials;
• the lack of access to and availability of victim assistance, practical help and advice about prevention.

The Workgroup felt that their respective declarations or charters on victims’ rights have inspired other legislative reform and served as a basis for debate on possibilities for victim participation in criminal proceedings. In addition, they concluded that improvements depend on overcoming vested criminal justice interests that, among other things, continue to relegate the victim’s status to no more than a witness for the state, as investigator and prosecutor. Furthermore, victims’ needs might be overshadowed by managerialism or be hi-jacked for political ends – for instance, to justify a tough-on-crime, ‘law and order’ agenda. The Workgroup warned that the impulse to punish offenders as a demonstration of ‘justice for victims’ may trump displaying respect, compassion and dignity to victims as well as assisting them to deal with the effects of crime.

Running parallel to the national agenda, several states followed South Australia’s lead in providing for a Commissioner for Victims’ Rights. A stronger, independent advocate was established as the Commissioner for Victims of Crime in the Australia Capital Territory. A Commissioner for Victims’ Rights with authority to investigate victims’ complaints but who was not statutorily independent was appointed in New South Wales. A Commissioner for victims of crime whose functions are oriented towards strategic policy advice was later appointed in Western Australia. None of these officers has the right to appear in certain criminal proceedings, which is a unique and ‘interesting development’ (Redmond 2007) performed by the Commissioner for Victims’ Rights in South Australia. It has afforded that Commissioner with avenues to intervene in criminal proceedings in ways traditionally associated with civil (inquisitorial) criminal justice systems rather than with common law (adversarial) systems (O’Connell 2010; 2013).

The Commissioner, for instance, has the authority to appear in person, or through legal counsel, before a sentencing court to make a victim impact statement (ss.7 and 7A of the Criminal Law (Sentencing) Act 1988; s.32A of the Victims of Crime Act 2001), neighbourhood impact statement or social impact statement (s.7C of the Criminal Law (Sentencing) Act 1988). Three neighbourhood impact statements have been made in South Australia. One was presented by the prosecutor on behalf of the women of an Aboriginal community that was negatively impacted by a male elder sexually assaulting several girls. These women wrote about the broad social ramifications and the ‘fact’ that the offender’s crimes were contrary to both legal and cultural lore (ABC 2007 (see also R v Ingomar District Court (SA) 11 July 2007)). Another, presented orally by legal counsel representing the commissioner, detailed the impact on teachers, administration staff, parents and students that resulted from a series of sexual assaults perpetrated on young students by an out-of-school-hours worker (R v Harvey (No. 2) (2014) SASCPC 106). No social impact statement has been made by the commissioner, although through legal counsel the Commissioner attempted to make such a statement before the Supreme Court of South Australia heard an application for release on home detention by a declared persistent sex offender (R v Marshall (2014) SASC 92); however, Her Honour Kelly J ruled that such a statement would not be acceptable in the matter but allowed the statement to be submitted as a report pursuant to other law (s.25 of the Criminal Law (Sentencing) Act 1988 (SA)). When introduced, it was envisaged that a social impact statement could be given in cases involving the mass exploitation of children as evident when offenders are convicted of possessing thousands of images of child pornography – in so doing, these victims would be given a voice. In domestic violence cases, it was also envisaged that social impact statements could be made to draw attention to the broad social and economic costs of such violence that some victims and their advocates as well as a majority of parliamentarians believe are misunderstood or overlooked in criminal proceedings.

Perhaps the most notable development, however, is recognition of victims’ right to legal counsel albeit in limited circumstances. Courts have permitted legal counsel funded by the Commissioner to intervene to uphold victims’ right to privacy. Further, under South Australia law victims, as interested persons, victims can apply to appear before courts’ hearing applications to revoke a licence or vary the licence conditions for mentally impaired or mentally incompetent offenders (s.269P of the Criminal Law Consolidation Act 1935). In Steele’s case, Gray J of the Supreme Court held that the family of a killed victim were interested persons and allowed their legal counsel (funded by the Commissioner
for Victims’ Rights) to cross-examine witnesses and make submissions (R v Steele (No. 2) (2012) SASC [162]). Most recently, in the Supreme Court, Kelly J, as mentioned above, allowed legal counsel for the Commissioner to make submissions regarding a persistent sex offender’s application for supervised release (R v Marshall 2014). In light of law that stipulates community safety is a priority factor in determining whether a persistent sex offender should be released or not, the Commissioner’s counsel argued against the offender’s release. Her Honour invited the Commissioner to make further submissions and in her reported decision on the case acknowledged that the Commissioner’s submission was useful.

The Commissioner has also successfully intervened to protect the privacy of a child victim of sexual assault (O’Connell 2013). The court accepted the Commissioner’s argument that South Australia’s victims’ rights law exists (as per the Preamble in Part II, Division I of the Victims of Crime Act 2001) to give effect to international law such as the Universal Declaration on Human Rights; the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; the Convention on the Rights of the Child; as well as the Guidelines on Children as Victims and Witnesses. Each of these instruments provides for the right to privacy as does South Australia’s Declaration Governing Treatment of Victims of Crime. The commissioner asserted that disclosure of all information stored on a laptop hard drive would amount to an unnecessary intrusion on the child victim’s privacy. Rather than allow the defence access to all data on the hard drive, the court agreed and ordered disclosure of information date-marked 24 hours before the alleged offence and 48 hours after the alleged offence.

These and other interventions demonstrate that it is possible to enhance procedural justice for victims of crime without unnecessarily encroaching on procedural justice for accused and convicted persons. As the decade closed, three reports highlighted the import of procedural justice for victims of crime in various jurisdictions. One study involving victim respondents in Western Australia, South Australia and the ACT revealed that victim satisfaction with each element of the criminal justice system is ‘primarily determined by the quality of procedural experiences’ in the respective element (Ross et al. 2009). Further, good or bad experiences with one element did not necessarily carry over to another element. Victims’ dissatisfaction with prosecution, however, appeared to be attributable to dissatisfaction with the charge bargaining process and not necessarily with the outcome per se. Another study involving respondents from New South Wales and the Netherlands investigated the concept of procedural justice for both sexual assault victims and non-sexual assault victims (Laxminarayan 2012). The researcher found that procedural justice comprising respectful police treatment, accurate and timely information and a voice impacted the psychological effects of criminal proceedings. Such was also an important determinant of victims’ perceptions of ‘outcome favourability’. For victims of sexual assault, procedural justice was more strongly associated with the ‘outcome variable’; thus, the researcher recommended providing victims of sexual assault with means to ‘voice themselves’ as this would aid in their recovery.

A study in the ACT has also shown an association between voice and procedural justice (Holder 2014). Consistent with other studies (Laxminarayan 2012), this study suggested giving victims a voice (as happens in mediation (see Wemmers and Cyr 2006), and in victim impact statements (Erez 1994; O’Connell 2006)) in a manner that appears to contribute to higher confidence levels among victims, so long as such a voice is listened to and responded to appropriately. For some victims, the right to voice their views might be adequate, but others might exercise their right to voice to influence decision outcomes. Issues such as these are explored further by Holder in this volume. Many legal scholars and criminal justice professionals, among others, throughout Australia, however, reject the concept of victims having voice equivalent to a party in criminal proceedings. Instead, they would prefer to maintain the status quo rather than allow victims, or their legal counsel, to call or interrogate witnesses or challenge evidence (Toole 2014).

Repeatedly, cultural change within public agencies is identified as vital to ensure effective implementation obligations regarding victims’ rights. With the exception of police training, there has been a lack of consistent training efforts for others who come in contact with victims. The Commissioner has therefore helped to develop, even occasionally fund, training and professional development for public officials, including judicial officers. As well, he has funded legal counsel to appear during coronial inquests to represent, as interested persons, families of deceased people. Such inquests have resulted in recommendations for systemic change in police preliminary investigation into gun crime; in transport department assessments of persons with vision impairment and diabetes to determine their entitlement to hold a driver’s licence; and in recommendations for reform of mental health appraisals of patients prior to release after detention on mental health orders (O’Connell 2010; 2013).
The refreshed discourse on a national approach to victims' rights and victim assistance continued. As co-chair of the National Victims of Crime Workgroup, the Commissioner helped to distil several primary issues impacting victim assistance across Australia:

- the limitations in the availability of services beyond state and territory borders;
- the complexities of cross-jurisdiction cooperation and collaboration as well as the lack of referral protocols;
- the implications of victim mobility for victim assistance;
- the challenge for victim assistance providers to respond to the diversity of victims and of their needs;
- varying approaches to the provision of services and accreditation of service providers;
- the need for information sharing within approved guidelines between agencies at different levels;
- the lack of coordinated research into the most effective and efficient responses to facilitating victims' rights and meeting victims' needs.

Furthermore, as many victims of crime will have involvement with multiple agencies and/or organisations, victim assistance should be supported by a coordinated and well-informed interagency approach. The Workgroup concluded that government agencies (and where government services are delivered by non-government organisations, these organisations) must cooperate and collaborate for the sake of victims, and not for their vested interests, if procedural justice is to be done. To achieve practical improvements for victims of crime, the Workgroup recommended it be tasked to develop a coherent strategy that not only responds to victims' needs but also ensures commonality in service standards based on current 'good practice'; agreed upon referral protocols and processes; and appropriate monitoring and quality assurance processes. The SCAG, which later became known as the Standing Council on Law and Justice (SCLJ), approved.

The National Workgroup reported in its first progress report that a national approach to victim assistance should do the following:

- restore or improve the victim's physical, psychological and emotional well-being;
- reduce the risk that the victim will suffer re-victimisation;
- maintain, if appropriate, the victim's family and social relationships;
- minimise any negative impact on the victim's financial and social situation;
- enhance the victim's capacity to cope so that he or she can resume as normal a life as is practicable;
- foster confidence in the administration of criminal justice;
- facilitate the exercise of the victim's rights to be effectively informed and/or involved as he or she chooses;
- employ techniques and use resources to meet the victim's needs.

To address the diverse needs of victims, the National Workgroup urged that victim assistance be rendered on a multidisciplinary basis by relevant public agencies and non-government organisations in a coordinated and integrated manner. The integration and coordination must be based on joint understanding, prioritisation, resource identification and allocation, as well as use of common mechanisms relevant to a multi-jurisdictional (cross-border) monitoring process. Next, in 2013 the National Workgroup presented a draft of the National Framework on Victims' Rights and Victim Assistance, which the SCLJ approved, but it also charged the National Justice Chief Executives Group (NJCEG) with monitoring the implementation of the Framework. For this purpose, the National Workgroup formulated an implementation plan that the NJCEG has since endorsed.

The ideal, as first enunciated by the Commissioner for Victims’ Rights in South Australia, to devise national victims’ rights laws and minimum standards exists but is no longer a priority. Instead, the Framework is an aspirational document upon which cross-jurisdictional arrangements are proposed to be built, so long as they are affordable.

Conclusion

Since the 1960s Australia’s states and territories governments have enacted numerous victim-oriented laws and procedures and have established both generalist and specialist victim support services - the breadth and depth of these services is unprecedented. Victims' rights proclamations are now commonplace with the exception of the federal jurisdiction. Despite the positive developments, some of Australia's governments appear now, as they have done over more than three decades, to be satisfied by the mere existence of such a charter or declaration without checking whether or not significant practical impact and actual improvement has been achieved. That said, even if these charters or declarations have not necessarily been implemented as envisaged and
desired, many victims have benefited and the cliché of the ‘forgotten victim’ is in general no longer the case.

There are a number of similarities across jurisdictions in the manner a victim may be treated by public officials and others as well as in how a victim may engage in Australia’s criminal justice systems. Conversely, there are a number of divergences across jurisdictions that can result in inequities and injustice as victims of similar crimes are treated differently from one jurisdiction to the next. Eligibility for victim assistance varies from one jurisdiction to another. Maximum payable as either compensation or financial assistance vary also from state to state, territory to territory. Geopolitical borders constrain service delivery but not crime. These are weighty issues that require attention to help counter-balance the dehumanising and re-victimising aspects of Australia’s adversarial criminal justice systems. Preventing secondary victimisation depends upon change in the attitudes and behaviours of those expected to give effect to victims’ rights – changes that will enable the promise of victims’ rights to be achieved more fully than at present.

Procedural justice for victims requires the means of instilling humanistic values (e.g, respect, equity and fairness) in criminal justice practitioners, prosecutors, defence lawyers, judiciaries and others in addition to expanding the role of victims beyond their role as witnesses for the state-as-prosecutor. It also must overcome the conflict which emerges between the different and opposing interests in the state-defendant context. Remarkably, some concrete steps have been taken in at least one Australian jurisdiction to bring about such justice through greater inclusion and empowerment of victims at each stage of the criminal justice process. This advance is arguably an ‘encouraging model’ for all states and territories to emulate within their own criminal justice processes. The administration of just criminal justice systems across Australia necessitates no less than the proper consideration of victims’ interests and appropriate action. With this in mind, it would seem that procedural justice will be central in the evolution of victims’ rights and victim assistance in the next decade.

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