

Kerstin Braun, *Victim Participation Rights: Victims across Criminal Justice Systems* (Palgrave MacMillan 2019).

Political and social pressures to redress the exclusion and marginalisation of crime victims in criminal justice processes and procedures underpin the prioritisation of the perceived needs and concerns of crime victims by governments (Karstedt, 2011; Kool and Verhage, 2014; Rock, 1990; Walklate, 2006; Wemmers, 2005). The ensuing prominence of crime victims in criminal justice policy is well documented internationally across jurisdictions with varying legal traditions and legal processes (Garland 2001; Walklate, 2012; Wemmers, 2005). A range of reforms have promoted crime victims' rights including: articulation of victims' rights in human rights frameworks, promulgation of victims' rights charters, provision of support services, and implementation of protections for vulnerable witnesses (Doak, 2008; Rock, 1990). Reforms that facilitate the provision of information, support and assistance, and criminal injuries compensation for victims have generally been non-contentious and welcomed.

On the other hand, reforms entitling victims to participate in decision-making and legal proceedings at various stages of the criminal justice process have been more controversial (Booth, 2016; Kirchengast, 2017; Iliades and Flynn, 2017; Walklate, 2006). *Victim Participation Rights: Victims across Criminal Justice Systems* seeks to enhance our understanding of such participatory mechanisms in different legal systems through an analysis of crime victims' rights to participate in various procedural stages of a criminal matter across several Western democratic jurisdictions with diverse legal traditions and cultures. Braun broadly categorises the frameworks for legal processes in these jurisdictions as follows: Germany and France mainly inquisitorial; Sweden and Denmark a combination of adversarial and inquisitorial; and England and Wales, Australia, and the United States, as adversarial.

In chapter 2, Braun begins her analysis with a historic overview of the role of crime victims in criminal proceedings in each jurisdiction and traces the development and implementation of a range of participatory entitlements to the present day. She examines the opportunities for victim participation in various procedural stages of a criminal matter in the selected jurisdictions across three chapters. Chapter 4 examines victim input in decision-making relating to pre-trial investigation and prosecution processes; chapter 5 examines the role of victims in the trial and sentencing process; and chapter 6 examines victim participation in the post-trial stages of appeal and early release of the offender. Braun finds that development and implementation of the victim participatory mechanisms identified vary widely and do not reflect "a clear vision for victim participation in practice" (p. 282). For Braun this finding is not particularly surprising because victim participation in criminal justice procedures can be considered as incompatible with traditional theoretical underpinnings of criminal justice that dominate the operation of the criminal justice system as outlined in chapter 3. A key commonality of the traditional consequentialist and non-consequentialist theories explored here is that crime is an offence committed against the

wider community or the state rather than against the individual victim. Given the theoretical and practical exclusion of the victim, these theoretical constructs do not comfortably accommodate victim participation in criminal justice procedures. Braun further explores the conflict between victim participatory mechanisms and the conventional paradigm of criminal justice in chapter 7 through an in-depth analysis of the German and Australian frameworks. In both jurisdictions she finds that victims' entitlements were introduced for largely political reasons and in both states, she documents resistance to victim participation from both legal actors and commentators.

Although Braun may not have found a common strategy for victims' participatory rights across the jurisdictions studied, nonetheless her analysis does reveal increasing opportunities for victims to participate at multiple stages of the criminal justice process. This finding is consistent with scholarship, which views the trial process as dynamic and responsive to changing social circumstances rather than as being static or set in cement (Kirchengast, 2010; Doak, 2008). The integration of victims at different stages of the criminal justice process is a response that adapts to and reflects changing community standards and contemporary expectations of fairness (Karstedt, 2011).

Rather than continuing to advocate for the implementation of victim participatory mechanisms that are not compatible with conventional approaches to criminal justice and therefore become sites of resistance, Braun suggests that we should shift our focus to victim protection through legal representation for victims. Accordingly, the final substantive chapter of the book investigates the potential for expanding legal representation schemes for victims in order to enhance victims' experience of criminal justice processes. In her analysis, Braun identifies a significant 'information gap' whereby victims do not know that they have particular entitlements at any given stage and they are not told of their entitlements. She points out that the provision of necessary information and support by prosecutors and/or victim support workers is problematic and unsatisfactory because of the ambiguous nature of the relationship between prosecutors and victims, and significant constraints in resources more generally. Indeed, in many instances, support is provided to victims only on an ad hoc basis. Drawing on existing models, Braun argues that there is potential for lawyers to play a key role in providing victims with information in relation to their entitlements, as well as providing support more generally in the various procedural stages of a matter.

Though the large number of jurisdictions examined in the book renders the analysis thin at times, overall, this book makes an important contribution to the field by giving us insight into victims' participatory mechanisms in several European jurisdictions, especially Germany, that are not often the subject of analysis in English-language scholarship. Another important contribution of the book is that the author's analysis spans not only victims' rights during the trial (most commonly the subject of debate and scholarship, particularly in the context of sentencing) but it also includes pre-trial processes such as decisions to investigate and/or prosecute, and post-trial processes such as appeals and early release. The value of

this expanded analysis lies not only in building knowledge, but also in widening the scope for theory building. Ultimately, *Victim Participation Rights: Victims across Criminal Justice Systems* opens up a range of possibilities for integrating victims at all procedural stages of a criminal matter and presents a thoughtful case for expanding legal representation schemes for victims. As such, this book will be of considerable interest to scholars and policy-makers in the field.

References

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