IN SCOTLAND, and across the EU, criminal justice systems have become more victim-focused and victim-inclusive. Whilst there is still significant progress to be made, this is seen as a core part of the effectiveness of justice in a modern society. With the move towards the concept of a community rather than criminal justice system, we argue that there is a disproportionate focus on the offender, with little reflection of the progress made within criminal justice in terms of victims’ needs, rights and considerations.

Such opposing justice systems will be difficult to manage side by side. To succeed in any way, we need to have a justice system that is holistic and inclusive of the needs of everyone involved.

Victim-inclusive justice

What do I mean when I talk about a victim-focused and victim-inclusive criminal justice system? For a system to be described as victim-focused, it is necessary to understand what the needs of victims are. Pemberton (2009) has identified three categories of needs for victims in the aftermath of a crime: respectful treatment and recognition; information and participation; and needs outcomes of acknowledgment, (material) compensation, security and protection from further harm, coping with anxiety and loss, retribution and coping with feelings of anger and injustice.

It may also be helpful to understand what ‘justice’ means for victims of crime. Our research has highlighted that there are four major components of justice from a victim’s perspective. These are:

- Seeing an offender caught and punished;
- Being treated with respect and recognition from criminal justice agencies;
- Seeing the offender rehabilitated to stop offending; and
- Receiving support (Victim Support Scotland, 2012).

Two of these elements are clearly linked to the visibility of justice. Respectful treatment and recognition from criminal justice agencies can range from being kept informed of what is happening in the case, through to being enabled to participate in the system to the greatest degree possible. In addition, this recognition covers safety needs and consideration, in protecting the victim from repeat victimisation.

The provision of support is a vital component to aid a victim’s recovery, yet for a victim of crime there are limited services in place. Poor mental health, substance abuse, financial and physical issues all affect victims of crime. It is a crime in itself that victims have to seek support themselves, including addressing the financial impact on their own. Most unfortunate are the significant barriers to receiving the treatment they need, such as psychological interventions.

Although there is still a long road to travel before it can be said that victims are treated with the respect and recognition they deserve, headway has been made, primarily through the introduction of the Victims and Witnesses (Scotland) Act 2014, in moving towards a Scottish criminal justice system that requires criminal justice agencies to recognise and consider the needs of victims in their contact with them. For the first time, victims have statutory rights, which can go some way to addressing the damage caused by the fact that victims are not legally a party to criminal proceedings (other than as witnesses) and have historically been on the periphery of the system.
The 2014 Act places a duty on prescribed criminal justice agencies to work to a number of general principles in their contact with victims and witnesses. These include the sensitive and respectful treatment of victims; the provision of information; the protection of victims from repeat/secondary victimisation, intimidation and retaliation; and participation. Quite significantly, criminal justice agencies are required to set standards of service that victims can expect from them.

**Community justice?**

Is this progress reflected in the redesign of the justice programme through the Community Justice (Scotland) Act 2015?

With the change in emphasis from the criminal to the community, there has been a disproportionate focus on the treatment and behaviour of offenders, with insufficient demonstrable consideration of victims. In fact, the new definition of ‘community justice’ has no mention of victims. This is contrary to the reference to victims as part of the community and as a distinct group of interest which was a thread running through previous consultations around reform of the community justice system; previous definitions referred to the prevention and reduction of not only (re)offending but the harm that offending has caused (Scottish Government, 2014).

Can we feel confident that information on what will be happening to an offender will be provided to victims to ensure that their safety, information and participation needs are met? We know this ranges from being informed and consulted at every stage of a process (for example, consideration of how safe a victim and their family feels about bail or any electronic monitoring conditions that may be imposed on an offender, or indeed any conditions of release) to information about the sentence, and what is happening in terms of unpaid work. Relevant information and meaningful participation are key factors for a victim of a crime. Safety and protection from further harm are central to the concerns of many victims’ agencies in regard to the application in practice of a community justice approach. To omit such considerations means society excludes a victim’s needs and their legitimate right to recovery.

An example of this disproportionality is the emphasis on the provision of quality support services for offenders. VSS do in fact welcome such services. We know that for example, many women offenders have also been victims of crime (Commission on Women Offenders, 2012). Whilst not routinely applicable in every group, the link between victimisation and offending is well evidenced in terms of women. VSS argues that for some of these women had support been available at the time they needed it, then they may not have moved or been forced to move into offending. However, we would also argue that a range of equitable support services need to be routinely in place for victims of crime and offenders alike, but this is not presently the case.

It is a particular concern that not all community justice partners are obliged to work to the prescribed standards and principles in how they consider the needs of, and treat, victims of crime. It follows that there will therefore be a gap in the consideration of victims’ needs, and the progress made towards a victim-focused criminal justice will stall.

The Commission on Women Offenders (2012) also highlighted the need to “ensure consistency of access to, and quality of, services avoiding fragmentation and temporariness.” Services to offenders are a mix of statutory and third sector. Services for victims of crime are provided by third sector organisations with limited and decreasing funding streams. If the move towards community based and potentially locally funded services becomes a reality in Scotland, then fewer routine victim services are likely to survive. A disparity may start to emerge in the way services are funded and provided to victims and offenders.

In the debates that have occurred so far there seem to be inherent assumptions that the community justice parts of our system are working effectively at the moment. The question is for whom are they working? We are pleased to note the call for evidence-based interventions within community disposals. For us this means robust studies carried out in Scotland that look equally at a reduction in reoffending and outcomes for victims and communities. Research should also include views on how victims feel such interventions work in practice. Only when victims and communities contend that such sentences are viable and more effective than short term prison sentences will society be confident in such a system.

Taking all of this into consideration, we need to take a careful look at what a justice system should be. ‘Justice’ is often defined as ‘fairness’, ‘equality’, or ‘balance’. For us, this means balancing the needs of offenders (in supporting them to reduce their offending and change their behaviours to contribute to a safer society) with the needs of those who have been offended against, ensuring their needs are addressed with the same level of importance and consideration at all stages. As Dame Eilish Angiolini has stated, “[community justice] is not just about changing behaviours but about how we keep people safe; it is not just about the individual offender but about the victim and restoring equilibrium to the community” (Justice Committee, 2015).

The link between victim and offender is not always distinct and separate, sometimes (although not always) these are closely linked. For any justice system to be truly effective and viable it needs to take a holistic approach, one that recognises every part of a community: victims, offenders, friends, family and the general public. It is important to recognise this and ensure the needs and rights of all are taken into consideration.

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**References**


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