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A Voice for Victims: The Development of the Role of the Victim in the Irish Criminal Justice System

By Roberta Guiry[*] B.C.L. LL.M. (Criminal Justice)

[Printer Friendly Version]

“The increasing role given to the victim threatens to challenge our entire perspective of the criminal justice process” (Carey, 2000)[1]

Introduction

The victim, once described as “the forgotten man of the criminal justice system”[2] , has in recent years become a major concern of contemporary society.[3] With the perceived rise in crime rates, and particularly in sexual abuse cases in Ireland , a certain disquiet has become apparent. We are becoming increasingly aware of how the legal system treats the victim. Are we treating victims in the way we should? Is the criminal justice system doing its duty towards victims? Does it even have a duty?

If it is true that “[T]he mood and temper of the public in regard to the treatment of crime and criminals is one of the most unfailing tests of the civilisation of any country”,[4] then surely our society can be further judged by how it treats those affected by crime. At first glance it appears that our society is desperately uncivilised, with few real rights afforded to victims. Yet on deeper investigation, is it possible that there is more to the treatment of victims than meets the eye?

This paper will evaluate whether our perspective of the law has changed as a result of the introduction of increased victim presence in our criminal justice system. It will therefore be necessary to explore what our perspective was and what it now is. The paper will look at the role of the victim in the past and the present, then the particular rights afforded to the victim and the academic commentary surrounding it. Into this I shall introduce information from the time that I have spent at Cork Circuit Court, and my observations of the victims seen there. I will examine in particular the use of Victim Impact Statements to further the rights of the victim, and then discuss how the use of these statements is perceived, and to what extent it has contributed to our current perspective of victims.

The paper will then consider whether the victim is entitled to the rights he/she receives, and indeed whether they deserve further rights. If their rights result in general victim satisfaction, then it is a success, and victim rights are therefore appropriate. I intend to establish how victim's rights can be reconciled with the traditional views of the criminal justice system, and whether these rights are a welcome development. The paper will then conclude by discussing if it is possible to further change our perspective in order to accommodate the victim, and also whether such a course of action is advisable.

Part 1 -Role of the Victim in the Past

In the past, the victim of crime in Ireland was met with an unsympathetic audience. The victims rights discourse has introduced a great number of changes in the law in relation to victims, but it must be questioned whether these are welcome and appropriate changes. In the past, even into the nineteenth century, victims were expected to take charge of the case, gather evidence, and pay the lawyer. This inevitably led to an inconsistency in the law, whereby those who were well off were winning all of the cases, regardless of guilt or innocence. Gradually it was perceived that perhaps this system was unfair, preferring, as it did, the wealthy. Investigatory powers were given to the Gardaí, and the Director of Public Prosecutions was given the role of prosecuting in the name of the state. Conversely this shift in the balance of power gave the offender the new status of being the weaker party, due to their new opponent, the State. As a result the offender was afforded numerous new rights, in order to protect him and it became generally accepted that when thinking of the criminal justice process, we would think of the offender versus the State. Seldom did we think of the victim, who was designated a back seat in the process, and seen primarily as source of evidence[5] .

The victims' rights discourse began with a growing interest in the rights of the victim, as more than a mere witness to the crime[6] . Rape Crisis Cork was established in 1983, with Victim Support being set up in Ireland in 1985. Through these centres and the hundreds of volunteers across Ireland, victims were finally recognised. These support centres offered the victim for the first time, much-needed information and support, which was often unavailable elsewhere. They provide a vital service, which reduce the suffering of victims. Victim Support is also involved in advocacy and lobbying, and is at the forefront of changes both on the practical ground level in local courts, and also on a legislative basis. Victim support attempts to increase awareness of crime in general in society. This is added to by the increasing support of the Criminal Justice System towards the victim.

Part 2 -Current Role/Rights of the Victim

In 1993 the first positive substantive changes were seen, with the introduction of legislation allowing for Victim Impact Statements (VIS) to be used in sentencing[7] . This was by no means a radical step, similar provisions having been introduced in other jurisdictions in previous years.[8] Nevertheless the use of VIS has arguably transformed the previously passive role of the victim to that of a party playing an active role in the trial.

VIS -A Welcome Voice for the Victim?

Introduced in the 1993 Criminal Justice Act, the VIS allows a court to take into account the effect of the offence on the victim, in determining sentencing. This includes long-term or other effects. Since its inception, much academic commentary has surrounded the use and appropriateness of VIS. Ashworth refers to the whole process as 'victim prostitution'[9] , and believes that sentences have become a great deal more severe due to the use of VIS. He also questions whether they may overall be detrimental to procedural and substantive justice. Erez[10] dismisses Ashworth's claims and notes that victims see the VIS as particularly important if they have never had the chance to be involved in the justice process. It must be questioned however whether victims should in fact be involved in the process. It is difficult to reconcile the values of the criminal justice system with a focus on victims[11] .

According to Donnelly[12] the value of the VIS may be somewhat illusory because victims may be led to believe that they are contributing to the judicial process of sentencing. She points out how the Court of Criminal Appeal dealt with the sentencing of a man charged with unlawful carnal knowledge of a fourteen year old girl, reducing his sentence from fourteen to four years. The victim in this case, as in many others, may have expected to see a favourable response to them, as regards sentencing, yet this sentence would seem disproportionate. This can result in the victim becoming as, if not more, distanced from the process than if they had given no VIS. They merely see a low sentence.

This point was also noted by Erez[13] who acknowledges that raising victims' expectations will inevitably lead to further dissatisfaction if their expectations remain unfulfilled. It is generally felt among victim support workers[14] however that victims are not necessarily seeking a harsh or long sentence, they merely wish to participate in some way in what they perceive to be 'their day' in court[15] . The vast majority of

victims who attend court merely want to be acknowledged, and are unconcerned with the outcome, other than a guilty verdict. They seek vindication that what they are saying is true. Those working in Victim Support also accept that the purpose of the VIS is not in fact to alter sentencing but to merely give a voice to the victim. Ashworth does point however out that this is not necessarily the case since victims are invariably asked for their opinion as regards sentencing.[16]

O' Malley[17] considers the use of VIS in other jurisdictions, using case-law and academic commentary to display the inappropriateness that can too often arise when using VIS. He refers to one case in particular, in which the VIS certainly had the ability to "tug at the heart strings." [18] In this case the impact on a 3-year-old boy of his mother and sister being murdered in his presence was considered. It would be difficult to find a jury or indeed a judge who could remain impartial and emotionless throughout this type of evidence. O Malley then refers to *Post v Ohio*[19], in which Justice Marshall affirms that judges too are fallible,

"...the presumption that judges know and apply the rules of evidence should not be converted into a license to conclude that judges are inhuman, incapable of being moved by passion as well as reason." [20]

Donnelly[21] believes that the VIS can individualise the victim, which goes against the formulation of a broad policy for sexual offences. The VIS takes into account the broad picture and she believes that they are no substitute for broad judicial education. Grohovsky[22] also notes, in relation to victims speaking at sentencing, that judges hear emotional pleas all the time, and that the victim's account of events is not going to cause a judge to impose an unduly harsh sentence solely on the basis of the victim's version.

It is therefore obvious that we cannot allow judges to be moved by a passionate VIS, but how do we distinguish between a true statement of fact and an account, which is too moving to allow listeners to remain impartial? It must be considered whether we can trust our judges with such affairs. Can we put enough faith in our judges to attempt to hear a moving VIS and yet not allow it to have too much effect on the sentence passed?

A concern of many academics in relation to the inclusion of evidence of the effect of a crime is that of chance or luck[23]. Imagine that Offender A commits a crime on a random victim, who receives counselling, recovers and by the time of the trial is suffering very little as a result of the crime. Offender B, on the other hand, has the misfortune to choose a less balanced victim, who has perhaps been the victim of crime before, suffers post-traumatic stress disorder, develops agoraphobia and by the time of trial has not recovered and in fact is suffering a great deal. Should Offender A

receive a more lenient sentence on the basis that his chosen victim was a more balanced individual? Should Offender B be treated harshly because he had the misfortune to choose a victim who is less likely to recover quickly?

It seems that there can be no conclusive answer on this morally charged issue, and it is simply a matter of public policy. It would seem hypocritical of a criminal justice system to treat two people, whose crimes are precisely the same, differently on the basis of their victim's response. It is for this reason that judges are expected to treat a VIS with what could be regarded as a genuine but distanced respect. A VIS does give a judge a unique insight into the effect of the crime, but it need not necessarily be used in sentencing. Even Victim Support acknowledges this, noting that the VIS isn't supposed to affect sentencing, but is intended to give a victim their voice in court, and inform the judge of the consequences[24] .

O' Malley points out the inherent flaw of the Criminal Justice Act as being its failure to give any guidance on the weight to be attributed to the VIS[25] . It is left to our judiciary to decide upon what weight, if any, is placed on the VIS. Carey[26] believes that a VIS contributes significantly to sentence proportionality rather than sentence severity. This is in contrast with O' Malley's belief that victim impact evidence, if it influences sentencing, is in "grave danger of conflicting with proportionality"[27] . In practice it is difficult to assess whether a judge has been affected by a VIS enough to alter sentencing.

In a recent case[28] in the Cork Circuit Court the judge was faced with sentencing a man who had pleaded guilty to various counts of sexual abuse. The victim had submitted a VIS and subsequently requested to be allowed to speak to the court during the sentencing process. His request was granted, and he began to describe the effect that the abuse had had on his life. He described in detail the difficulties he had faced with employment, and relationships, referring to his alcohol dependencies and his battle with depression. He then assured the court that he had not had alcohol since 2002, had secured himself a flat, and that the matter was now settled. He was aware that he had "messed up", and attributed the loss of both his family and his business to the fact that he "went mad in my head" as a result of the abuse. He also mentioned that he felt he was doing a life sentence at the moment, and wanted this feeling to end.

The judge, in considering sentencing, heard counsel for the defence ask the judge to be "merciful" and take into account the defendant's guilty plea, the fact that he was currently serving a sentence, his remorse and his personal circumstances. The judge described the VIS in this case as "powerful" but one can only speculate as to whether the VIS or indeed the victim's description on the stand were powerful enough to move the judge to impose a harsher sentence. The judge seemed reluctant to impose a mere 2-year sentence (reduced from 5 due to the guilty plea) as well as indefinite post-

release supervision, but did not voice any concerns he may have had in the area.[29] It would appear in this case that while the VIS could have no real effect on sentencing due to statutory constraints, the judge, if he could have, would have been harsher.

Justice Carney in 2003 noted that a VIS is a statutory mechanism ensuring that the judge should have all the relevant details in order to arrive at an appropriate sentence[30]. He was criticising the fact that he had recently received a VIS from the Dublin Rape Crisis Centre for lobbying purposes, and he also noted that to use a VIS for such purposes is a “serious abuse of process”. Ashworth believes that the VIS, although prevalent and high in profile, does little to improve the genuine respect given to victims.[31]

Although it is not easy to say without exception that VIS should always be taken into account, to ignore the victim’s wishes and the effects on the victim would be to continue past approaches to victims, and treat them as invisible.

Victim’s Charter- Real Changes or not?

The Victim’s Charter[32] was, on introduction, hailed as a welcome new step in considering the rights of victims. As Kathy Sheridan wrote in the Irish Times[33] it is little more than a statement of the obvious. She points out that it is a more than a little ambitious to expect people to be grateful about a Charter which introduces measures merely offering the victim “efficiency, courtesy and fairness”. She does however welcome this as a well designed, clearly written guide. The Charter gives victims a right to information, counselling, freedom from intimidation, right to reasonable waiting periods, and the right to information on their case, among other things.

Victim Support is obviously in favour of the Victim’s Charter, noting that it pins down a lot of support structures which were in place in the past, but were merely unconfirmed. Patrick O’ Dea, PRO of the Probation and Welfare branch of Impact, opines that the Victim’s Charter “addresses the need of victims to get due recognition in the criminal justice system”. Mawby and Walklate[34] believe that the Victim’s Charter highlights the “arbitrary and inconsistent qualities” of the criminal justice system towards the victim. This reflects the views of various victim support organisations, but Mawby and Walklate then question why it is necessary to change the system since the offender will now face a harsher system. The offender has more to lose and constitutional rights are based on the premise of innocent until proven guilty. Offenders’ rights may be seriously eroded as a result of the new concentration on the victim.

While the Victim's Charter is seen as a positive step in assisting victims, Fenwick[35] points out that it is not necessarily evidence of a strong commitment to victims' rights. She queries whether many of the 'rights' are in fact 'aims', and whether a real commitment is present. It appears that many rights afforded to the victim are those which should be afforded to any human being involved in the court process, and that it merely points out the flaws of the system to actually codify these rights. It does seem peculiar that professionals dealing with victims might not act in a manner that is efficient, courteous and fair.

If a Victim's Charter is what is needed to encourage a basic standard of fairness and good manners towards the victim, then it was a welcome and indeed a much-needed development. It remains a matter of opinion whether the changes brought about as a result of the Charter are in fact real, substantive, worthwhile changes or merely changes on the face of it, which do not reflect any real difference in treatment for the victim. It is a further matter for consideration whether these changes result in an actual change in the public perception of victims.

Part 3- Inclusion of the Victim in the Process- does it help the victim?

“He took control over me for forty-five minutes. This time I'll have control over him for the rest of his life. If he gets out fifteen years from now, I'll know. I'll check on him every three months through police computers. If he makes one mistake he's going down again. I'll make sure. I'm his worst enemy now.”[36]

We must consider the needs and wishes of the victim before concluding whether or not victims actually need the prominent role they now enjoy in the criminal justice system. If, as already discussed, the victim was seen in the past as a mere 'giver of evidence', their role has certainly become more central in the criminal justice process. They now have a true role in the system, in their ability to speak at sentencing, to submit a VIS, and in the advancement of their general rights. In general, giving the victim more acknowledgment results in their feeling more in control of their life. They feel vindicated that they have been given the chance to face their attacker, in courtroom surroundings where they are the ones in power. The one thing that must be considered is whether the victim wishes to be part of the process due to a genuine need to show the court the effect the crime had on them, or whether it is a matter of revenge. According to Madigan and Gamble[37] a survivor's motives include anger, fear, hatred and revenge. They note the words of one rape victim,

“The extent of my anger scared me. Never in my life had I felt such hate for another human being. I had dreams of killing him.”

Does the criminal justice system have room for such expressions of anger? Grohovsky[38] points out that a well trained and level-headed judge will have the ability to determine whether the victim is being vengeful or reasonable, given the harm caused to her. In light of various assertions of victims who merely wish for the offender to be locked up, it must be concluded that a person who has been hurt, either emotionally or physically, by a crime, is unlikely to be an appropriate person to be in too much control of the fate of the offender. As previously discussed, the VIS may not have an excessive influence over sentencing, but this must continue to be regulated. Sentencing merely as revenge is not a suitable journey for the criminal justice system to embark upon. Obviously judges will be aware of this, but there is a fear, a reasonable fear, that they may be swayed by the strong emotions of the victim.

If the reason for the victim being included can be seen as a rational action, in order to help the judge with decision making as opposed to a ploy to sway the judge and encourage harsher sentences, then we must consider if the victim's involvement in the process is one which helps them. As already discussed it is important that the victim is not led to rely too much on the impact of their VIS, because it can often lead to disappointment if the result is not as they expected.

A representative of Victim Support Cork[39] noted however that invariably the length of sentence is not relevant to the victim. She spoke of the family of a murder victim, with whom she had dealt. She had accompanied them to court, as part of the court witness service run by Victim Support. She was aware that the family were hurting a great deal, and merely wanted to see justice done. The father of the victim spoke at sentencing of the effect the murder had on the whole family. He did not speak for long, nor was his speech a prepared one. It was however enough to convince the judge to impose a life sentence on the offender. The Victim Support worker then noted the family's reaction. A few brief moments of elation were followed by a sudden silence. She described how the family almost seemed to expect their loved one to return. They had achieved the result they were seeking - the offender had been punished - and they only then realised that it was time to grieve. Their involvement in the trial, if anything, delayed that grieving process, but the conclusion of the trial was the catalyst for their grieving. One of the family said that they didn't want to see the offender any more. Whether they (the offender) got life or one year was of no consequence, because they had their life, and they had their family, but the family of the victim must live with death. From this it is easy to see that the victim, or the family of the victim, is not necessarily seeking a harsh sentence. They merely want to be recognised.

So is the victim actually helped by the process of giving evidence as to the impact of the crime on them? While a lenient sentence would undoubtedly be a great disappointment to the victim, it appears that what Victim Support asserts is correct. The typical victim is not involved because of their need for revenge, and even if they were, the VIS is not given enough weight to accommodate revenge at the sentencing stage. The victim is usually present because of a personal need to be involved. They need to be reassured that the criminal justice system is doing its job correctly so they can actually ensure that justice is being done. While it is questionable as to the courts'

obligation to help with this healing, it is certainly an obligation of the law to ensure that justice is done and seen to be done. Victims', if given a role in the system, are satisfied that they have played their part in the process, and are no longer seen merely as a witness to the crime. Ashworth[40] notes that the hope is that VIS will improve victim satisfaction with the criminal justice process, with two-thirds of victims in an Australian study favouring a VIS, due to its power to direct the courts attention to effects of crime.

Part 4- Reconciling the rights of the victim with the aims of the criminal justice system

In order to evaluate effectively if the aims of the criminal justice system can successfully accommodate the role of the victim it is necessary to identify these aims, or at the very least the most significant ones. The aims of the criminal justice system can broadly be seen as detection and reduction of crime, crime control through appropriate sentencing, with the aspiration of developing an overall confidence in the law. Very often the public perception of these aims is not a reflection of the actual aims. Society has of late developed a greater desire to see justice being done, which to them can mean harsh punishments. The public approve of a zero-tolerance type society. Has the evolution of the victim's role come about as a result of the victim's true need for recognition or is it part of the crime control culture[41] that is increasingly becoming more prevalent in Ireland? The newfound interest in victims' rights can be cynically seen as a matter of public policy. The public perception of crime is shaped primarily by the media, and their reporting of crime. If the media are consistently reporting on the good treatment of victims by the criminal justice system, and on the help and support received by victims of crime, then society as a whole will believe that the government is doing all they can to prevent crime and to help those few who do suffer at the hands of criminals.

It must be noted however that in no way is helping victims an aim of the criminal justice system. Judge Richard Goldstone- former war crimes Chief Prosecutor- has stated that "one of the important, if not the most important aspect of justice, is healing victims".[42] This is an emphatic statement of the rights of victims within the criminal justice system but it can be considered a little over ambitious. The criminal justice process should not seek to prefer victims over others. The offender, no matter how heinous the crime, still has rights which are often given a backseat in the rush to accommodate victims. It would be more appropriate to say that the aim of the criminal justice process is to seek and do justice. Through doing this, the victim can be given an appropriate role in the process, one which doesn't impinge on the rights of others within the system. The criminal justice system is not there to heal victims. It is for this reason that victims have support groups, to help them to heal. By no means am I proposing that victims do not have a place in the system, rather I am affirming that they have found their rightful place. Any more emphasis on the rights of victims could, without difficulty, result in the denial of justice to other players in the system.

It is undeniable that the criminal process will play a major part in the healing of the victim, but it is more important that it ensure that its primary aims are fulfilled. If justice is done, and victims are healed as a result, then it should be regarded as a happy coincidence. By no means should the primary aim come to be seen as healing victims. O' Malley[43] notes that the primary purpose of the criminal law is to protect victims, which is acceptable. What is not acceptable is the belief that its purpose is to heal them. With respect to Justice Goldstone, it is an essential facet of the justice process that it maintains a certain distance from the emotionally charged world of the victim. It must ensure that basic human emotions, e.g. anger or revenge, do not lead to arbitrary retaliation against suspects. It is for this reason that so-called community justice measures like punishment beatings are not tolerated. O' Malley notes that one of the reasons we have criminal law is to ensure that anger does not lead to excessive sentences.

The treatment that victims currently receive from the criminal justice system is not acceptable, in light of their needs. The victim must be given statutory rights. We must reject the traditional view that the victim should be ousted from the system, but at the same time recognise that further special treatment could quite easily amount to an excessive consideration of the victim. O' Malley believes, and I concur, that more state intervention is needed to ensure more support for victims.

Conclusion

“The protection of the interests of the victim should be a more central concern of the criminal justice process as a whole...” [44]

The Law Reform Commission recognised this in 1996, and yet little real progress has since been made in the area of victims rights. No substantive changes to the law have been made in the interim, and while various bodies and individuals have succeeded in drawing societal attention to the victim, it has had little actual effect.

The victim has however been armed with a “voice” in the form of the VIS, and has therefore been given a new place in the criminal process, one which has come about as a result of a great deal of lobbying and work on the part of various victim support groups. The fact that the VIS is not mandatory is seen as a cause for some concern, yet it is fair to say that trust can be placed in our judiciary to call for a VIS in the appropriate circumstances.

The victim, in our eyes has changed. When we now look at a victim on the stand telling of the effects of the crime, they are seen as survivors. No longer do we roll our

eyes to heaven at the bleeding heart tale being told by the victim. Yet this is not enough.

It is proposed that legislation be considered that will put victims rights on a statutory footing. It is further proposed that Victim Support, or an alternative body, be given appropriate powers in relation to helping and counselling victims through trials. While at the moment Victim Support do the best they can, more needs to be done, which will appease the victim, but not take from the balance of the criminal justice system. Most importantly what is needed is attitudinal changes. So many in society see the victim as the least important party in the process, and it is not until victims are seen as equally important as other parties that true changes can be brought about. Giving victims the chance to have their voice does not mean a dilution of the legal process, but merely is a display of respect for the victim.

Victims have come a long way in a very short time span, coming out of the shadows and reasserting themselves as key players in the system. Yet the system has failed to accommodate the victim in an appropriate manner and certain members of society have a tendency to pick up the mantle of victim supporter to support their own causes. This includes politicians who use the idea of victims rights as a keystone to their arguments for the introduction of harsher punishments for offenders. As a society we must resist the temptation to become more punitive and realise that the system is, as it stands, unbalanced, and that to accommodate all parties fairly, the scales of justice are in need of recalibration.

[*] The views expressed in this article are the author's own and do not reflect the views of the Law Reform Commission.

[1] Carey G., *Victims, Victimology and Impact Statements*, 2000 10(3) ICLJ 8

[2] Shapland J., Wilmore J., and Duff P., *Victims in the Criminal Justice System*, (London, Gower, 1985)

[3] Garland believes that the image of the victim has become 'Everyman' and that some of those who fight for the rights of the victim are in a way using the symbol of the victim to mean more than it represents, thereby helping to create a demand for punitivism. Garland, D., *The Culture of Control: Crime and Social order in contemporary society* ,(Oxford: OUP, 2001)

[4] Winston Churchill, in 1910, cited in the Report of the Commission of Inquiry into the Penal System, (Statistics Office, Dublin, 1985) at p. 29

[5] See, for example, O'Malley T., "Punishment and Moral Luck: The Role of the Victim in Sentencing Decisions" (1993) 3 I.C.L.J. 40 at p. 41, and Pollard C., *Victims and the Criminal Justice System: a New Vision*, Jan 2000, *Crim. L.R.* 5 at p. 8

[6] Temkin points to the fact that rape victims are invariably disbelieved, and put on trial themselves, and are a particularly vulnerable witness. Temkin J., *Rape and the Legal Process* (Sweet & Maxwell, 1987)

[7] The Criminal Justice Act 1993 s. 5

[8] See O' Malley for full treatment of this. *op. cit.* fn. 5

[9] Ashworth A., "Victims Rights, Defendants Rights and Criminal Procedure" presented at the International Conference on Integrating Victim Perspectives in Criminal Justice in York (July 17-18 1998), cited by Erez E., "Who's afraid of the big bad victim? Victim Impact Statements as Victim Empowerment and Enhancement of Justice" 1999 *Crim. L.R.* at p. 545 fn 1.

[10] Erez E., *Ibid* at p 553

[11] See below where this issue will be dealt with in greater detail.

[12] Donnelly M., "The Calm of Reason" *Irish Journal of Feminist Studies* 1(1) 26

[13] As noted by Ashworth A. in "Victim Impact Statements and Sentencing" 1993 *Crim. L.R.* 499 at p. 501

[14] Taken from informal conversations with members of the Cork Victim Services, and Rape Crisis Centre, January 2004. These meetings took place as part of the Clinical Program of the LLM (Criminal Justice) in UCC 2003/2004.

[15] This was the view taken by the US President's Task Force on Victims of Crime: Final Report (Washington D.C.), 1982, pp76-77, "Victims, no less than defendants, are entitled to their day in court." cited by Ashworth, *op cit* fn. 13 at p 502

[16] *Op. cit.* fn. 13 at p. 502

[17] *Op. cit.* fn. 5 at p. 45

[18] *Payne v Tennessee* 111 S Ct 2597 (1991) *op cit* fn 5 at p. 47

[19] *Post v Ohio* 484 US 1079, 108 SCt 1061, 98 L Ed 2d 1023 *op cit* fn 5 at p. 49

[20] *Ibid*

[21] *Op. cit.* fn. 12

[22] Grohovsky "Giving voice to victims-why the Criminal Justice System in England and Wales should allow Victims to speak up for themselves" 2000 *Jo CL* (64) 416

[23] Including O' Malley, op cit fn 5 at p. 52, and also Ashworth op. cit. fn. 13 at p. 506

[24] Op. cit. fn. 14

[25] Op. cit. fn. 5 at p. 50

[26] Carey G., "Victims, Victimology and Victim Impact Statements" 2000 10 (3) I.C.L.J. 8, at p. 11

[27] Op. cit. fn 5 at p. 54

[28] DPP v Patrick Finbarr Murphy, 30/10/03 witnessed in Cork Circuit Criminal Court as part of the Clinical Program of LLM (Criminal Justice) undertaken in UCC 2003/2004.

[29] He did note that in relation to post release supervision 'indefinite' can be read as 'life'.

[30] Carol Coulter, "Judge criticises 'abuse' of rape victim reports" The Irish Times April 7 th 2003

[31] Op. cit. fn 13 at p. 509

[32] Victims Charter & Guide to the Criminal Justice System, Department of Justice Equality and Law Reform, Dublin, September 22 nd, 1999

[33] Kathy Sheridan, "Victims receive rightful place in justice system" The Irish Times September 18 th 1999

[34] Mawby R.I. & Walklate S., Victims Charter: Policy, politics and Ideology? Critical Victimology: International Perspectives (London, Sage, 1994)

[35] Fenwick H., "Rights of Victims in the Criminal Justice System: Rhetoric or Reality?" Nov 1995 Crim L.R. 843

[36] Elizabeth Wilson, U.S. crime victim, People magazine May 31 st 1993, p. 88

[37] Madigan L. & Gamble N., The Second Rape: Society's continued betrayal of the victim, (Lexington Books, 1991) Chap. 10

[38] Op. cit. fn. 22

[39] Op cit fn. 14

[40] Op. cit. fn. 13 at p. 501

[41] The Culture of Control as identified by Garland, op. cit. fn. 3

[42] Noted by Kathy Sheridan, *op. cit.* fn. 33

[43] *Op. cit.* fn. 5 at p. 41

[44] Law Reform Commission, Report on Sentencing (LRC 53-1996) (August 1996) para. 8.16

[45] Analogy noted in Rock, P., *A view from the shadows : the Ministry of the Solicitor General of Canada and the making of the Justice for Victims of Crime Initiative* (London: Oxford U.P., 1986)