

# THE VICTIMOLOGIST

Volume 9 Number 1, April 2005

NEWSLETTER OF THE WORLD SOCIETY OF VICTIMOLOGY

## Victims' Rights Impacting the Educational System in South Australia

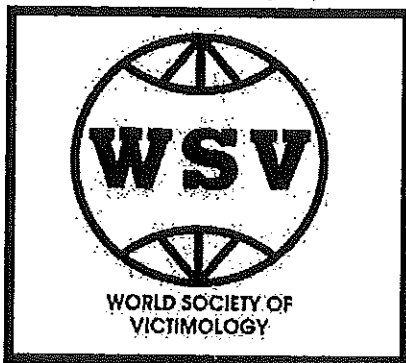
*Michael O'Connell*

Since the 1970s, crime victims and their advocates have reminded successive governments of South Australia that too often victims have been the forgotten people in the criminal justice system. Alas, some crime victims claim that their criminal justice experiences were more painful than the crimes inflicted on them.

Various steps have been taken to tackle victims' concerns. In the 1970s, women's shelters were opened, a forensic and counseling service for adult victims of sex offences was established and victims themselves came together to create the Victims of Crime Service, which is today known as the Victim Support Service. The 1980s began with the tabling of the Report of Inquiry into Victims of Crime that included over 60 recommendations to advance victims' interests. Perhaps, the most significant initiative for victims was taken in 1985 when, for the first time in Australia, the Government of South Australia promulgated a Declaration on Victims' Rights. The decade ended with a series of research reports covering policy and practice, criminal injuries

compensation and the results of a longitudinal study on victims and criminal justice.

In 1992 the Office of the Director of Public Prosecutions was established and for the first time in the State's history, the Attorney-General issued a direction requiring the Director to abide by victims' rights. For over a decade, the Director was the only public official legally bound



by the Declaration on Victims' Rights. The Review on Victims of Crime (Justice Strategy Unit 1999, 2000a, 2000b) conducted between 1998 and 2000 provided the impetus for further improvements to ensure better practical outcomes for crime victims. The Review, however, did not recommend enshrining victims' rights in law but it did recommend the Government reiterate its commitment to the Declaration.

*(continued on page 5)*

## Charter of Women Victims in India

*K.Chockalingam*

In recent years, greater interest has been generated in improving victims' rights in India. In 1996, the Indian Society of Victimology prepared a Draft Bill for Victim Assistance, which was sent to the Ministries of Law and Home for consideration of the Government of India for adoption as a national law. The ISV continued to take other measures to have a national level law for victim assistance in India.

The Commission to Review the Constitution of India headed by the former Chief Justice of the Supreme Court of India, Justice M.N.Venkatachalaiah (2002) and the Criminal Law Reforms Commission headed by Justice V.S.Malimath, former Chief Justice of the two State High courts (2003) have both acknowledged the importance of justice for crime victims and have said that paucity of funds cannot any longer be an excuse for denying victim compensation and assistance. Justice Malimath's Committee has made several

*(continued on page 7)*

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# Announcement of the World Society of Victimology's 12<sup>th</sup> International Symposium on Victimology: Expanding the Mission *Understanding and serving victim needs across the world*

The 12<sup>th</sup> International Symposium on Victimology will take place at the Rosen Plaza Hotel, Orlando, Florida, USA – August 20-25, 2006

Additional information will be distributed through Symposium brochures, and postings on the International victimology website: [www.victimology.nl](http://www.victimology.nl).

## *From the Editor's Desk...*

This is a very special issue of The Victimologist. As always, The Victimologist is geared towards international developments in victimology and victim policy. However, this particular issue has a distinctly Asian flavour, with reports on recent developments in Australia, India and Japan. It is encouraging to see countries around the world take steps towards bringing local practices in line with the standards of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

What also makes this issue special is that after eight years as Managing Editor, I have decided that it is time for a change and I

will hand over the job to Michael O'Connell. Mr. O'Connell has been a member of the World Society of Victimology for many years, he co-edited the conference proceedings from the 8th International Victimology Symposium in Adelaide in 1994, and he is currently Victims of Crime Co-ordinator in South Australia. I have complete confidence that under his leadership The Victimologist will continue to evolve in order to better serve the Society's members.

In its eight years of existence, The Victimologist has served as a voice for the members of the World Society of Victimology. As Managing Editor, I had the privilege of working with many

wonderful people, many of whom played key roles in the evolution of The Victimologist. These include: my former colleagues at the Dutch Ministry of Justice, Jan van Dijk, Ron van Kaam and Karla van Leeuwen, the co-founders of The Victimologist, Gerd Kirchhoff and Elmar Weitekamp, and the present members of the Editorial Board. Finally, I would like to thank the many authors who contributed to the Victimologist. Without your effort, the publication of this newsletter would not be possible and I strongly encourage all of the Society's members to continue to send in material.

*Jo-Anne Wemmers, PhD.  
Managing Editor*

# The New Japanese “Fundamental Law for Victims of Crime”

*John P. J. Dussich\**  
*Michael O'Connell*

A bold and progressive step forward has just occurred in Japan with the enactment of the new Fundamental Law for Victims of Crime. This law can trace its roots back to the bombing incident at the Mitsubishi Heavy Industries building on August 30, 1974 which killed 8 and wounded 380 persons. In response, the 91<sup>st</sup> Diet of 1980 enacted the “Crime Victims Benefit Payment Law” to help compensate the victims and survivors of this tragedy. The law went into effect the following year. In 1995 the Aum Shinrikyo Cult released sarin nerve gas in the Tokyo subway system on March 20 killing 12 persons and injuring about 3, 800. In response to the outcry of the victims, in the following February, the National Police Agency drafted the “Guidelines on the Relief Measures for Crime Victims” and in May of that same year (1996) The Office for Crime Victims was established under the National Police Agency.

In April of 2000, the Democratic Party of Japan submitted a draft for the “Fundamental Law for Victims of Crime” to the Diet. However, this was discarded by

the opposition parties. One of the major objections to this proposal was the fear that it would take away some of the rights for offenders. In 2002, The Democratic Party of Japan re-submitted a draft of the Fundamental Law for Victims of Crime to the Diet (this time in collaboration with the Social Democratic Party); however, it too was discarded by the opposition parties. Subsequently the National Association for Victims of Crime with the leadership of Mr. Okamura visited the Prime Minister, Mr. Koizumi and presented him with 390,000 signatures in support of victims of crime in Japan. In response to this new awareness, Mr. Koizumi instructed his Cabinet and his own Liberal Democratic Party (LDP) to start discussions on the plight of crime victims. This resulted in the eventual collaboration of the LDP, the Komei Party and the Democratic Party of Japan producing a draft of the Fundamental Law for Victims of Crime in 2004 which was passed in the House of Councilors and enacted as legislation on December 1, 2004. This result was a product of multi-partisan legislative collaboration, system advocacy within the Ministry of Justice, especially the National Police Agency; and, activism from the leading victim support

organizations in Japan: the National Association of Victims of Crime, the National Network for Victim Support, and groups representing surviving families, child abuse victims, victims of stalking, spousal abuse, victims of drunk drivers, bombing victims and sarin gas victims.

Chapter One of this law defines concepts relating to the policies for the victims. It lays out fundamental principles and clarifies the respective responsibilities of the State, local public bodies and citizens, and also stipulates the basis of policies related to promotion of justice for victims. Accordingly, it leads to the protection of both the rights and interests of the victims.

Under this law, “crime victims” are regarded as victims who are damaged, as well as the victim’s family or bereaved family. A “policy for the victims” is regarded as a policy that will enable the victims to recover from the damage, to relieve the pain, to return to normal life again and to be involved with the proper legal process in the criminal case.

The law requires respect for victims’ dignity and states that they should be treated fairly. It also states that policies for victims

should ensure fair treatment and provide for continuous, proper assistance "until [a victims is] able to lead a peaceful life again after the damage".

To give effect to the law, it also outlines responsibilities that cover all people who deal with victims of crime. Importantly, it states that "Citizens shall take care not to harm the victim's dignity and life".

As victims' rights and their needs are not confined to one agency or organization, the law promotes greater co-operation between the State, local public bodies, Japan Judicial Support Center & the related organizations, local support center for the victims and other interested persons. The law also comprises an implementation strategy that imposes obligations on the government to, for example, devise victim-oriented polices and, if appropriate, give these policies legislative support as well as provide financial support so that the policies can be acted on. To ensure the government is accountable, the law requires an annual report on its operation be prepared for the Deity.

Chapter Two covers victims' rights to information and assistance to make claims for damages. Importantly, the State and others are required to help victims get information and to make compensation claims. Consistent with Charters and Declarations on victims' rights in other countries, there is recognition that victims should have access to services to help them recover from the harm done to them. This chapter is particularly strong on requiring that victims'

safety and security be maintained and as well that victims have access to secure housing and secure employment. The State, its officials and others are also required to explain victims' role and responsibilities as witnesses. The State, its officials and others are required to protect victims from their offenders and prevent offenders making unnecessary contact with their victims. The chapter incorporates other unique provisions that are worthy of consideration by other jurisdictions searching for ways to introduce, or enhance, victims' rights.

There is always a risk that victims' rights will be ignored by those engaged to serve victims. Serving victims by honouring their rights is essential delivering a victim-oriented criminal justice system. The Japanese law therefore establishes a Committee for Promoting Victims' Rights, which will comprise ministers of the State and victimological experts, among others. The Committee is empowered to order data to help it monitor the operation of the victims' rights law and, for this purpose, the Committee can request help, including using government ordinance.

As a result of this new law on behalf of crime victims it is reasonable to expect that there will be a commensurate revision of the compensation laws, especially focusing on domestic violence and Japanese victims living in foreign countries. One of the criticisms of this law is that in spite of attempts by some legislators to include words to keep the media in check, it does not mention the responsibility of the media in the process of respon-

ding to victims and avoiding their revictimization. Subsequent to its enactment, Prime Minister Koizumi continued to support this legislation by directing his Cabinet to follow up to insure successful implementation of the law.

It is reasonable to hope that this law will move Japan closer to making a constitutional amendment to Japan's Constitution on behalf of Victim Rights. This law does move Japan significantly closer toward compliance with most of the recommendations in the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. Japan is to be commended for this progressive step forward on behalf of victims.

*\*The authors wish to thank Ms Yumiko Sakaba, TIVI secretary, for doing most of the research for the preparation of this article.*



Eventually, victims' rights were put into a *Declaration of Principles Governing Treatment of Victims in the Criminal Justice System* that now occupies an entire part of the *Victims of Crime Act 2001*.

The Review focused on a managerial approach to improving the responses of public officials to victims. Training and education were promoted as critical to achieving real improvements for crime victims. At the request of the Ministerial Advisory Committee on Victims of Crime, the Victims of Crime Coordinator prepared an inventory of educational and training programmes that covered Victimology, in particular victims' rights. The inventory showed that a broad range of programmes existed but few of these dealt with victims' rights. For example, the Department of Education had staff development programmes on bullying and child protection, among other things, as well as subjects taught in schools on domestic violence and legal studies.

A review of the legal studies curricula for 11<sup>th</sup> and 12<sup>th</sup> grade High School students in 2002 offered the Victims of Crime Coordinator an opportunity to lobby for the inclusion of learning materials on victims and criminal justice, including victims' rights, in legal studies. With the help of the Courts Administration Authority's Education Officer, the Coordinator drafted a proposal to teach 'Victims and the Law' to 11<sup>th</sup> grade students.

This covered:

- Definitions of victims and victimisation and the impact of crime.
- The balancing of rights and obligations – a victims'

rights charter.

- The role of the Victim Support Service and other support agencies.
- Rights of the accused in the criminal justice system.
- Restorative justice, including family conferencing, and retributive justice.
- Compensation and other forms of reparation for criminal injuries.

Several curriculum documents followed until 2004 when approval was given to introduce an optional module on 'Victims and the Law' from first semester 2005.

Thereafter, the Education Officer, a Legal and Policy Officer and the Coordinator wrote a chapter that was included in the Legal Studies textbook (Bailey, Bash, Cavouras & Rieuwers 2005). The chapter briefly answers 'who is a victim?' It also explores different types of victimisation, then focuses on crime victims and the role they play in the criminal justice system. Students are challenged by exercises on reporting crime, dealing with bail applications, plea (or charge) bargaining, giving evidence, and sentencing offenders. In addition, the

Attorney-General approved giving each student a free copy of the *Information for Victims of Crime* book.

Victims' rights are a central feature of the new curriculum and the chapter appropriately titled 'Victims and the Law'. Hence, for the first time in South Australia – indeed Australia – high school students will be taught victims' rights.

John F. Kennedy said, "The rights of every person are diminished when the rights of one person are threatened." Raising young people's awareness on the victims' rights and their needs, as well as on criminal victimisation and the effects of crime will, hopefully, result in fewer crimes and therefore fewer people relying on declarations of victims' rights to ensure they are properly served in the pursuit for justice.

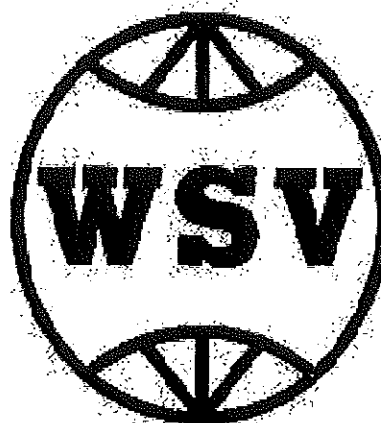
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<http://www.voc.sa.gov.au>



WORLD SOCIETY OF  
VICTIMOLOGY

# United Nations Standards and Norms in Crime Prevention and Criminal Justice

Irvin Waller

The following statement was submitted by the World Society of Victimology (non-governmental organizations in special consultative status with the Economic and Social Council) at the Eleventh United Nations Congress on Crime Prevention and Criminal Justice, which was held in Bangkok in April, 2005:

Cognizant that millions of people throughout the world suffer harm as a result of crime and the abuse of power and that the rights of these victims still have not been adequately recognized, and that they may, in addition, suffer hardship when assisting in the prosecution of offenders,

Recalling the resolution of the UN General Assembly (GA/RES/40/34) which called upon Member States to take the necessary steps to give effect to the provisions contained in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, *inter alia* by:

- a) implementing social, health, including mental health, educational, economic and specific crime prevention policies to reduce victimization and encourage assistance to victims in distress;
- b) sponsoring collaborative action-research on ways in which victimization can be reduced and victims aided, and to promote information exchanges on the most effective means of so doing;

- c) rendering direct aid to requesting Governments designed to help them curtail victimization and alleviate the plight of victims;

The World Society of Victimology calls attention to the exemplary progress achieved by some Member States in

- legislation that puts the basic principles of justice into domestic laws so that a high level of office will implement policies and programs to provide comprehensive measures for victims of crime
- providing victims of crime with better information, support services, reparation from offenders, compensation from the state and a role in criminal proceedings,
- establishing programs to protect victims of crime who are vulnerable because of gender or age such as all women's police stations and measures to protect child victims
- permanent boards and legislation to promote the use of effective and proven crime prevention measures at all levels of government

The WSV calls attention to the initiatives of the Commission on Crime Prevention and Criminal Justice on the use and application of the Declaration, including:

- The Guide for policy makers
- The Handbook on justice for victims
- Victimology.nl a web site
- The funding in 2003 for 19 pilot

projects

- Study by the commission of guidelines for child victims

The WSV calls on Member States to take concrete steps now to overcome the lack of recognition for the plight and justice for victims for the 21<sup>st</sup> century, including:

- a. victims of trans-national organised crime, corruption, terrorism, and economic crime,
- b. in making standards work for victims,
- c. reforming criminal justice, including restorative justice, to assist victims and provide justice for all including victims,
- d. prevention of victimisation, women and children who are victimised, particularly within their families.

The concrete steps for victims of crime should include:

1. **Legislation** that puts the basic principles of justice for victims into national laws with an office to implement the programs comprehensively,
2. **Training and guidelines** for police, lawyers, health professionals and others to ensure proper and prompt aid and respect for victims,
3. **Projects** to provide services to assist and support victims,
4. **National policies** to prevent and reduce victimisation, particularly based on the UN guidelines for prevention of crime.

recommendations to provide greater recognition for victims in the criminal justice system. If implemented, these will lead to a better realization of the objectives of the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, 1985.

Against this background, Sankar Sen, on behalf of the Institute of Social Sciences, New Delhi at the instance of the National Commission for Women of India, took up the initiative to bring out a *Charter of Women Victims of Crime and Violence* and requested the present author to prepare a draft Charter. He also convened a National Consultative Meeting in January 2005 where this author presented the draft Charter for discussion.

The participants included senior officials of the CJS and some NGOs dealing with gender and victim issues as well as Irvin Waller, Secretary General of the WSV, who also contributed to the deliberations. The participants gave several ideas, which were incorporated in the Charter, before the present author finalized it and sent it to the Institute of Social Sciences

for final submission to the National Commission for Women.

#### **Purpose of this Charter:**

The Victims' Charter shall explain the coordinated service that must be in place to meet the informational, emotional and practical needs of a victim of crime. It shall aim to ensure everything possible, which could be done to meet the needs of the victim, and others affected by the incident.

For this purpose, the Charter states Victims' rights which "must be accorded adequate recognition and effectively enforced. Victims and their immediate families "must not be discriminated against on the basis of age, gender, disability, culture, race, religion, caste, occupation, political belief or affiliation".

Victims must be treated with respect and given recognition at all stages of the criminal justice proceedings. They are also entitled to information about their cases as well as services that can help them. Victims should be allowed, unless prohibited by law, to be present at criminal justice proceedings

whenever their personal interests are affected. Their physical safety and psychological well being should be taken into account, for instance, at bail hearing. There should be no unnecessary intrusion into their privacy.

The Charter stipulates that victim support services should be free and accessible. It also acknowledges victims have a right to compensation from their offenders and, if offenders cannot pay, then the State should.

Noteworthy, the Charter outlines the roles and responsibilities that police, prosecutors and court officials are required to give effect to in their dealings with victims of crime. Furthermore, the Charter has specific clauses on child witnesses that are consistent with local, national, and international concern for these witnesses.

Unlike some other Charters, the proposed Indian Charter describes the emotional and practical support that victims should receive, if they seek it, and sets standards for delivery of that support. It also incorporates strategies for implementation because victims deserve more than rhetoric.

## **Third American Symposium on Victimology**

*Victimology Across the Americas*

**April 27-30, 2005,**

**California State University at Fresno**

**[www.american-society-victimology.us](http://www.american-society-victimology.us)**

## **Post graduate studies in Victimology**

The International Centre for Comparative Criminology at the Université de Montréal (Canada) offers 2 scholarships for post doctorate positions.

Each scholarship is for one year and is worth \$30,000 CAD.

Candidates are required to have completed their Ph.D. in criminology or a related area. Positions are available for 2006.

The Université de Montréal is a French university and candidates are expected to have a good knowledge of French or English. Research can be conducted in either language. The research does not have to include a comparative component and it is not required that the project include Canadian data.

**For Information, contact Jo-Anne Wemmers**

**jo-anne.m.wemmers@umontreal.ca**

**or visit these websites:**

**www.cicc.umontreal.ca or www.umontreal.ca**

### **THE VICTIMOLOGIST**

[www.worldsocietyofvictimology.org](http://www.worldsocietyofvictimology.org)

Newsletter of the World Society of Victimology

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#### **Managing Editor:**

Jo-Anne Wemmers, Université de Montréal, C.P. 6128 succ. Centre-Ville, Montreal, Quebec, Canada, H3C 3J7  
Telephone (1) (514) 343-6111 ext. 4864, Fax (1) (514) 343-5650, e-mail: [jo-anne.m.wemmers@umontreal.ca](mailto:jo-anne.m.wemmers@umontreal.ca)

#### **Editorial Board:**

Almir Maljevic, University of Sarjevo. Phone: 387 33445 452 ext: 227. E-mail: [amaljevic@fknbih.edu](mailto:amaljevic@fknbih.edu)

Georgios A. Antonopoulos, Department of Sociology and Social Policy, University of Durham, 32, Old Elvet, Durham, DH1 3HN, United Kingdom. e-mail: [georgios.antonopoulos@durham.ac.uk](mailto:georgios.antonopoulos@durham.ac.uk)

Marisol Casanova Guzmán, calle 7 #I-11, Urb. Brisas del Mar, Luquillo, P.R. 00773  
Phone: (787)763-1985 ext. 259, Fax: (787)763-5168, Email: [mcg103@prtc.net](mailto:mcg103@prtc.net)

Michael O'Connell, GPO Box 464, Adelaide, SA 5001, Australia, Phone: +61 +8 82071723, Fax: +61 +8 82071736  
email: [Oconnell.michael@agd.sa.gov.au](mailto:Oconnell.michael@agd.sa.gov.au)

Dr. Otmar Hagemann, Kiel University, Germany, [Otmar.Hagemann@FH-Kiel.de](mailto:Otmar.Hagemann@FH-Kiel.de)

Almir Maljevic, University of Sarjevo. Phone: 387 33445 452 ext: 227. E-mail: [amaljevic@fknbih.edu](mailto:amaljevic@fknbih.edu)

**Inquiries:** Address all correspondence concerning newsletter materials to the members of the Editorial Board.

**Membership:** For information concerning WSV membership, contact Irvin Waller, Secretary General, WSV, University of Ottawa, Telephone: (613) 730-0725, Fax: (613) 562-5304, email: [wallerirvin@msn.com](mailto:wallerirvin@msn.com)

*The Victimologist is made possible with the generous support of the International Centre for Comparative Criminology, Université de Montréal.*