

BOOK REVIEW

PARALLEL JUSTICE FOR VICTIMS OF CRIME

BY SUSAN HERMAN

The National Centre for Victims of Crime, 2010, 173 pages

ISBN 978-0-615-32610-8 (paperback)

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In a mere five chapters, this powerful work sets forth a new paradigm called ‘Parallel Justice’, its theoretical and empirical foundations, and its practical implications for all levels of society in responding to victims of crime. Where restorative justice spotlights justice goals related to offenders and the community, Parallel Justice brings out from the shadows equivalent justice goals related to victims and the community, ‘regardless of whether an offender is ever identified or prosecuted’.¹

The author of *Parallel Justice for Victims of Crime*, Susan Herman, is an internationally recognised spokesperson for victims of crime. The former Executive Director of the National Centre for Victims of Crime (USA), Herman is currently an Associate Professor in the Department of Criminal Justice and Human Services at Pace University. The book is the much-anticipated expansion of her previous writings,² in which she insists that

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¹ Susan Herman, *Parallel Justice for Victims of Crime* (The National Center for Victims of Crime, 2010) ix.

² Susan Herman, ‘Is Restorative Justice Possible without a Parallel System for Victims?’ in Howard Zehr and Barb Toews (eds), *Critical Issues in Restorative Justice* (Criminal Justice Press, 2004) 75; Susan Herman, ‘Seeking Parallel Justice: A New Agenda for the Victims

assisting victims to rebuild their lives is not merely a tokenistic expression of a compassionate society but rather an indispensable component of the practice of justice. This revolutionary tenet is rapidly gaining attention worldwide.³ Parallel Justice purposefully ‘*decouples* the pursuit of justice for victims from the administration of justice for offenders’.⁴ Keeping victims safe, helping victims to rebuild their lives, and re-integrating victims into communal life become ‘fundamental component[s] of society’s pursuit of justice’⁵ instead of ‘occasional byproduct[s] of a system focused elsewhere.’⁶ Parallel Justice proposes ‘an additional, often contemporaneous, set of responses geared to victims’,⁷ paralleling those of the criminal justice system. Where the criminal justice system seeks fairness for offenders and creates outcomes in the best interests of society, Parallel Justice seeks a ‘parallel set of responses ... designed to be fair to victims’ and creates ‘outcomes that are in the best interest[s] of society’.⁸ Opportunities for connection and interaction between these two separate pathways for achieving justice may or may not be relevant, depending upon the victim’s needs and preferences.⁹ Thus, restorative justice is considered ‘an optional component of a larger effort to provide victims the safety and justice they deserve’.¹⁰ Essentially, according to the Parallel Justice concept, ‘[i]nstead of asking victims to seek justice solely through the criminal justice process, we would ask victims to define the problems they face, and then do our best to address them’.¹¹

In Chapter 1, Herman presents compelling evidence regarding the multiple, complex and dire ramifications of crime on individuals and the ripple effects these have upon families, communities, and society. She highlights *connections* between the consequences of crime for individuals and the exponentially damaging effects these have upon society in terms of elevated levels of fear, erosion of social cohesion, loss of social capital, and the enormous financial burden of crime. She posits that each of these can be mitigated by providing meaningful, tailored and comprehensive support to

Movement’ (Speech delivered at the National Press Club Luncheon, Washington DC, 15 December 2000) <<http://www.ncvc.org/ncvc/AGP.Net/Components/documentViewer/Download.aspxnz?DocumentID=40543>>.

³ Herman, above n 1, ix.

⁴ Ibid 56 (emphasis added).

⁵ Ibid.

⁶ Ibid.

⁷ Ibid 57.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid 52.

¹¹ Ibid 75.

individual crime victims. Of particular note is Herman's attention to the little-acknowledged phenomena of repeat crime victimisation,¹² and the growing number of households victimised by financial crimes.

Chapter 2 systemically deconstructs the idea that victims of crime are well-served by contemporary justice responses and by significant criminal justice innovations of the last 40 years. She outlines the promises and limits of restorative justice, victim compensation, victim services, and victim participation and rights in the criminal justice system. Her underlying position is that 'reliance on the traditional criminal justice process as the primary way to provide justice for victims' is fundamentally 'flawed'¹³ because the vast majority of crimes are not reported, much less prosecuted. Thus, any strategy based upon the premise of criminal prosecution is destined to fail most victims and therefore also fails society.

Chapter 3 develops and expands the Parallel Justice concept, stating its 10 guiding principles:

1. Justice requires helping victims of crime rebuild their lives;
2. All victims deserve justice;
3. Victims should be presumed credible unless there is a reason to believe otherwise;
4. Victims' safety should be a top priority;
5. Victims should experience no further harm;
6. Victims' rights should be implemented and enforced;
7. Victims should have opportunities to talk about their experiences and needs;
8. Victims should be told what happened to them was wrong and that every effort will be made to help them rebuild their lives;

¹² For example, the system design of many Australian state-funded victim compensation schemes is simply unable to recognise multiple acts of violence by one perpetrator against one victim; nor is it able to recognise multiple acts committed by multiple perpetrators against one victim.

¹³ Herman, above n 1, 53.

9. Victims' needs should be addressed through a comprehensive, coordinated communal response;
10. Decisions about how to address victims' needs should be based on sound information and research.¹⁴

Herman then details the corresponding practical responsibilities each of these guiding principles places upon government,¹⁵ communities,¹⁶ and offenders.¹⁷

Chapter 4 provides 'a sampling of realistic options for how to re-align policies and practices to promote Parallel Justice'.¹⁸ Included within Herman's purview are: legislators; victim compensation schemes; neighbours, friends and family of the victim; business; employers; social services; providers of healthcare; victim advocates; other authorities vested with the power to meet victim needs; probation, parole and corrections services; the courts; the prosecutor; and the police.¹⁹ All are included in Herman's account of the re-orientations of basic social operations needed to help victims.

Chapter 5 sets forth six strategies for how to begin implementing Parallel Justice initiatives. These include: building a strong foundation of public understanding;²⁰ creating broad-based support for reform;²¹ basing the argument for reform on solid research;²² conducting an inventory of current responses to victims;²³ developing parallel justice priorities;²⁴ and creating a communication strategy.²⁵

Endorsed by restorative justice founder, Howard Zehr,²⁶ this book provides some much-needed balance to research and theorising about alternative

¹⁴ Ibid 58–63. See also Susan Herman, *Guiding Principles of Parallel Justice* (2010) The Parallel Justice Project <<http://www.paralleljustice.org/guidingprinciples/>>.

¹⁵ Herman, above n 1, 64–70.

¹⁶ Ibid 70–3.

¹⁷ Ibid 73–4.

¹⁸ Ibid 77.

¹⁹ Ibid 77–130.

²⁰ Ibid 131–2.

²¹ Ibid 132–3.

²² Ibid 134–5.

²³ Ibid 136–7.

²⁴ Ibid 137–8.

²⁵ Ibid 139.

²⁶ Howard Zehr, *Changing Lenses: A New Focus for Crime and Justice* (Herald Press, 1990); Howard Zehr, *Transcending: Reflections of Crime Victims: Portraits and Interviews By Howard Zehr* (Good Books, 2001); Howard Zehr, *The Little Book of Restorative Justice*

responses to victims of crime. It is widely recognised that both the criminal justice system and its proposed counter-weight, restorative justice, suffer similar ‘pipeline problems’ with respect to victims of crime: both require an identifiable perpetrator, both require that the victim report the crime, both require a certain level of investigation carried out by the police, and both systems presume that the victim possesses the resources and resilience necessary to sustain their involvement with the system to the end (an end which holds no guarantees for the victim). Because the vast majority of victims do not meet each of these hurdle requirements,²⁷ research and theorising based upon victims who do reach the final stages of either system are generally recognised as being unrepresentative at best and even seriously skewed.²⁸ By way of contrast, Parallel Justice flips the iceberg phenomenon of victims of crime on its head. Parallel Justice enables *all* victims of crime to gain access to the help they need to rebuild their lives ‘even if a perpetrator is never caught, and even if the crime is not reported to the police’.²⁹

International interest in Parallel Justice is burgeoning. Researchers in Germany are on the cusp of launching a study to determine how best to implement concepts of Parallel Justice there.³⁰ Victim Support in New Zealand has published a monograph advocating for Parallel Justice in their

(Good Books, 2002); Howard Zehr and Barbara Toews (eds), *Critical Issues in Restorative Justice* (Criminal Justice Press, 2004).

²⁷ The overwhelming majority of victims of crime do not report the crime to the police. See generally Sam Garkawe, ‘Legislation in Support of Crime Victims: The Australasian Experience’ (2009) 37(1) *Indian Journal of Criminology* 22; Herman, above n 1; Herman (2004), above n 2. Furthermore, reporting crime to the police is by no means a guarantee of a police investigation. For example, Australian researchers Daly and Bouhours found that for every 100 victims of sexual violence who report it to the police, the police drop 72 and the prosecution drop a further 8 of the cases: see Kathleen Daly and Brigitte Bouhours, ‘Rape and Attrition in the Legal Process: A Comparative Analysis of Five Countries’ in Michael Tonry (ed), *Crime and Justice: A Review of Research* (University of Chicago Press, 2010) 565, 608. These figures relate to Australia. Daly and Bouhours found similar figures of systemic inaction in five common law countries. Disturbingly, their study also found that systemic inaction in cases of sexual violence has significantly increased in the last 15 years, despite intensive victim-oriented systemic interventions. See also Kathleen Daly, *Conventional and Innovative Justice Responses to Sexual Violence*, No 12 ACSSA [Australian Centre for the Study of Sexual Assault] Issues (Australian Institute of Family Studies, September 2011) 1, 3–8, 27.

²⁸ See generally Herman, above n 1; Herman (2004) above n 2; Garkawe, above n 27; Daly and Bouhours, above n 27; Judith Lewis Herman, ‘Justice from the Victim’s Perspective’ (2005) 11(5) *Violence Against Women* 571; Kelly Richards, ‘Taking Victims Seriously? The Role of Victims’ Rights Movements in the Emergence of Restorative Justice’ (2009) 21(2) *Current Issues in Criminal Justice* 302.

²⁹ *Parallel Justice for Victims of Crime* <<http://www.pjburlington.org/>>.

³⁰ Email from Susan Herman to Rachel Gear, 4 July 2012.

country.³¹ Academics and victim advocates in England are working to promote Parallel Justice ideas.³²

The most developed site of Parallel Justice implementation is in Burlington, Vermont (USA) which commenced as the national demonstration site in 2006.³³ Vermont has a Resource Bank, which is a fund along with in-kind donations from area businesses to help crime victims with out-of-pocket losses.³⁴ The full details of the Burlington Project will be made available at the end of this year (2012) in a Parallel Justice Replication Guide.³⁵ There are also innovative Parallel Justice initiatives in other communities across the United States.³⁶ For example, the Redlands Police Department (RPD) (California) formally embraced Parallel Justice under the leadership of Police Chief Jim Bueermann (now retired).³⁷ Bueermann instigated a number of initiatives to anchor Parallel Justice in organisational culture and to alter the way in which Department members viewed their obligations to victims of crime.³⁸ All RPD employees and volunteers were trained in tenets of Parallel Justice; 'Helping victims of crime rebuild their lives' was adopted as one of the Department's six 'Guiding Principles'; the Department hired a social worker for this purpose; funds from the Department budget were allocated to help crime victims; existing, well-intentioned RPD practices towards victims of domestic violence were evaluated and then scrapped based upon the

³¹ New Zealand Council of Victim Support Groups ('Victim Support' – Manaaki Tangata), *Commitment to Parallel Justice*, November 2007 <http://www.paralleljustice.org/pdf/Victim_Support%20_Parallel_Justice_Report.pdf>.

³² Tina Skinner and Olivia Smith (University of Bath) and Nicole Westmarland (Durham University and Rape Crisis) are key Parallel Justice contacts in England: see Olivia Smith and Tina Skinner, 'Observing Court Responses to Victims of Rape and Sexual Assault' forthcoming (2012) *Feminist Criminology* 1, 8 (advanced access edition published online, 12 April 2012 <<http://fx.sagepub.com.ezp.lib.unimelb.edu.au/content/early/2012/04/08/1557085112437875.full.pdf+html>>); Email from Olivia Smith to Rachel Gear, 12 July 2012; Email from Tina Skinner to Rachel Gear, 9 July 2012. Dr Skinner also teaches Parallel Justice as an example of an alternative way forward in her undergraduate and postgraduate classes at the University of Bath: email from Tina Skinner to Rachel Gear, 9 July 2012.

³³ *Parallel Justice for Victims of Crime* <<http://www.pjburlington.org/>>; *Parallel Justice in Vermont* <<http://www.ccvs.state.vt.us/parallel-justice>>.

³⁴ Email from Sharon Davis to Rachel Gear, 9 July 2012.

³⁵ Email from Sharon Davis to Rachel Gear, 4 July 2012. To access copies of the Replication Guide when it is released, see <<http://www.pjburlington.org/replication.htm>>.

³⁶ Email from Susan Herman to Rachel Gear, 4 July 2012.

³⁷ Jim Bueermann, *Parallel Justice for Victims of Crime in Redlands, CA USA*, email attachment from Jim Bueermann to Rachel Gear, 11 July 2012. See also City of Redlands, *Parallel Justice for Victims of Crime* <<http://www.ci.redlands.ca.us/police/ParallelJustice.htm>>.

³⁸ Bueermann, above n 37.

absence of a positive effect for victims and the presence of slight negative consequences for victims; the City's Human Relations Commission was trained in Parallel Justice so that it could serve as a representative body of the City to give victims a forum to voice the impacts of their victimisation; the Department offered safety planning for victims; and Department members increasingly used their own initiative to help crime victims instead of waiting for orders from their superiors.³⁹ For instance, cards signed by dispatchers acknowledging the impact which crime had had on the victim and stating that the dispatchers were sorry the person had been victimised became a practice adopted Department-wide.⁴⁰ In addition to offering acknowledgement and apology to victims, officers also became 'much more likely to go above and beyond their employment obligations to help people who had been victimised'.⁴¹ For example, on a number of occasions, officers parked marked patrol cards outside the home of burglary victims for several days until the victim felt safe that the burglar was not returning.⁴² An officer personally aided a low-income elderly couple who were robbed on their way to a date together: in addition to taking the police report, he bought the couple dinner and movie tickets so they could 'rebuild' their date.⁴³ According to Bueermann, 'Parallel Justice helped the members of the RPD in finding their "true purpose" in policing'.⁴⁴

Parallel Justice is also being implemented in other diverse sites in the United States. The Brooklyn District Attorney's Office in New York City has instigated a Parallel Justice initiative intended to serve victims of crimes where the offender has not yet been identified.⁴⁵ Stanford Law School is launching a Parallel Justice Pro Bono initiative to be implemented by law students this coming academic year.⁴⁶ Students will assist eligible victims to access state-funded victim compensation benefits.⁴⁷ Students will also recruit private businesses from the area to donate services for a Resource Bank (akin to the bank set up in Burlington) and will help in matching victims to these services.⁴⁸ It is anticipated that a by-product of the law school's program will

³⁹ Ibid 1.

⁴⁰ Ibid 2.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Email from Susan Herman to Rachel Gear, 7 July 2012.

⁴⁶ Email from Debbie Mukamal (Executive Director of Stanford Criminal Justice Centre, Stanford Law School) to Rachel Gear, 12 July 2012.

⁴⁷ Ibid.

⁴⁸ Ibid.

be the facilitation of ‘trust and legitimacy among victims and the broader community to government systems’.⁴⁹

Parallel Justice for Victims of Crime is a welcome addition to the libraries of all who desire justice for victims of crime. Written in accessible language, it will be of particular interest to criminal justice personnel, health and social service practitioners, academics, victim advocates, legislators, government, community and non-government organisations, faith-based institutions, victims of crime, and those interested in alternative responses to crime. In the right hands, *Parallel Justice* has potential to further galvanise support for victims of crime in Australia.

⁴⁹ Ibid.