



Book Review of Therapeutic Jurisprudence and Victim Participation in Justice: International Perspectives

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Therapeutic Jurisprudence and Victim Participation in Justice: International Perspectives. Edited by: Edna Erez, Michael Kilchling, Jo-Anne Wemmers. Published 2011, \$50.00, 314 pp, ISBN: 978-1-59460-946-6

Therapeutic jurisprudence has become an essential concept in the modern understandings of the litigant-defendant relationship. Traditional methods of victimization have undergone massive changes in the past decades. This has in many societies outsmarted the police and prosecution, made the victims less reliant on the police and criminal justice system and highlighted defendant's rights reducing the victims as mere witnesses. As such, the need of the hour is to train the constituting instruments of criminal justice systems, namely the police, the advocates and the judges to approach this delicate issue from the victim's point of views. Victims are the key instruments of court systems in every civilized society. The need of the victims therefore gains more importance than anything else in the present day context. Criminal justice actors including the police, the advocates and the judges need to act as therapists to heal the harm done to the victims while balancing the defendant's rights. The book "*Therapeutic Jurisprudence and Victim Participation in Justice*" is one fine source of understanding various methods which may be applied in victim justice issues. This edited book is a conglomeration of ideas and suggested methods of therapeutic jurisprudence and victim participation in it from trans-border jurisdictions written by professionals from various countries. The editors, veterans in the subjects themselves, have thoughtfully divided the book into four sections; victim participations, victim and the law, restorative and transitional justice, and controversies and limits.

The book opens with an introduction chapter to the book by the editors Edna Erez, Michael Kilchling and Jo-Anne Wemmers. The subtle language used in the editorial introduction successfully elaborates the concept of therapeutic jurisprudence in a brief manner. This editorial introduction not only clarifies the concept of therapeutic jurisprudence, it also firmly establishes the fact that therapeutic jurisprudence would become more meaningful with willing participation of the victims; this would be possible only when the criminal justice prosecution as a whole adopts a healing approach towards

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the victims. This introduction chapter also introduces the following twelve chapters distributed in the four sections.

The first section rightly focuses on victim participation. The first chapter titled “therapeutic jurisprudence and victims of crime” is authored Bruce J. Winick, in whose memory the book is dedicated. Winnick emphasized on certain basic facts, such as the needs of the victims in the criminal justice system, including sympathy and understanding by the police and the prosecutors, the general attitude of the police and prosecutors which may create negative impression on the victims and which needs to be changed, and training for the police, prosecutors and the judges to be a good listeners for helping the victims. The chapter also offers suggestions towards healing approach to the victims by stating that “video –taped or one way close circuit testimony” (pg 6) may help victims to avoid confrontation with the perpetrator. The chapter also highlighted the need to emphasize upon the restorative justice model and victims impact statements for restitution of victim’s rights. The chapter proposes that such suggestions if adopted by the criminal justice system may also prevent secondary victimization. At the same time, the chapter also opens further scope for the social science researchers to test the suggestions.

The next three chapters in that section bring out various measures of therapeutic jurisprudence aspects through victim participation in three countries, namely, the US (pp. 15-40), Germany (pp. 41-66) and Canada (pp. 67-88). All three chapters highlighted the fact that victim participation especially through victim impact system (VIS) is extremely important for delivering proper justice to the victims. However, all three chapters also sadly point out that majority of the victims are not satisfied as how the police and the prosecution handle the cases in real life. Erez et.al draws conclusion on the observation on US system by stating that “adversarial justice principles” needs to be abolished to bring an end to the negative experiences of the victims (pg 37); Wemmers in his observation on the Canadian system points out that victim participation becomes therapeutic when four essential conditions are fulfilled, viz., when victims get respect and recognition, they are fairly treated, i.e., they are validated, considered and consulted, their voices are properly heard and sentencing is validated to the victimization (pp. 80-81). He also points out that sentencing can turn anti therapeutic when it fails to validate the victim (pp. 81). He emphasized on the fact that like the US, in Canada, victims are often found unaware of many legal “common sense” and this causes major secondary victimization. Even though this has to be looked after by victim support organizations, he showed examples of a Quebec study where it was shown that most victims do not get any such help. Kury and Kilchling on the other hand drew a positive picture of German system. They showed that the accessory prosecution system can prove extremely beneficial to the victims. However, they also emphasize that to achieve this purpose and the scope of Second Victim rights improvement act, 2009, which develops the concept of victim’s rights through victim participation among other welfare measures, it is necessary to make the victims aware of such things. However, all these three chapters also highlight the fact that among issues like unawareness, lack of due respect and recognition to the victims, attitude of the court officers, police etc, financial risks of the victims (including worries regarding paying of the fees) also must not be underestimated. This plays a key role in holding back the victim from participating in the criminal justice process. The underlying note remains that if the victims are therapeutically motivated by various governmental organizations including the three key players of the criminal justice system, namely the police, lawyers and the judges

to participate in the proceedings, the victim's stand may be improved from mere witnesses to contributors of proper justice.

The second section is dedicated for the discussions on victims and the law. The section opens with an excellent chapter on victim legal clinics by David B. Wexler. He makes a proposal of 10 step format for "legal system victim impact system", where he proposes for model clinics to help the victim understand the whole system, participate and progress with his/her case. The 10 step format finely shows how grass root level legal personnel starting with law students, to the highest level of law personnel like the judges and also the victims can be involved in this. The next two chapters speak about victim's right from the procedural and constitutional law perspective in Germany (Walther) and in Austria (Sautner & Hirtenlehner). Both showed the necessity of proper implementation of the written scripture of laws and conventions and development of the victim's rights concepts in their respective regions. The third section is dedicated to restorative and transitional justice. This section opens with the chapter by Gal and Hezroni who dealt with the case of child victims and the therapeutic value of restorative justice. Indeed, this chapter needs to be specially mentioned as the authors' point out very valid observations on the impact on the children of the criminal justice procedure, especially when the victim impact statement or simple testimony seems to be extremely stressful due to relationship with the offender. The chapter finely brings out the possible traumatizing factors for the child victim in the court, such as the site of the actors of criminal justice system in uniform, including judges in wigs. The authors also offer very good workable suggestions. The next chapter by Buntman on therapeutic jurisprudence and Apartheid's victims in South African context further deserves a special mention as he brings in the State as a victim among the four categories of victims that this chapter deals with. He supports his discussion in the light of analysis of truth and reconciliation commission (TRC) in South Africa.

The last section attracts the attention of readers more; this section deals with controversies and limits. What are the challenges for therapeutic jurisprudence? the answer was uniquely addressed by Stokkom in his chapter which mainly deals with the question 'is revenge therapeutic?' he draws his observations from harsh punishments including capital punishments and victim's feelings on such types of sentencing. The next chapter by Pemberton and Reynaers speaks about controversial nature of victim participation. They point out that there can be many anomalies in the criminal justice system itself which can actually holdback the benefits of victim participation. This may also cause victim's dissatisfaction. The chapter also speaks about therapeutic benefits of the victim impact statement. The last chapter in this section is by Hoyle. It speaks about use and abuse of victim impact evidence (VIS) from the US and the UK perspectives mostly regarding serious and heavy crimes like manslaughter. The author highlights a very crucial issue of victim participation in criminal justice procedure, namely, victim's emotions which can influence the sentencing and the criminal justice as a whole. The book closes with a remarkable observation from this author "*Punishment, it cannot be sufficiently emphasized, should be tailored to fit the crime, not the victims.*" Perhaps this is the greatest challenge of therapeutic jurisprudence, to heal the harm of the victim in an extremely balanced way.

The book with its selected chapters and excellent introductory chapter has a magnifying attraction for the readers. Researchers of law, criminology, victimology and related subjects, law students, practitioners, judges, victims and those interested in aiding the victims by their professional expertise must read this book to understand the core

value of therapeutic jurisprudence. Considering the price, the quality of the editorial work, the expertise, I believe that this book should not only be “must possession” for individuals above mentioned, but it will also be the most sought after one for all the academic as well law libraries, court libraries, police libraries.