

### Book Review

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*Freckelton, I (2001). Criminal Injuries Compensation: Law, Practice and Policy. Lawbook Company: Sydney. 398 pages. \$97.90 (GST inc).*

Australia has eight States and Territories – all with their own laws, policies and practices with regard to victims of crime. While such a state-of-affairs is most attractive from purely political or research perspectives, it also ensures that the knowledge any one person has of each system is usually fragmentary and nearly always time-limited. Freckelton has attempted to address this problem by providing an Australia-wide perspective that provides the necessary information in a systematic and articulate fashion.

The book appears to be of primary use to the forensic medical or psychological specialist. With this said, however, I am quite sure it would also act as an invaluable referencing resource to the legal fraternity and other related disciplines. In consequence of being the first book of this kind, it provides an analysis of the various options available in dealing with such a complex and emotionally charged topic.

The publication is divided into four sections, which are in turn segmented into thirteen chapters. The first section comprises a review of the socio-political history of crimes compensation and an analysis of the availability and advisability of different methods of addressing the needs of the victim. The historical appraisal is placed within the context of the influences from practices in the other major westernised countries and takes a chronological approach in explaining how we have reached the current situation.

Of particular interest to this reviewer was the chapter entitled “criminal injuries compensation in transition”. Here Freckelton examines the arguments for and against financial compensation and to some degree approaches the issues related to therapeutic interventions for victims of crime. In so doing Freckelton evaluates how various schemes can: be open to abuse by various vocational groups and sub-cultures; under-utilised by or inaccessible to those most in need; re-victimise the victim through bureaucratic delays and processes and inadequate financial gestures; empower the victim; encourage a culture of the “deserving” versus the “undeserving”; or result in the wasting of valuable resources. These areas of concern are not proffered in an opinionated fashion but are expertly debated as one would expect in a scholastic analysis. However, without detracting from the value of the points put forward, the major weakness of the book lies in the lack of an in-depth debate regarding the value of counselling schemes and practical issues relating to their administration and effectiveness. Paradoxically, it is probably this omission that makes the book of more use to mental health professionals. Reviews relating to therapeutic need and effectiveness can have divisive results amongst psychologists and psychiatrists. By not discussing this issue the focus of debate is kept on the pros and cons of financial compensation, legal processes and the basic tenets of law – knowledge of which is mostly incidental to mental health specialists. However, an analysis of the administrative purpose and procedures of the various counselling schemes within Australia (particularly those of Victoria and New South Wales) would greatly complement the current book.

The second section of the book encompasses general principles of law related to criminal compensation. This section is well written and lacks the jargon which normally confounds comprehension by those not in the legal profession. Points are demonstrated by cases (both reported and unreported in legal texts) and the derived principles fully explained. It is this section which I have found of greatest use in teaching postgraduate psychologists regarding the needs of victims and their rights. I thoroughly recommend this section to all those who are approaching criminal victimisation for the first time.

The third section outlines the legislation within each of Australia's jurisdictions relating to the entitlements of victims and the processes specific to that region during the course of practice. A chapter is devoted to each State and Territory. This is augmented with a summary of how each jurisdiction calculates compensation amounts and, in the case of New South Wales, an appendix of possible compensation awards by injury type. Indeed it is this section which, to my mind, highlights the inequities between jurisdictions and, although not mentioned, exposes the need for a more integrated Federal approach.

Commonly, evaluative indicators encompass rates of consumer "satisfaction", cost to the community in dollar terms and, although rarely, return to pre-victimisation physical and mental functioning. These indicators are from different social domains and have never been seen and evaluated together. A Federal approach would need to firstly evaluate the schemes as they are currently practiced. It is here that Australia is uniquely advantaged. Some jurisdictions provide counselling, others do not. Different forms of financial compensation are also provided across these States. Further, some States (e.g. Victoria) currently provide both counselling and compensation. Freckelton's review of the possible compensatory outcomes by jurisdiction makes it abundantly clear that Australia is a natural testing ground for the effectiveness of different approaches. Time will tell.

The fourth section addresses the role and procedures of advocacy in criminal injuries compensation claims. Freckelton advises that advocacy entails "providing information of such a kind and in such a way that it will rouse a decision-maker, who may well routinely receive large numbers of such submissions, into a responsive attitude toward the particular circumstances of the particular client" (p. 329). This section appears to be primarily of use to counsel acting on behalf of the victim in galvanising a case which will maximise the likelihood of a successful presentation to the decision-maker and outcome for the victim. This is addressed by providing sub-sections relating to each of the players involved with the victim's case and the type of presentation required (e.g. from the treating practitioners, an independent forensic practitioner, the victim and the victim's family and friends).

Throughout the book Freckelton makes the case for accountability. In arguing for this he focuses on the Victoria Victims Referral and Assistance Service, and reasons that it should be accountable to parliament for its practice and expenditure. However, one should keep in mind that such accountability should, by the same arguments made, be extended to legal, medical and psychological practitioners. Should the move towards financial compensation in Victoria continue, the process of which Freckelton expertly and with no small degree of prescience outlined, the cost to the public purse will no doubt continue to increase as it did before counselling was introduced. This will shift

the focus of accountability to both the decision-makers and individual lawyers, as indeed should be the current case for mental health practitioners.

It should be kept in mind that Criminal Injuries Compensation: Law, Practice and Policy is exactly as it is entitled and deals almost entirely with “compensation”. In this reviewer's opinion, and for those less au fait with the arguments and specifics related to therapeutic intervention, one should also keep in mind that this does not preclude “restorative treatment”.

During the introduction Freckelton advises that the book is “about the ways in which the legal system, by the award of compensation and by the process for awarding compensation, has the potential to facilitate, rather than obstruct, recovery from violent crime” (p. 1). This goal has been achieved and the book should be thoroughly recommended, particularly to mental health practitioners who specialise with this population. I have no doubt that such a well organised, conceptualised and researched perspective will become the authoritative text on this topic in Australia.