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There is a vast social science and legal literature on capital punishment. Much of this examines policy issues and debates, deterrence theories, Supreme Court decisions, and questions of race, class, and equity. Into this mix, criminal justice scholar James Acker and sociologist David Carp have developed an anthology organized around victim perspectives.

The anthology begins, appropriately enough, with the voices from the surviving parents, children, siblings, or other family members of victims murdered in a variety of tragic settings. In their own words, the voices provide an essential map to the mixture of grief, sorrow, anger, fear, and desire for retribution or revenge that pervade the lives of surviving family members.

A number of themes emerge from these intensely personal eight stories. Some people were treated so poorly or became so frustrated with the criminal justice system that they joined or began victim advocacy programs in their communities. Opinions on capital punishment vary widely among these victims; some favor the death penalty, others are opposed, and sometimes, family members do not agree. Many find it hard to reconcile their opinions about capital punishment in general with a just punishment for the killer of their family member. Most reject the notion that even an execution can provide “closure” for a grieving family; in the words of one mother who lost her daughter in the Oklahoma City bombing, “When the lid of my casket is closed, only then will I have closure” (p.138). These well-developed stories are a powerful reminder to scholars and students alike that capital punishment is not merely an abstract policy debate; it may be the final outcome for heinous crimes committed against real people, whose family members must find new ways to live in their absence.

Acker and Jeanne Marie Mastrocinque begin the next section on “legal perspectives” with an historical overview of the transformation from a system of private justice prevalent before the Middle Ages to public justice – the idea that a criminal action offends not only the victim but, more importantly, society as a whole. This transformation, which also included the later development of professional prosecutors, elbowed the victim from a lead role to a minor player, so minor that a grassroots “victims’ rights”
movement developed in the 1980s to bring victim concerns back into the prosecution, trial, and sentencing of offenders. The essays in this section, however, are somewhat repetitive, traversing much of the same constitutional ground, culminating in a [*625] U.S. Supreme Court decision (PAYNE v. TENNESSEE, 1991) that allowed victim impact statements to be considered in the sentencing phase of capital trials. Austin Sarat’s theoretically-grounded essay on Illinois Governor George Ryan’s blanket clemency for death row inmates is perhaps the best of this section. He discusses the norms of retributive justice and the ways in which these norms conflict with the voices of victims, showing how Ryan himself struggled to reconcile these two traditions. However, Sarat provides mostly a rhetorical analysis of Ryan’s public statements, suggesting that politicians mean what they say and say what they mean, in my view failing to consider the particular political motivations and private demons of elected public officials.

In the section on research perspectives, Margaret Vandiver provides a short overview of a fruitful research agenda, noting that “there is surprisingly little research concerning the effects of capital punishment on the families of murder victims” (p.235). Her comments on research methods, including the likelihood of small samples, the sensitivities of the issues and research subjects, and the desirability for longitudinal research, suggest why there has been so little empirical research in the area. Co-editor David Karp and Jarrett Warshaw explore the role of murder victims’ families in the decision-making of jurors. Using national data from the Capital Jury Project, they find that the testimony from families of murder victims has no statistically significant effect on the life or death sentence that juries reach.

Perhaps most interesting are their findings with respect to race: family members of white victims are almost twice as likely to offer testimony in the sentencing phase of capital trials as the family members of nonwhite victims. In the absence of additional context data, their interpretation of these differences is appropriately restrained – it might be prosecutorial bias or the voluntary choices of white and nonwhite survivors. This might be added to the research agenda for the field, although if Karp and Warshaw’s empirical findings are correct, it may be a difference that makes no difference for the sentence.

On another research front, Judith Kay offers an analysis of the potential for restitution in murder cases, drawing upon interviews from two small studies of twenty-five people, all of whom opposed the death penalty. She finds that survivors are usually offended by this concept and its economic overtones, which suggest that the value of a human life can somehow be measured in dollars. This section concludes with an interesting study, also based on a very small sample, of mediated dialogues between the offender and surviving family members in capital cases. Mark Umbreit, Director of the Center for Restorative Justice and Mediation, and his colleagues, provide a description of mediated dialogue programs in criminal justice settings and analyze three murder cases in Texas, the first state to establish such a program for violent crimes in 1993. All of the participants reported generally positive (if complex) feelings from the dialogues, which are nicely re-told, including the three death row offenders who were subsequently [*626] executed and the two mothers and granddaughter of the murder victims. Because of the self-selection biases inherent in such programs [the dialogues must be victim-initiated], however, it is difficult to draw many conclusions.

A short policy section brings the anthology to a conclusion. In a chapter on “Reaching Out to the Other Side,” Tammy Krause argues that prosecutors are not always able to provide the surviving family members with what they want or need – information about their loved one’s last moments, whether the defendant is genuinely remorseful, whether the family is willing to endure the burdens of lengthy trials and appeals or would prefer a plea agreement, and so on. She advocates for defense-based outreach to victims and their families, within the parameters of guidance from the victim outreach specialists involved in the particular case. Indeed, the mediated dialogues discussed above provide one form of
such outreach. In a similar vein, Peter Loge offers a series of recommendations for policy changes, a key one being the removal of victim services from prosecutors' offices so that victim outreach can be wholly independent of the prosecution and its agenda for public justice. Indeed, this recommendation emerges from a number of the contributors, who report many stories of prosecutors who arm-twist victims to support the state-preferred capital sentence, trial or plea agreement.

More generally, the book is much more about victim-based perspectives than the death penalty, which provides a convenient window for discussion of a wide range of victim views and concerns. No one article, for example, systematically compares the views of victims and their surviving family members toward the death penalty with the general population. While it is clear from the anthology that not all family members seek or desire a capital sentence – indeed, there is a wide range of opinion – we learn little more. One suspects that the voices of family members who oppose or have serious qualms about the death penalty are more frequent in this collection than at-large, but there is no research, reported or perhaps available, to assess the representativeness of these contributors’ views.

The voices of victim advocates predominate in the collection, both in the personal stories that begin and in the later essays. The research and policy recommendations are values-based or values-driven. Not only does this lead to some repetition of information and perspectives, but it may also leave readers with a feeling that many contributors are engaged in a form of special interest politics rather than informed analysis. Without a doubt, many family members and other victims have been treated shamefully by the criminal justice system or some of its representatives, as this volume amply highlights, and victim rights organizations have contributed a useful corrective to the strong movement toward public justice. But I am not sure that the research and policy recommendations discussed in this collection reflect a very broad view of the criminal justice system. Analysis here does not usually address the tough questions such as: Who would pay for [*627] victim services if not the prosecutor? Would victims’ offices really get much money from state legislatures without the support and involvement of prosecutors? Are there any models for different organization and funding in the states or in other countries? Or, what keeps the death penalty in place in so many states? Is it a general popular support or a narrower base of vocal support from key victims’ organizations, police, and/or other special interests? These are hard questions both analytically and emotionally, but ones that political scientists would like to see asked and researched.

I also have a few technical quibbles. For whatever reason, there is no “About the Authors” section, so the reader often does not know the discipline, job, or perspective of the author. Perhaps the editors felt that the “qualifications” of those telling personal stories would somehow be diminished by descriptions of the professional accomplishments of the academic contributors. But the result is a lack of key information and potential confusion over common names (is it the Judith Kay/e who is the New York State Chief Judge or the professor of religious and social ethics at the University of Puget Sound? It is the latter, above). Ironically, most of the authors of the personal stories tell who they are (victim advocate organizers, teachers, mothers, and so on), but most of the scholars (some of whom also direct mediation centers or victim research units) do not.

On fronts more familiar to anthologies, the editors could have trimmed down some of the repetitious discussions across articles. Repetition is common in anthologies, but the problem is even more obvious in this collection. The editors might also have written a short introduction to each section, perhaps moving some of their remarks from the opening essay to a few paragraphs immediately in front of each section, thereby sharpening the distinctions among the legal, research, and policy sections. The editors could also have penned a concluding article, tying together some of the diverse personal and academic perspectives that make this volume distinctive.
In reflecting on this book, I cannot help but be struck by the sea change in the discourse and scholarship on criminal justice since the 1970s, when I first began teaching about crime, justice, and politics. Then, the (relatively new) procedural rights of defendants took center stage, not the victims or their surviving family members. And sentencing reforms of that era focused on the need to introduce equity and consistency across sentences for similar crimes, which ultimately led to federal and state sentencing commissions. As a few of the contributors to this volume acknowledge, these twin goals of sentencing could easily be jeopardized by introducing a significant voice for the individual victim/s in the sentencing decisions in capital cases. Although the book does not address this enormous change in perspective, it is surely representative of it.

WOUNDS THAT DO NOT BIND will be most effective in undergraduate criminal justice courses; it offers students a rich portrait of victim-based perspectives not likely to be found in [*628] textbooks. But teachers need not assign all of the articles; a judicious sampling will suffice. The book should also be read by key criminal justice practitioners – prosecutors, defense attorneys, judges, and police – many of whom might gain some startling insights into their own behaviors and their impact on outsiders.

CASE REFERENCE:

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