

## Summary

In 2008 almost 5.2 million people became victims of a criminal offence in the Netherlands. The consequences for the victim can be severe. However, sometimes victims suffer not only as a result of the crime, but also by the criminal justice response to the crime; they have the feeling that the criminal process victimises them for a second time. This issue is the subject of this study. In the background is the wish to prevent victims from suffering further harm as a result of the criminal proceedings.

The main objective of the study was to explore how police, public prosecutors and the judiciary deal with victims in their position as witnesses and, in particular, to learn whether it can be said that victims routinely experience an aggravation of their suffering as a result of their participation in the criminal proceedings. The study particularly focused on victims of serious crimes. The central research question was whether there are indications that - in the Netherlands - victims of crime regularly experience secondary victimisation due to their position as a witness in the trial, and if so, what the main causes are.

The study was commissioned by the Scientific Research and Documentation Centre of the Ministry of Justice (WODC). It consisted of two phases. In the first phase a literature study was conducted to explore the concept of secondary victimisation more closely. The results from the first phase were presented to mental health experts in two focus group meetings. In the second phase of the study, a total of twenty-one interviews were conducted with police, prosecutors, investigating judges and trial judges. The focus of the interviews was to learn whether professionals in the criminal justice system actively try to reduce the risk of secondary victimisation and, if so, how they are doing this. Questions concentrated primarily around the balancing of interests between the accused, the criminal process, (fact finding and procedural interests,) and the interests of the victim. Do professionals in the criminal justice system balance the interests of the victim against those of the suspect and the criminal process? Can they give examples showing how they do this and at which points in the criminal process? Finally, a focus group meeting was held with victim support staff (including lawyers and staff of Victim Support Services Netherlands) and interviews were conducted with four victims of serious crimes, namely, robbery, mugging, sexual abuse and human trafficking.

Secondary victimisation has been defined as 'the aggravation of the suffering or harm to the victim caused by the initial crime as a result of the criminal process'. The study identified four different types of secondary victimisation: negative psychological effects on the victim's self-esteem, faith in the future, trust in the legal system, and faith in a just world; an increase in the frequency of posttraumatic stress reactions to the original trauma caused by the crime; the hindering of the process of recovery; and the experience of a second, new trauma, resulting from the trial. The two forms that came most clearly forward out of the literature study, focus groups and interviews with victims were negative effects on the victim's self-esteem and their faith in the future, the legal system and a just world, and, for those victims who were already traumatised by the crime, the increase of post traumatic stress reactions to the initial trauma. The latter we understand under the term re-traumatisation. These two forms of secondary victimisation should be distinguished from each other. The first relates to all victims of crime while the second impacts only on those victims already traumatised by the crime. Re-traumatisation, (also called secondary traumatisation,) resulting from the criminal trial is thus a narrower concept than secondary victimisation. Secondary victimisation in relation to hindering the process of recovery was mainly mentioned, either directly or indirectly, in the focus groups and in the interviews with victims. Secondary victimisation through a second, new trauma resulting from the trial process was only mentioned as an exception in the literature as well as in the focus groups and interviews.

Secondary victimisation may not only be experienced by the victim witness during questioning by the investigating judge or by the trial judge in court. Other factors may also play a role such as the imbalance between the position of the accused and that of the victim, a lack of information provided to the victim, the interaction between criminal justice officials and the victim, the long duration of the trial and discontent about the outcome of the trial.

Key concepts in the prevention of secondary victimisation seem to be predictability, control, safety,

and justice. The higher criminal proceedings 'score' positively on these factors the lower the chance of secondary victimisation. However, the question of whether secondary victimisation occurs not only depends on factors within the criminal proceedings, but also on other factors such as the severity and nature of the crime (for example, 'what happened' type of crimes may directly put the credibility of the victim at stake, contrary to 'who's done it' crimes), personal characteristics of the victim such as gender, age and resilience, and the social context (in particular the presence of a supportive environment). These factors also 'score' along the dimensions of predictable/unpredictable or safe/unsafe etc. For example, factors stemming from the personal characteristics of the victim that tend to increase the need for predictability and security are previous traumatic experiences or an intellectual disability. This is relevant for the trial process because it means that some victims, (given the nature of the crime, their personal characteristics or environmental factors) are particularly vulnerable or susceptible to secondary victimisation.

With regard to predictability, the provision of information to the victim, the procedures around the interrogation by the investigating judge or in court, and the length of time of the criminal process are particularly problematic. A sense of lack of control is especially experienced by victims around decisions relating to prosecution, pre-trial detention and the manner of settlement of the case, in which the wishes and interests of the victim play only a very limited role. A clear problem relating to control is the inability of victims to obtain or access a copy of their own testimony and the case file, whether through a victim lawyer or otherwise. Points of concern related to safety include the decision of the location where the victim statement is recorded, confidentiality around personal data and address of the victim, the gathering of information from third parties (in particular the fact that the victim should be aware that all information is recorded in the criminal file and thus available to the accused) and the interrogation by the investigating judge or in court, in particular the treatment of the victim by the accused's lawyer and the protection of the victim against intimidating or unjust questions. In addition, it is unclear where the responsibility lies for the preparation of the victim for the interrogation. In some cases things go wrong around the trial, such as seating arrangements, where victims and suspects are seated together in the waiting room or next to each other in the courtroom.

In regard to the sense of justice, many victims experience the imbalance in the position of defendant and victim as especially unfair: they feel as if the accused has all the rights while they have none. This includes the fact that the accused has access to the entire case file, including information about the victim, while often victims do not even get a copy of their own statement. Other issues impacting on a victim's perception of justice are an adequate motivation of the verdict, which currently is often lacking - if victims are provided with the judgment at all - and the final outcome of the proceedings. Regarding the latter, it is interesting to note that all of the victims interviewed mentioned prevention of further crimes as an important element of the outcome.

The professionals involved in the criminal process think very differently about the position of the victim in the criminal process. This goes especially for prosecutors, investigating judges and trial judges, who had opinions ranging from "it's fine the way it is and should not change" to "it needs to change". There seems to be only very limited awareness among them of the implications of new legislation which strengthens the position of victims. This is particularly true with regard to the introduction of a similar "presumption of innocence" for victims as there already is for the accused: a victim should be regarded as a victim until the contrary is established. Also, opinions about their task in protecting the interests of the victim vary greatly. A shared view about this, particularly within the judiciary, seems to be missing. In general, the various respondents are willing to weigh the interests of victim along with other interests but this does not happen automatically. The impression is that not all respondents always consciously take into consideration the victim's interests when making their decisions and respondents almost never take the initiative to involve the victim when weighing the interests of all parties. When victim interests are included this is mainly in cases where it brings limited additional costs and where there is no contradiction to the interests of the accused or the trial process.

Finally, it is striking that very little (empirical) research has been done on the issue of secondary victimisation of victims as a result of the criminal proceedings. For any follow-up research it is important to not focus only on victims of legally defined serious crimes but also on crimes that are legally defined as less serious but nevertheless may have a severe impact on the victim, and to direct special attention to groups that are particularly vulnerable to secondary victimisation. This

includes not only children and people with intellectual disabilities, but also individuals from groups who, for other reasons, may be particularly vulnerable to secondary victimisation.