
Introduction

“Since coming into government, we have modernised and rebalanced the criminal justice system in order to place victims and witnesses at its centre. Victims and their families have for too long felt far from being fully included in the criminal justice process… But giving victims a voice is vital. Vital for justice, vital for crime fighting – but most of all, vital for the victims themselves. We are determined as a [New Labour] Government to make sure that their voice is heard” (Falconer, in Home Office, 2005: 2)

“The [Coalition] Government is committed to ensuring that the justice system is fair, accessible, and delivers the justice victims and witnesses need, deserve and demand.” (Blunt et al., in Ministry of Justice, 2011a: 1)

Both quotations above are taken from forewords (guest introductions) to governmental documents on aspects of the Criminal Justice System. The first is written by Lord Falconer, then Secretary of State for Constitutional Affairs, and the second, written six years later, by senior politicians at Westminster and the Welsh Assembly. Published before and after a change of government in 2010 – from New Labour to a Conservative-Liberal Democrat Coalition – the two forewords are similar,
talking of a need to place the needs and voices of victims and witnesses at the centre of the Criminal Justice System. This stance was echoed in the subsequent 2015 electioneering, with both Labour and the Conservatives promoting the establishment of a new Victims’ Law. Victims and witnesses, it would seem, have become increasingly important when politicians develop criminal justice policy and engage in political campaigning.

In this chapter we will go beyond the political rhetoric to explore two important themes. Under the first, we explore the evolving role and position of victims and witnesses in the Criminal Justice System in England and Wales. Under the second we review public and voluntary sector support and assistance for victims and witnesses. The chapter will draw upon the plethora of research and policy developments that have focussed on the needs of, and service provision for, victims and witnesses. It will also draw on a wider body of knowledge emanating from two movements: the victim movement and the feminist movement (the latter having had a huge impact in the development of support for women victims of violence in the home).

The structure of the chapter is as follows. It begins by considering the terms ‘victim’ and ‘witness’ and how these terms are defined. The implications of these ‘labels’ or ‘statuses’ are considered throughout. We then examine the evolving role of victims and witnesses in the Criminal Justice System in England and Wales and further afield. Following this we critically consider the journey of victims and witnesses through the Criminal Justice System, looking at three issues in particular,
attrition (i.e. cases dropping out), secondary victimisation and, through a case study of Victim Support, the provision of services by voluntary organisations.

**Conceptualising Victims and Witnesses**

As Millings in Chapter three explains, defining and identifying victims of crime is not straightforward. Indeed, definitions of the term victim are controversial and range from a narrowly defined victim of crime to more expansive conceptualisations that are inclusive of those who have suffered harm and injustice. Both Walklate (2007) and Rock (2002, see Text Box 20.1) promote an expansive definition, with Walklate defining a victim as “an individual who has suffered some kind of misfortune” (2007: 27). Misfortune might encompass those experiencing physical, financial, emotional or psychological harm.

**Text Box 20.1 Victim**

Rock (2002: 13-14) suggests ‘victim’ is an identity and a social artefact that is constructed by different actors in different contexts. It is usually now associated with crime but also relates to someone suffering some kind of misfortune.

Divided opinions on definitions provoke debate about who qualifies as a victim. Can, for instance, someone be culpable in their own misfortune and, if so, do they qualify as a victim? Should we consider those close to the direct victim also as victims, such
as the non-abusing family members of child sexual abuse? Many agree with the Norwegian criminologist Nils Christie (1986) who reasoned that the subsequent treatment of victims by the Criminal Justice System is often linked to whether they are deemed to be ‘ideal victims’ or not. ‘Ideal victims’ are those who are most readily given the complete and legitimate status of being a victim. Such victims attract this status because they are perceived as vulnerable, defenceless and clearly innocent. They are therefore worthy of a sympathetic and compassionate response including support and compensation (Meyer 2016: 2-3; see Text Box 20.2).

<table>
<thead>
<tr>
<th>Text Box 20.2 Holly Wells and Jessica Chapman as archetypal ideal victims</th>
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<tr>
<td>In the summer of 2002, 10 year old girls Holly and Jessica went missing from their home in the quiet market village of Soham. Their disappearance, accompanied by photographs of the two girls, was a constant presence in the British media for almost two weeks before their bodies were discovered in a shallow grave. Local school caretaker Ian Huntley was then arrested and charged with their abduction and murder. During the search for the two girls, the media visually represented the two girls as “young bright, photogenic girls from stable loving families, middle-class family backgrounds, and each had an exemplary school record” (Greer 2007: 23). This according to Greer (ibid: 23) made them “archetypal ‘ideal victims’.”</td>
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Societal expectations about who qualifies as a victim, as well as how a victim should behave, can have very real consequences for those called upon as witnesses. Christie’s ideal victim tries to encapsulate this, as does Cole’s (2007) notion of the
‘true victim’. Cole argues that a true victim is a ‘noble’ victim who suffers in silence; they refrain from gaining sympathy or publically displaying weakness. They command their own fate and do not exploit their injuries and their victimisation must be immediate and concrete and without any doubt. Taking the definitional and labelling controversy further, feminists prefer to use the term *survivor* rather than *victim* (see Text Box 20.3). From a feminist perspective ‘survivor’ denotes a more active and positive image of women who overcome particular experiences. This concept challenges perceptions of the female victim as passive, helpless, powerless, blameworthy or victim-prone and signifies the negotiating and coping strategies women employ to live their daily lives (Stanko, 1990).

Text Box 20.3 **Victim⇒Survivor**

Not everyone who suffers victimisation likes to think of themselves as, or to be called, a victim. Feminists including those involved with Rape Crisis centres prefer to speak of survivors, for a number of reasons. First, using the term ‘survivor’ makes clear the seriousness of rape as, often, a life-threatening attack. Second, public perceptions are shaped by terminology and the word ‘victim’ has connotations of passivity, even of helplessness. In the context of a movement which aims to empower people who have been victimised, this is clearly inappropriate: “using the word ‘victim’ to describe women takes away our power and contributes to the idea that it is right and natural for men to ‘prey’ on us” (London Rape Crisis Centre, 1984: iv).
While criminologists have spent time thinking about the identity of a victim, witnesses have largely been ignored. The *Oxford Dictionary of English*, however, defines witness as a *noun* – “a person who sees an event, typically a crime or an accident, take place” – but also as a *verb* – to “see (an event, typically a crime or accident) happen”. The emphasis is on sight, hence the synonym eyewitness. As with a victim, a witness is usually understood *relationally* – that is, in relation to the other people and things involved in the event(s). Text Box 20.4 outlines the definition of witness in section 52 of the Domestic Violence, Crime and Victims Act 2004. Central to this definition is the idea that witnesses are those who are able to assist in criminal proceedings.
There has been a particular emphasis in England and Wales since the late 1990s on identifying, and service provision for, a particular group of witnesses: Vulnerable and Intimidated Witnesses (VIMs). Following the Youth Justice and Criminal Evidence Act 1999, these two groups are eligible for ‘special measures’. These allowances can include screens in the courtroom to prevent the defendant and the
witness seeing each other, and allowing the defendant to give evidence via a live video link from somewhere outside the court room. In guidance from the Ministry of Justice (2011a: 5), intimidated witnesses are defined as “those whose quality of evidence is likely to be diminished by reason of fear or distress”. The guidance states that in determining whether a witness should be included in this category or not, the court should consider a number of issues:

- The nature and alleged circumstances of the offence;
- The age of the witness;
- Where relevant:
  - The social and cultural background of the witness
  - The domestic and employment circumstances of the witness
  - Any religious beliefs or political opinions of the witness
- Any behaviour towards the witness by:
  - The accused;
  - Members of the accused person’s family or associates;
  - Any other person who is likely to be either an accused person or a witness in the proceedings.

The guidelines, furthermore, list the following as vulnerable witnesses:

- Those under 18;
• Those who suffer from a mental disorder (as defined by the Mental Health Act 1983);
• Those who have a significant impairment of intelligence and social function;
• Those who have a physical disability or disorder.

Victims of sexual offences and human trafficking as well as witnesses of knife and gun offences are also entitled to special measures unless they wish to opt out. As we can see with the special measures for VIMs, qualification and classification as a particular type of witness and/or victim plays an important role in shaping service provision in the Criminal Justice System and, potentially, in making experiences at court more bearable.

The Criminal Justice System relies on victims and witnesses in a number of ways, including reporting crimes and furnishing the police – often gatekeepers to the Criminal Justice System – with information to aid build evidence for a court case. However, not all victims and witnesses report incidents to the police for a variety of reasons as we know from successive sweeps of the British Crime Survey since the early 1980s. Thus, those ‘on record’ as victims and witnesses within the Criminal Justice System are only a small and distorted proportion of those suffering misfortune.

The Role of Victims and Witnesses in the Criminal Justice System
A commonplace critique of the Criminal Justice System in England and Wales is that it has marginalised victims and witnesses, taken them for granted and given little attention to any rights or needs that they may have (Victim Support, 2010). This is not a new criticism. Indeed, Kearon and Godfrey (2007: 30) argue that victims of crime in the UK were disempowered in the 1840s, becoming “less able to initiate prosecutions, or control the court process” with their role in court reduced to a “witnesses to a case brought in the public interest”. Rock (2007: 38) elaborates further on these ideas when he portrays the victim of crime as:

“the ‘forgotten person’ who appeared only as a witness, an applicant for compensation or a complainant or alleged victim until the conclusion of a trial. The prime conflict as law did not touch significantly on the victim: it was deemed to be between two parties only, the prosecution and the defendant, and the individual victim merely provided evidence of an offence that, for all practical purposes, was committed not so much against him or her but against the collectivity in the form of the Crown, the State or the community. Private wrongs were a matter for tort and civil procedure.”

Given the functional importance of crime victims to the operation of the Criminal Justice System in England and Wales, and their crucial role in providing evidence, it is perhaps surprising that it was not until the post-war period that the first significant mechanisms were introduced to support the direct victim. This began with the introduction of criminal injuries compensation in 1964 whereby victims of reported violent crime could claim financial compensation from the state. Since this
time there have been a number of developments and alterations in the provisions of support and assistance for victims of crime. Some of these are listed in Table 20.1.

At this point, it is important to position the increased centrality of the victim within the Criminal Justice System in its broader historical and geographical context. A key consideration is the emergence of a victims’ movement in the UK and other parts of the world during the latter part of the twentieth century. This movement was in reaction to the marginalisation of victims in the Criminal Justice System and in recognition of the under-reporting of victimisation. The victims’ movement also corresponded with, and blurred with, the ‘second wave’ feminist movement. The latter raised awareness of the victimisation of women in the home and of women’s experiences of sexual violence and campaigned for such violence to be recognised by the Criminal Justice System and society more widely (Davies, 2011). England and Wales has not been alone as these movements also gathered pace elsewhere. As Sebba (2001: 36) notes, lobbying by feminists and organisations devoted to victim assistance was:

“instrumental in the intensive barrage of victim-related legislation and policy reform which were instigated in the 1980s and 1990s… and included the granting of procedural rights to victims in the course of the trail process (and subsequent proceedings), victim-oriented sentencing dispositions such as restitution, the introduction of state compensation boards and victim assistance programmes.”
A range of supportive provisions and victim assistance schemes can now be identified in most jurisdictions across the world, all of which have differing relationships to their respective Criminal Justice Systems. Some victim services are at arm’s length or fully independent of the government, some are provided under statute, others by voluntary groups and charities. How victims access and experience these supportive provisions is explored in the next section. Focusing predominately on the UK, both Kearon and Godfrey (2007) and Rock (2007) demonstrate that the victim was in effect reinvented as a witness or, worst still, a tool of the Criminal Justice System. That being said, Fyfe (2005: 514) reminds us that victims rather than witnesses became the primary focus of the early reforms:

“[D]espite the incontrovertible importance of witnesses, their role in the criminal justice system has, until recently, largely been taken for granted. Witnesses were rarely given any preparation or assistance in relation to their appearance at court, despite the fact that giving evidence in court and being cross-examined can be intimidating and distressing experiences. Moreover, they frequently had to endure long waiting periods in court buildings where they risked encounters with the accused and their supporters. Nevertheless, the concerns of witnesses were largely invisible to policy-makers. Unlike victims, who were gradually becoming recognised as needing and deserving government assistance, witnesses had not achieved the same status.”

In bringing this section on the role of victims and witnesses in the Criminal Justice System to a close we introduce the concept of ‘procedural justice’. We do so in order
to consider whose interests are being served and supported as the role of victims and
witnesses changes and as support and assistance has evolved. Simply put, procedural
justice equates to fair treatment. Procedural justice emphasises the fairness of the
process by which decisions are made (Elliott et al., 2013). In the following sections
we review the extent to which evolving support and provisions are introduced to meet
the wants and needs of victims and witnesses. We also consider how these same
developments can be seen rather differently, not as primarily in the interests of
victims and witnesses but as efficiency measures designed to improve the smooth
running of the Criminal Justice System and to please the voting public.

Evolving Support and Assistance for Victims and Witnesses of Crime

As noted above, the Criminal Justice System in England and Wales – echoing most of
its counterparts in other parts of the world – has traditionally had scant regard for the
needs of victims and witnesses of crime. However, many changes have been
introduced, particularly since the early 1990s, aimed at ‘re-balancing’ the system in
favour of victims and witnesses (and, by implication, at the expense of offenders).
Criminal justice policies in different countries have been mobilised to bring the victim
and witness (more) centre stage with new policies introduced and old ones
repackaged claiming to meet their needs and rights. Victim’s ‘rights’ debates are
increasingly central to developments in different criminal justice systems. However,
the ‘rights’ of the victim in penal procedure in common law countries such as
England and Wales, Australia, Canada, New Zealand and most of the USA are largely
limited to that of witness for the prosecution though changes have recently seen the
granting of participatory rights for crime victims as part of a concerted endeavour to bring the victim to the forefront. Some of the changes made in recent years, such as the measures to protect witnesses in court, seem to have improved the victims’ position yet victimological commentators continue to be sceptical about the extent to which policies advocated in the name of the victim are a good thing (Davies, 2015).

As Table 20.1 shows, a series of changes in the Criminal Justice System have taken place in England and Wales repositioning the victim and the witness in recent decades. A key development, and a catalyst for further changes, was the publication of the Victims Charter: A Statement of the Rights of Victims of Crime (Home Office, 1990). It claimed to set out for the first time the rights and entitlements of victims of crime. The revised version, published by the Home Office six years later in 1996, tellingly had a different sub-title Victim’s Charter: A Statement of Service Standards for Victims of Crime a more realistic reflection of the actual contents. The vocabulary used had shifted from ‘rights’ to ‘service standards’. Nevertheless the introduction of the Victims Charter was a key landmark development which acknowledged the importance of the victim in securing justice.

Table 20.1 Selected Key Developments in Support and Assistance for Victims and Witnesses of Crime in England and Wales

<table>
<thead>
<tr>
<th>Date</th>
<th>Legislation/Service</th>
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<tbody>
<tr>
<td>1964</td>
<td>Criminal Injuries Compensation Board set up to administer the Criminal Injuries Compensation Scheme (CICS) for victims of violent crime</td>
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<td>1972</td>
<td>First UK Women’s Aid refuge set up in Chiswick, London</td>
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<tr>
<td>Year</td>
<td>Event</td>
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<tr>
<td>1974</td>
<td>First Victim Support project set up in Bristol</td>
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<td>1976</td>
<td>First UK Rape Crisis Centre opened in London</td>
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<td>1982</td>
<td>First British Crime Survey</td>
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<tr>
<td>1986</td>
<td>Childline established</td>
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<tr>
<td></td>
<td>The first local victimisation survey published (the Islington Crime Survey)</td>
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<tr>
<td>1987</td>
<td>First Home Office funding for Victim Support</td>
</tr>
<tr>
<td>1989</td>
<td>Victim Support launched the first victim/witness in court project</td>
</tr>
<tr>
<td>1990</td>
<td>Home Office Victim’s Charter published</td>
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<tr>
<td>1991</td>
<td>The Home Office fund Victim Support’s Crown Court Witness Service</td>
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<tr>
<td>1995</td>
<td>Victim Support UK publishes <em>The Rights of Victims of Crime</em></td>
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<tr>
<td></td>
<td>Criminal Injuries Compensation Act (which set out statutory tariff of injuries)</td>
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<tr>
<td>1996</td>
<td>Victim’s Charter (revised 2nd edition) published</td>
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<tr>
<td></td>
<td>‘One Stop Shops’ and ‘Victim Statements’ piloted</td>
</tr>
<tr>
<td></td>
<td>National network of Victim Support’s Victim/Witness Support schemes in Crown Courts</td>
</tr>
<tr>
<td>1999</td>
<td>Home Office funding to establish the Witness Service in Magistrates’ Courts</td>
</tr>
<tr>
<td>2000</td>
<td>Criminal and Court Services Act (which imposes duties on Probation Service to inform victims about serious and violent and sexual offenders)</td>
</tr>
<tr>
<td>2001</td>
<td>Victim Personal Statements (VPS) introduced</td>
</tr>
<tr>
<td>2002</td>
<td>Home Office Victim’s Charter (revised 3rd edition) published</td>
</tr>
<tr>
<td>2003</td>
<td>Victim Support provides a Witness Service in all criminal courts</td>
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</tbody>
</table>
The Victims Charter was revised again in 2005 under the New Labour Government (Office for Criminal Justice Reform, 2005) again in 2013 under the Coalition Government (Ministry of Justice, 2013a), and once more by the Conservative Government (Ministry of Justice, 2015). Both titled the document the. The latest document, the *Code of Practice for Victims of Crime*, takes the form of a 104-page document comprising 20 entitlements for victims of crime (a selection of these are summarised in Text Box 20.5). Related to this, the document also lists minimum standards for 14 different service providers. The language of the document
is also revealing: the words entitled and entitlements appear continually throughout the document, with far less references to duties and duty. Common phrases in the document are ‘putting victim’s first’ and ‘vulnerable victims’. If we take the Victims’ Code as approximately indicative of the current state of victim-oriented policy, rights-based vocabularies remain noticeably absent.

Service provision for witnesses in England and Wales has lagged behind those of victims. This is best illustrated by the development of the Witness Charter 17 years after the original Victims Charter. The New Labour Government introduced the Witness Charter in 2007 (Office for Criminal Justice Reform, 2007). It outlined 34 ‘standards of care’, informing both defence and prosecution witnesses of what they should expect from the different criminal justice agencies and from lawyers involved in the case. These were reduced and revised into 21 standards of care in the updated 2013 Witness Charter (Ministry of Justice, 2013b).
The 2005, 2013 and 2015 versions of the Victims Code have all highlighted the availability of restorative justice to victims of crime. In contrast, the two incarnations of the Witness Charter have not mentioned restorative justice. Although restorative justice is notoriously difficult to define, it can be seen as a process of dialogue between victim and offender in which the victim describes their feelings about the crime and the harm caused as a result and, from this, they both develop a

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**Text Box 20.5 A selection of the key entitlements for victims in the Victims’ Code 2015 (Ministry of Justice, 2015: 5)**

- A written acknowledgement that you have reported a crime, including the basic details of the offence;
- A needs assessment to help work out what support you need;
- Be informed about the police investigation, such as if a suspect is arrested and charged and any bail conditions imposed;
- Make a Victim Personal Statement (VPS) to explain how the crime affected you;
- Read your VPS aloud or have it read aloud on your behalf, subject to the views of the court, if a defendant is found guilty;
- Be informed if the suspect is to be prosecuted or not or given an out of court disposal;
- Be informed of the time, date and location and outcome of any court hearings;
- Be informed if you need to give evidence in court, what to expect and discuss what help and support you need with the Witness Care Unit;
- Arrange a court familiarisation visit and enter the court through a different entrance from the suspect and sit in a separate waiting area where possible;
- Apply for compensation under the Criminal Injuries Compensation Scheme;
- Receive information about Restorative Justice and how you can take part;
- Make a complaint if you do not receive the information and services you are entitled to, and to receive a full response from the relevant service provider.
plan to repair the harm done. A commonly used phrase by advocates of restorative justice is, unlike other criminal justice mechanisms, it ‘gives victims a voice’. It is a process that is increasingly used within the Criminal Justice System in England and Wales. As the 2015 Victims Code outlines, all victims are entitled to receive information on restorative justice and it is potentially available to all victims of crime at all stages of the criminal justice process, although there are local differences in service provision. While it is technically available for all victims, there is controversy around its use for certain offences including domestic violence, sexual assault and hate crime (Cuneen, 2010).

Despite progressive moves such as the introduction of restorative justice, it would seem that victims and witnesses of crime in England and Wales continue to occupy a position defined by their perceived need rather than by any notion of rights (Goodey, 2005; Rock, 2014). Significantly, the various incarnations of the Witness Charter and the Victims’ Code cement procedural justice. They give neither witnesses nor victims “enforceable rights, but merely permits them to complain if the service obligations are not met” (Wolhuter et al., 2009: 5). Thus, in bringing this section on evolving support and assistance for victims and witnesses of crime to a close we return to the concept of procedural justice to summarise how the provisions that have emerged over the last 20 to 30 years or so might be interpreted from a victim/witness perspective. The rhetoric and language of ‘entitlements’, the concerns with giving victims a voice and treating victims and witnesses with respect and dignity would seem to amount to what Elliott and colleagues (2013: 590) term the ‘relational criteria’ of procedural justice, that is:
“politeness, concern for rights, treatment with dignity and respect, expression and consideration of views, neutrality of decision-making process, addressing needs and concerns, doing the right thing by the victim, explanation of reasons for police actions, and police trustworthiness.”

Such justice is not rights-based justice as such but one conceived in terms of a more limited *procedural* fairness.

**Experiencing the Criminal Justice System**

With the developments above in mind, how do victims and witnesses experience the Criminal Justice System in England and Wales? There is no homogenous experience. Every victim and witness is different as are their interactions and perceptions of the Criminal Justice System. That being said, both the Victims’ Code and Witness Charter highlight a typical ‘journey’ through the Criminal Justice System in an attempt to provide clarity to victims and witnesses. The Victims’ Code (Ministry of Justice, 2015) suggests there are five stages that victims will encounter if their case goes to court: reporting the crime; police investigation; charge and pre-trial hearings; trial; and after the trial. In a similar fashion, the Witness Charter (Ministry of Justice, 2013a) is structured according to a journey a witness might take through the Criminal Justice System, focusing on the police investigation, pre-trial arrangements, arriving at courtroom, speaking in court, and post-trial. Both documents represent these in flow chart form. There are multiple routes on both charts – the victim’s flow chart, for instance, has a number of ‘exit points’ for victims while the witness’s flow chart
begins to take two possible paths depending on whether the witness is required to give
evidence in court or not. The text of the Witness Charter and the Victims’ Code also
reveal that the journeys through the Criminal Justice System are not uniform as
particular groups – such as Vulnerable and Intimidated Witnesses in the Witness
Charter – have special entitlements at different points in their journey.

At this point, it is worth exploring two issues that affect the journeys of many victims
and witnesses through the Criminal Justice System but are under-acknowledged
within the Witness Charter and Victims’ Code. They are the processes of attrition and
secondary victimisation.

*Attrition*

Attrition in criminal justice refers to the ‘drop out’ of cases. In rape cases attrition is
stubbornly problematic (Daly and Bouhours, 2010). Hester (2013) notes that rape
cases can drop out at any one of three stages: at police involvement and investigation,
during CPS involvement, or at court. Her recent research into rape cases and the
Criminal Justice System in the North East of England found that three quarters of the
cases dropped out at the police stage with many of these involving very vulnerable
victims such as those with extensive mental health problems (Hester, 2013).
Measures to protect rape victims in court (who fall into the ‘vulnerable victim’
category) seem to be having little impact on the attrition rate for rape victims.
Perceptions of the ‘credible’ ideal victim on the one hand and ‘non-credible’ culpable
victims who ‘precipitated’ their rape on the other appear firmly entrenched. Special
measures have yet to impact on the attrition rate and ‘victim blaming’ attitudes continue to thrive in the Criminal Justice System in England Wales.

**Secondary victimisation**

Secondary victimisation refers to the further harm caused to victims of crime as a direct result of their participation in the Criminal Justice System. It is often emotional or psychological, and is not necessarily a deliberate act. As noted by Wolhuter et al. (2009: 47), it can take a number of forms:

> “Insensitive questioning by the police, the failure to communicate information about what is happening in the victim’s case, delays, unexplained decisions by the prosecution to drop a case… and aggressive cross-examination in the court process have been recognised as causing the victim further suffering which amounts to secondary victimisation.”

Secondary victimisation is related to, and indeed a form of, repeat victimisation in which individual suffer more than one incident of victimisation. On the one hand, it is clear that the Witness Charter and the Victims’ Code try to encourage practices by criminal justice practitioners and agencies that limit secondary victimisation for victim-witnesses, even if they do not use the phrase secondary victimisation. On the other hand, scholars have argued that there are systematic faults with the Criminal Justice System that create the conditions for secondary victimisation to take place. Wolhuter et al. (2009) for example points to two systemic problems. The first is the
‘institutional culture’ of criminal justice agencies that combine a “crime-control focus on ‘catching criminals’ or obtaining convictions” with some prejudices and stereotypes towards marginalised groups in society, meaning that the needs of victims and witnesses are side-lined, especially those from certain parts of society (ibid: 48).

The second is the common law adversarial system that repositions the victim as a witness and views the crime as a crime against the state rather than against the victim. This system uses the principle of orality whereby all evidence must be produced in court and it must be orally introduced (Goodey, 2005). Under this system, the courtroom can be particularly difficult for victims and witnesses:

“During the trial itself the English adversarial process involves a contest between the prosecution and the defence in which cross-examination is the primary weapon. Defence counsel resort to tactics under cross-examination designed to undermine the prosecution or attack the credibility of the witness. This experience of cross-examination has been regarded as one of the more traumatic forms of secondary victimisation, particularly in rape trials”

Wolhuter et al. (2009: 48)

Taking the example of rape, victims and witnesses are often known to one another and their status as victim/witness/perpetrator becomes indistinct and blurred to bystanders, potential witnesses, magistrates, jury and judge in a court of law rendering victimhood difficult to prove. Often the witness is also the sole witness. Scholars have highlighted how defence lawyers in the adversarial system use aggressive questioning in order to expose ‘untruths’ in a victim’s testimony, and often
call into question the victim’s lack of consent to sex by reference to past sexual
behaviours (Lees, 1997; see also Rock, 1991). In England and Wales, the witness is
entitled to be treated with dignity and respect under the Victims’ Code and the
Witness Charter, but the system also acknowledges the rights of the defendant to a
fair trial. This is sometimes represented as a balancing act between the rights of the
victim and those of the accused (Goodey, 2005). In these scenarios victims may fail
to meet the ideal victim criteria and risk being discredited as non-credible witnesses
and undeserving victims. The common law adversarial approach to criminal justice
has tended to adopt the ‘ideal victim’ and a similarly ‘ideal witness’ approach to
testimony in court.

**Case study: Victim Support**

As part of a wider shift in *what* services are provided for victims and witnesses and
*who* delivers these services in England and Wales, recent decades have witnessed a
range of voluntary organisations becoming increasingly involved in the provision of
services and support for victims and witnesses of crime (Williams and Goodman,
2007). Organisations such as Victim Support, Childline and Rape Crisis, among
many others, have become important bodies in this, operating not-for-profit, staffed
predominately with volunteers and with varying degrees of support and funding from
state bodies. In this section, we will explore the work of Victim Support and how it
has changed over the year.
Victim Support was initially set up in Bristol in 1974 and by the early 1980s it had become an extensive network of local schemes across England and Wales with a central headquarters in London (Simmonds, 2013). Reacting against a void in dedicated victim services, Victim Support focused their energies on using volunteers to visit victims of crime. “Their role”, as Simmonds (2013: 203) notes, “was to offer emotional support and practical assistance within a few days of the crime occurring – in other words they provided an outreach service offering crisis intervention.”

Though a Charity, Victim Support is primarily funded through government grants. In the financial year 2013/14 its income was £50.2 million of which £39.4m was from the Ministry of Justice (Victim Support, 2014). It was in 1987 under the Conservative administration that significant funding for Victim Support was forthcoming from the Government, reflecting their ease with both the politically neutral stance of Victim Support (compared to the critical stance of other charities such as Rape Crisis) as well as their shared belief in creating ‘active citizens’ who help each other (Mawby and Walklate, 1994; Wolhuter et al., 2009).

Four significant changes have taken place within Victim Support. The first is the shift away from the focus on victims of burglaries in the early stages – due in part to the police’s reluctant to refer more serious crimes to a volunteer-dominated organisation (Simmonds, 2013) – to 2014 where approximately 1,110 staff and 3,000 volunteers delivered a range of services to victims and witnesses of all types of crime (www.victimsupport.org.uk). With regards to victim services, emphasis has remained on providing emotional support and practical help for victims of crime, irrespective of
their age or whether the crime has been reported or not. They continue to provide “the sticking plaster for many victims in the aftermath of crime” (Goodey, 2005: 104). Victim Support’s (2014) annual report, for instance, notes that they gave practical and emotion help to 152,726 victims and took part in 59,927 face-to-face meetings with victims between April 2013 and March 2014.

A second key change was the incorporation of services for witnesses of crime. Between 1989 and 2015 Victim Support delivered a Witness Service, piloted first in selected Crown Courts then extended to all criminal courts in England and Wales by 2003. It provided emotional support and practical help for prosecution and defence witnesses as well as their family and friends (Wolhuter et al., 2009), with the aim of making the experience of being in court less daunting and confusing. As part of this, they arranged pre-trial courtroom tours, supported witnesses during the trial, and provided witnesses with private waiting areas in court. The third change is the increased politicisation of Victim Support. From the mid-1990s onwards they have been vocal in advocating changes to the current provisions for victims and witnesses of crime (Wolhuter et al., 2009: 146-148).

The fourth change is more recent and involves changes to the awarding of government grants for services for victims and witnesses of crime that have had significant repercussion for Victim Support. The recently introduced Police and Crime Commissioners (PCCs) were given the responsibility for awarding contracts for services for victims of crime (with an emphasis here on services being both decided locally and economically competitive). In 2014, Victim Support had to bid
against other tenders to be awarded the contracts. As a result, most PCCs have awarded Victim Support with a contract to provide core witness services (e.g. in Surrey and Lancashire) with some awarding contracts to other organisations (e.g. in Northumbria where victim services are now delivered by the police and in Staffordshire by a partnership led by Citizens Advice). In 2014, the contract for the Witness Service was also put out to tender by the Ministry of Justice and unlike victims services this was not divided up into local contracts. Victim Support bid against, and lost to, Citizens Advice for this contract. As of April 2015, Citizens Advice is now running the Witness Service. In summary, voluntary organisations have played an increasingly important role in delivering services for victims and witnesses, but as we can see with the example of Victim Support their services, funding and relationship with government is subject to change.

Summary

There have been a number of positive developments within the English and Welsh Criminal Justice System regarding victims and witnesses of crime. Yet as we have discussed in this chapter there remain a number of deep-rooted problems, most noticeably the prevalence of secondary victimisation and high attrition rates. We have argued that these issues have not been addressed adequately and the changes made to the Criminal Justice System are somewhat cosmetic, the result of politicians’ attempts to please the voting public or trying to cut costs, rather than to make real improvements to the way victims are treated. Measures that are introduced without due regard to the wants and needs of victims and witnesses can have unintended but
harmful consequences where they are victimised by the system itself. The
developments pioneered by senior politicians arguably take the form of procedural
justice for victims and witnesses of crime where politeness, dignity, respect and
explanatory communication are all that victims and witnesses can expect.

Finally, the question of entitlement or ‘right’ to support remains controversial.
Governmental attention to victims and witnesses has seen victims and witnesses
chartered, codified, politicised and homogenised. Establishing what the needs of
victims and witnesses are and matching these needs with effective support is difficult
enough. It is perhaps even harder without legal rights (Davies, 2015). At the time of
writing there is a proposed new Victims’ Law. Readers are encouraged to think about
whose interests are being served in this endeavour as the shape and content of this
legislation is consulted about, debated and formulated.

References

In: Miller SL (eds) Crime Control and Women: Feminist Implications of Criminal


Hester M (2013) *From Report to Court: Rape cases and the Criminal Justice System in the North East Executive Summary*. Bristol: University of Bristol in association with the Northern Rock Foundation.


**Further Reading**
Academic reading for this topic tends to be split into those on victims and those on witnesses. Three particularly useful books on victims, victimology and the Criminal Justice System are highly recommended:


There is comparatively less literature on witnesses and the Criminal Justice System. Paul Rock however, provides a compelling account of the position of witnesses in the courtroom:


Nick Fyfe also provides a fascinating analysis of the experiences of intimidated witnesses and the measures designed to reduce their vulnerability:


Student/Essay Questions
• Beyond their rhetoric of bringing victims to the ‘centre’ or ‘heart’ of the Criminal Justice System, have policymakers in England and Wales done enough to meet the needs of victims and witnesses of crime?

• Discuss the following statement: Victims’ primary role in the modern Criminal Justice System in England and Wales is to act as “evidentiary cannon fodder” (Braithwaite and Daly, 1998: 154).

• Why has the development of services and support for witnesses seemingly lagged behind those of victims in England and Wales?