CURRENT STATUS OF VICTIMOLOGY AND SOME FUTURE DEVELOPMENTS

Marc Groenhuijsen
Professor, INTERVICT-International Victimology Institute, Tilburg,
Tilburg University, The Netherlands

Abstract: This contribution starts by outlining the nature and the subject matter of victimology as an academic discipline. Next, some dots on the horizon of contemporary victimology will be identified (e.g. restorative justice; victims of terrorism). Finally, two areas will be discussed which are likely to dominate our field in the next coming years. One is the technological revolution, exemplified by the massive proliferation of cybercrime and the ascent of concepts like 'big data' and 'data science'. The second is about legal reform. Which limits should be observed when changing the criminal justice system in order to better serve the interests of crime victims?

Keywords: Victimology; Repeat victimization; Secondary victimization; Restorative justice; Victims of terrorism; Cybercrime; Big data; Minimum standards for victims' rights.

Introduction

This contribution is about the academic field of research which is commonly designated as 'victimology'. Two topics will be covered. The first one is about

the origins and the nature of victimology (section 2). Once we have a solid understanding of the subject matter of our area of interest, we will turn our attention to some main issues which have shaped the skyline of victimology during the past decades (section 3). Finally, two of the most recent challenges will be presented which are likely to shape or affect the immediate future of victimology (section 4).

1. What is victimology?

It is debatable when and where victimology actually originated. Some would argue that it started as early as the year 1764, when the young Italian economist Cesare Beccaria published his famous book *Dei delitti e delle pene*. Honestly, I feel this claim is somewhat farfetched. Admittedly, the booklet does call for reduction of avoidable misery in the framework of administering criminal justice, but it does not even explicitly mention the word 'victim' throughout the entire text. It is much more widely accepted to pinpoint the commencement in 1948. In that year the German professor Hans von Hentig published his frequently quoted book *The criminal and his victim*. He argued, convincingly, "why in history has everyone always focused on the guy with the big stick, the hero, the activist, to the neglect of the poor slob who is at the end of the stick, the passivist – or maybe, the poor slob (in bandages) isn't all that much of a passivist victim – maybe he asked for it?". Even though there is widespread agreement about the fact that this wake-up call once and for all brought the victim into the academic picture, two elements should not go unnoticed. The first one is that the observations on victims only appear in the very final part of this book, almost as some sort of an afterthought. And secondly, the victim is here primarily pictured in his capacity of someone who can well be co-responsible for the perpetration of the crime, a phenomenon we would nowadays refer to as 'victim precipitation'. Of course his remarks can be interpreted in a positive way, by encouraging potential victims to consider possibilities to prevent crime from occurring at all. However, the more likely implication of his discourse is that in many instances the victim himself is to be (at least partly) blamed for the crime that has taken place. Hence, even when we acknowledge Hans von Hentig as the founding father of victimology, it should immediately be followed by the observation that his perspective was far removed from the focus main stream victimology has adopted during the succeeding decades.[1]

Now let me get straight to the point. What is victimology? It is easy to fill many pages with sophisticated reflections about this ontological question.[2]

1 More on the history of victimology in Schneider 2001.

2 See Kirchhoff 2005; Groenhuijsen 2009.

However, in this contribution I will try to be practical. And from that angle, victimology essentially is centered around three basic questions: (i) how many people fall victim to crime or abuse of power and by what kinds and types of crime are they hurt?; (ii) what are the consequences of criminal victimization – most importantly: what is the impact of crime on the victims?; and (iii) how can we minimize the adverse effects of victimization?

The first question, or research area, co-insides with traditional criminological objectives. We aim to get a well founded picture of the incidence and the prevalence of all kinds of crime and of the number of people suffering harm as a result of it. And we want to know *who* is most likely to be victimized and why. The single most authoritative source in this respect is the *International Crime Victim Survey*. This project has been carried out over several decades and involves over 70 countries.[3] Roughly speaking, it turns out that on a global level annually close to one billion people are directly hurt by crime.

The second question, on the impact of crime, has also led to some generally shared basic insights. The most important one probably is that the impact of crime is more serious than the victims expected before the act took place. It must be noted that this is the case among a wide range of crimes. It is easy to imagine the dramatic consequences of the most serious crimes like murder and rape. However, research has established beyond doubt that it is also the lesser crimes that can really ruin people's lives to an extent that was never anticipated by the victims. I just mention burglaries, particularly during the night when a family is peacefully at sleep. This can disturb the comforting dream of 'my home is my castle' for an extended period of time. Or take cases of street robbery committed against elderly citizens. This can easily lead to complete and permanent social isolation because the victims no longer have the courage to leave their private homes. To underscore empirical findings on this, it suffices to list that in my own small country (The Netherlands has 17 million inhabitants) annually no less than 50.000 victims suffer from PTSD as a consequence of crime. Finally, it needs to be reported that the effects of crime can vary tremendously across the population of victims. Even when people are being faced with similar or identical victimization, the responses by individual victims can be extremely diverse. This depends, among other things, on the circumstances of the case, and also on the personality traits of the victim involved, as well as on previous experiences with the criminal justice system.

How can we reduce or limit adverse effects of crime? Of course it is impossible to summarize the body of knowledge on this important question in a few brief lines. Perhaps, for starters, it is vital to be aware of the risk of *compounding*

3 Van Dijk

instead of minimizing the harm caused by crime. This danger is manifested in two ways. First there is the danger of 'repeat victimization'.[4] As has often been observed: victimization is the best predictor of subsequent victimization. Everybody knows about the high rate of offender recidivism. Very few people know that the same thing occurs in connection to victims. In my own country a mere 14% of victims is hurt by no less than 70% of the total volume of crimes committed. This is not limited to types of crime where re-occurrence might be expected, such as domestic violence or stalking. The fascinating thing is that repeat victimization occurs across virtually the entire range of crimes. In property crime, a single event of burglary increases the likelihood of the same crime occurring within four weeks by 300%. Next to repeat victimization we have discovered the phenomenon of 'secondary victimization'. Given the intrusive impact of crime as described above, one would expect victims to be met with sympathy by others and expressions of empathy and social solidarity. Unfortunately, in actual practice quite frequently the exact opposite is the case. 'Blaming the victim' happens quite frequently. It can be understood as a psychological mechanism of self-protection, based on the 'Just world theory' developed by Lerner. This theory basically holds that no bad things happen to good people. So if you are struck by crime, the explanation for your misfortune is primarily sought in factors connected to the person of the behavior of the victim. This process is to a larger or lesser extend operative in most people coming into contact with crime victims: friends, family, professionals in education, in the medical world and officials running the criminal justice system. Understandable as this may be, the net effect is that quite often it gives victims the feeling that they are being victimized again. Hence the concept of 'secondary victimization'.

Besides attempts to avoid compounding adverse effects of crime, victimology also aims at reducing the negative impact of criminal behavior. To that end, it researches ways to provide victim support complying with high quality standards. It also looks into ways and means to increase the effectiveness of legislative reforms on behalf of crime victims. And it seeks to increase awareness among society at large for the hardships victims have to face in the aftermath of crime.

In conclusion, I think it is fair to say that victimology as a dedicated area of research is characterized by two main features. One: it is very *internationally oriented*. Since criminal victimization does not stop at geographical borders, all serious theory formation and empirical research will cover various jurisdictions in order to find reliable results. And secondly: victimology is essentially an *interdisciplinary* endeavor. It requires the combined efforts of criminologists,

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psychologists, lawyers, traumatologists, social workers and some others like philosophers. Only when we are able and willing to integrate the perspectives from these source disciplines will we be able to truly understand the real needs of victims and address them in a responsible way.

2. Some dots on the horizon of victimology[5]

We are living in a rapidly changing environment. Some speak of a 'VUCA-world', which is an acronym for volatile, uncertainty, complexity and ambiguity. How did the community of victimologists respond to the challenges posed by these developments? I will start by listing five areas of research that have attracted special attention in our field. These topics have in various ways shaped the current skyline of victimology. In the next section (number 4) I will move on to two other parts of our field, which are likely to require much of our intellectual energy in the immediate future.

2.1. Restorative justice and mediation

All over the globe, experiments regarding restorative justice are taking place and we are truly inundated by a stream of academic publications on the topic. Yet perspectives vary. In spite of this, some common ground seems to be emerging. Most victimologists nowadays would not object to being labelled as a 'critical advocate' of restorative justice. Against this background there are two main research questions which have been addressed during the past number of years and are still relevant in the world we live in today.

The first one is whether restorative justice is a literally alternative approach, which is essentially incompatible with traditional punitive ways of administering criminal justice. In other words: Is restorative justice a new paradigm, with the objective and the potential to replace the conventional retributive paradigm of criminal justice? This question has been raised many times before, yet the answers are still inconclusive. On the one hand there is a powerful school of thought arguing that restorative justice is a new paradigm meant to replace the existing criminal justice system.[6] For these writers - often referred to as the 'true believers' - there is no room for compromise. The system can only be either retributive or restorative. Some of the 'true believers' have expressed concern about the fact that elements of restorative justice have been 'hijacked' by the traditional criminal justice system. Others have complained that the conventional system has adopted some of the language of restorative justice. I can see no wrong here. Restorative justice is a

5 Sections 3 and 4 draw on more elaborate expositions in Groenhuijsen 2019.

6 Barnett, 1977:279; Hulsman, 1982, passim; Fattah, 1993:771; Zehr, 1990, passim.

great idea, a convincing philosophy and a wonderful inspiration. It is not, however, a new paradigm in the technical meaning of the word.[7] As Martin Wright) correctly asserted, it is better to think not of alternatives but of a continuum, and to work to move the centre of gravity from the repressive towards the restorative.[8] If this idea were to be embraced broadly, the real challenge appears to be to make the current system more responsive to the actual needs of real people.

The second main question to deal with in this area, is how to protect legitimate victims' rights and interests in restorative justice projects such as mediation. Some academics and practitioners have virtually heralded mediation as a panacea, as a solution of all the problems connected with conventional retributive criminal justice. Of course, it is not that simple. Quite often, it is too easily assumed that these projects are in the best interests of victims because this is part of the definition of the objectives of mediation. But again, reality is much more complex. Serious research on the conditions which must be met in order to assure that mediation and related restorative justice projects truly serve the best interests of the victims involved, is thus still incomplete.[9]

2.2. Terrorism

The events of September 11, 2001 changed the United States of America and the rest of the world, and also profoundly affected victimology. The massacres at the World Trade Centre and the Pentagon constitute conclusive evidence that terrorism has changed face over the past few decades. First, there is the feature of magnitude. Prior to September 11, out of more than 10 000 incidents of international terrorism recorded since 1968, only 14 had resulted in more than 100 casualties.[10] Then, there is the matter of motive. During the final quarter of the 20th century, terrorism was mainly inspired by political ideology or narrow nationalism. In the last two decades, however, proclaimed religious beliefs became increasingly important as the main driving force. Both of these shifts have serious implications for the academic discipline of victimology.

Terrorism leads to mass victimisation. According to most definitions of terrorism the individual victims are targeted in order to inspire fear or to make

7 This is extensively argued in Groenhuijsen 2004.

8 Wright 1996: 227.

9 Dussich & Stellenberg 2010. Groenhuijsen & Pemberton & Winkel 2008. See recital 46 to the EU Directive of 25 October 2012 (2012/29/EU): "Restorative justice services, including for example victim offender mediation (…) can be of great benefit to the victim, but require safeguards to prevent secondary and repeat victimization, intimidation and retaliation".

10 Separovic 2003.

governments move in a certain direction.[11] The question can be asked whether these specifics should affect the way in which domestic legal orders respond to their victims' immediate and long term needs and interests. We are faced with a real dilemma in this respect. Basically, there are two options, both of them highly unsatisfactory. One is to allow for no special benefits for victims of terrorism. In that case, the victims will quite often be left without any legal remedies. The perpetrators of the act are usually either unknown, or at large, or dead. At best, the victims can claim State compensation according to the standards of the general compensation schemes, which is considered by many to be insufficient. The other option is to create special provisions, awarding victims of terrorism a privileged status. This is the case in quite a few countries, particularly in jurisdictions with extensive experience with terrorism (in Europe for instance in France, Italy and Spain). Understandable as this approach may look at first sight, it leads to the inevitable question why the same advantages should not be extended to victims of other types of intentional violent crime. This dilemma is just one of the many new problems created by modern-type terrorism. Easy solutions are not in stock. Victimology should contribute some conceptual thinking in this regard in order to confirm its academic relevance.[12]

2.3. The International Criminal Court and ad hoc Tribunals

In 1998, countries from all continents agreed in Rome to sign the Statute for the International Criminal Court.[13] In my opinion, this Statute - with the accompanying Rules of Evidence and Procedure - constitutes a milestone in victimology.

In the old days, warfare was a matter of soldiers. Hence, most of the casualties came from the armed forces. During the last century, things have changed in this respect. In World War II, some 50% of the casualties were civilians. In the Vietnam war, this proportion had risen to 70% and it is well known that in more recent armed conflicts such as in Rwanda and the former Yugoslavia, with well-documented instances of 'ethnic cleansing', even more ordinary citizens paid the ultimate price for being at the wrong place at the wrong time.[14]

The international legal community responded to these cases of mass victimisation by establishing two *ad hoc* criminal Tribunals (the ICTY and the

11 Verbruggen 2004; Walker 2002.

12 Letschert, Steiger & Pemberton 2010.

13 Adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (A/Conf. 183/9, 1998).

14 Keijzer 1997.

ICTR),[15] followed by the ICC.[16] There are several reasons why this body of rules on the International Criminal Court is extremely fascinating and attractive. First, it transcends different properties of the main criminal justice systems which are in place in various regions of the world. Countries with a common law system (adversarial) and parties with a civil law heritage (more inquisitorial) had to find common ground. The end result offers a kind of 'universal model' when it comes to protecting the rights of victims in the environment of criminal proceedings. The second reason concerns the selection of staff. According to the Rome Statute, when recruiting the staff of the Victims and Witnesses Unit and the judges, the prosecutors and their assistants, attention shall be paid to their expertise in the field of sexual violence. I have never seen a progressive provision like this under domestic law. Then there is the issue of training. The ICC again offers an example of best practice in this respect. The staff of the Victims and Witnesses Unit is responsible for the mandatory training of *all organs of the Court* (including the judges). Finally, the Statute and the Rules of Evidence and Procedure contain many provisions to prevent or minimise secondary victimisation. If and when certain conditions are met, it even leaves scope for the non disclosure to the defence of the identity of the victim or the witness.[17]

In academic discourse, it has been argued that the model of the ICC is probably superior to any alternative. The problem, however, might surface in its application.[18] The sheer number of victims involved and many other features of mass victimisation might present new dilemma's which to a large extent still have to be addressed by new theory formation in victimology.[19]

2.4. Cultural diversity and criminal justice

Perhaps the biggest challenge of all stems from cultural diversity in modern society. Cultural pluralism is an old phenomenon, but it has recently acquired a new dimension because we are living in an age of massive migration.[20] The claims made by large numbers of refugees have revealed the fragility of feelings of self-righteousness in many western democracies. The sheer number of dislocated people in our times makes us more aware of real problems which have always existed, but have usually been comfortably hidden behind a veil of ignorance.

15 Hilwig et al 2004.

16 Van Boven 1999; Garkawe 2001; Garkawe 2003.

17 Garkawe 2003.

18 Groenhuijsen 2009.

19 Letschert & Van Dijk 2011.

20 Rijken 2016.

There is, however, no way of escaping the fallacy of cultural neutrality anymore. The large influx of foreign people with different cultural backgrounds has once again impressed us with the inevitable conclusion that the criminal justice system embodies one of the last forms of institutionalised discrimination. It is clear that this has major implications for victimology. On a micro level, providing victim support to members of ethnic minorities proves to be difficult in many countries. A completely different problem arises when the impact of crime is aggravated by the cultural background of the victim. The phenomenon of so-called 'hate crime' was academically non-existent until only a couple of decades ago. Now, it is a major issue in many countries.[21] Next, cultural backgrounds and corresponding diversity can affect the protection of the human rights of vulnerable victims. Suffice it to mention the widespread practice of female genital mutilation, usually performed on very young girls and extremely hard to fight by legal means.[22] In all the above instances, victimology urgently needs to contribute with research leading to evidence based answers in order to improve the protection of fundamental values we share in modern day societies.

2.5. The scope of victimology

The next issue to touch upon in this contribution concerns the scope of victimology as a relatively young academic discipline. This topic has been addressed many times before.[23] So in a way it is not part of the 'new' horizons in victimology; rather, it is one of the perennial questions we will have to deal with on a permanent basis. It is impossible - and it would be pointless - to summarise the dominant views which have been put forward in the extensive literature regarding the matter. The sole aim in raising the issue here again is to point to some practical issues which will surface again and for which we can plan in advance.

It is undisputed that the hard core business of victimology is victims of crime and abuse of power. Victimology could not claim either relevance or credibility if it would have turned a blind eye to victims of abuse of power.[24] The tough question, then, is whether or not to extend the scope of victimology beyond the categories of crime and abuse of power. Do victims of natural disasters, victims of poverty and victims of social deprivation, for example, also belong to the subject matter of victimology? Some scholars have consistently advocated this broad conception of victimology. One of the more compelling arguments to support this position is the claim that the deadliest form of violence is *poverty*.

21 Van Noorloos 2011.

22 Middelburg 2016.

23 See Kirchhoff 2005.

24 Groenhuijsen & Pemberton 2011.

For me, it is obvious that the broad demarcation of victimology (including victims of poverty and socio-economic inequalities) is a legitimate one. However, that pronouncement represents only one side of the coin. It does make a difference whether the focus is on crime victims and victims of abuse of power on the one hand, or the previously mentioned broader categories of victims on the other. These domains involve different bodies of knowledge, different theories, different methods of research, possibly even different paradigms, and without any doubt different government policies, international forms of cooperation and service providing organisations.[25] Adopting the broader conception of victimology does not mean that we can throw every problem into the same basket.

These dots on the horizon of victimology are still very relevant and will continue to demand much of our attention. Nevertheless, victimology as a scientific field has recently been confronted with novel challenges. I will list the most conspicuous ones, stemming from developments in the volatile societal environment we are operating in. They can be grouped into two categories. One is caused by the impact of the technological revolution; the other has its roots in legal reforms that have been accumulated over the past couple of decades.

3. New challenges

3.1. The technological revolution

It goes without saying that the technological revolution did not originate during the past five years or so. The last couple of decades have displayed an astonishing transformation of society, with IT appliances changing the world beyond recognition. According to this author's opinion, though, the full impact of these developments on crime, criminal justice and victimisation has only become clear during recent years. In this section, I will focus on two manifestations of the technological revolution that directly touch on the core-business of victimology. The first one is cybercrime; the second one is captured under the label of 'big data'.

3.1.1. Cybercrime

In my own country, the Netherlands, the first Computer-crime Act took effect in 1993. During the following 25 years, two more extensive legislative projects were needed to keep our Criminal Code and the Code of Criminal Proceedings up-to-date. Developments in IT have revolutionized society to an extent that nobody could have anticipated. Modern day information technology has made the world a better place in many ways; it has also created novel opportunities

25 Groenhuijsen 2009.

for abuse, which can harm citizens in many shapes and forms. This kind of abuse comes under the umbrella concept of 'cybercrime'.

One crucial feature of cybercrime is the absence of a conventional 'crime scene'. In ordinary crime, one can point to a spot where the crime took place. This determines who is responsible for investigating the crime, it confers powers on certain law enforcement units, and it is decisive for the jurisdiction of the courts. Not so in instances of cybercrime. Here it is quite often very hard to identify the geographical location where the harmful conduct took place. Perpetrators can act in or through a multitude of countries and jurisdictions within a matter of milliseconds.

The next feature of cybercrime is that it easily can affect extremely large numbers of people. In our profession we label that as 'mass victimisation', and experience gained in other areas (like international crimes tried before the ICC) has taught us that it brings problems which are very difficult to handle. Just to give the reader an impression of the dimensions we are talking about, I mention the number of instances of online shopping fraud in The Netherlands, which was estimated at no less than 500.000 every year.[26] On a global level, the same single crime hurts approximately 75 million individuals annually.[27] The national prosecutors office in my country predicted that 5 years from now, 50% of all recorded crime[28] will be cybercrime. And let us briefly look at the impact of this development. It is fair to say that cybercrime covers the entire range of the spectrum between the extremes in consequences of crime. Sometimes the impact is just minute on an individual level, for instance when a scam is set up to illegally acquire 1 cent from every bank transaction of a given nature. On the other side of the spectrum, cybercrime can have literally lethal implications. By now we are all familiar with suicides caused by sexting or cyberbullying. Cyberstalking and identity theft can likewise destroy lives. I add that one simple act of hacking can lead to a load of follow-up conventional crime. To further amplify my point, I list some additional typical examples of cybercrime.[29] The so-called 'botnets'

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26 Just another indication: by now there are more victims of hacking than of bicycle theft (which used to be the frontrunner in the Netherlands, with 900.000 instances annually out of a total number of crimes of 4 million).

27 For more information on the scale of cyber wrongdoing and the challenges it puts to criminal law: Qianyun Wang 2017. The procedural angle is highlighted by J.J. Oerlemans 2017.

28 And then it needs to be borne in mind that in cybercrime, the average reporting rate is even substantially lower than in conventional crime. Many experts speak of a mere 3%. Of course, it is hard to determine the reliability of these numbers and proportions. A British report issued in 2017 mentions a reporting rate in the UK of 20%: https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/399/399.pdf.

29 Martellozzo & Jane 2017.

are involved in hacking internet-of-things-appliances, such as smart fridges, thermostats and camera's. Total damages amounted to $ 8.4 billion in 2017 and is expected to increase to some $ 20 billion by 2020. Using ransomware and DDoS-attacks (which is an overload of site-visits) can threaten the integrity of any IT system. It makes all businesses and government agencies vulnerable to extortion. The mere threat of paralysing a system might induce many to succumb to this type of blackmail and pay hefty sums of money to the perpetrators. Money laundering has greatly been facilitated by new opportunities provided by the web. The use of cryptocurrencies (bitcoins, ethereum, monero) has aggravated the situation. One of the latest developments in this area is so-called 'deep fake video's', in which it is possible to picture celebrities (including politicians and heads of states) apparently expressing extremely damaging messages the criminal wants to circulate. Finally, there is the 'dark web' (think of the Tor network). By now, everybody links this phenomenon to illegal behavior. It should be remembered, though, that initially the dark web was introduced by *governments* in order to protect the privacy of its citizens. Only later was this hidden part of the web hijacked by (organized) criminals, who replaced the notion of privacy by the concept of anonymity as a cover for their illegal actions.

It is amazing to see that while IT has rapidly transformed the world, law enforcement has not kept up pace in fighting cybercrime. Likewise, with few exceptions cybercrime still has not received the attention it merits in victimology.[30] In legal circles, special provisions have been created for victims who suffer from cross-border crime. There is nothing similar in terms of special protection for victims of cybercrime, not even when there is no realistic way of finding out in what jurisdiction their offenders have been factually active. No-one has formally proposed to rate these victims as 'particularly vulnerable'. Yet many of them are completely clueless and defenceless after this kind of incident has occurred. Just one final remark on this new development. When it comes to cybercrime, the buzzword among policymakers is: prevention, prevention, prevention… While it is obviously correct that users of IT systems should be cautious in dealing with the outside world, we should be careful not to border on lightly blaming unfortunate victims. In this respect it is interesting to observe that the first generation of cyber-victimologists started exactly the way Hans von Hentig in 1948 introduced attention for victimology in general: they began by paying attention to *victim-precipitation.*[31] Let us beware of not making the same mistake in two waves in a row.

30 Jaishankar 2017.

31 Domenie et.al. 2013.

3.1.2. Big data

Unlike cybercrime, some ten years ago the concepts of 'big data' and 'data science' were completely absent from our vocabulary. It was just unexplored territory. Since that relatively short while ago, big data and data science have become booming business. In academia, all over the world a very large number of research centres and institutes have been established in order to secure a dedicated effort in this direction. Many professorial chairs have been created in this area. In many countries, it is hard to keep track of the number of PhD-projects on big data that have commenced during the last two years only. Big data is hot. Big data is the fashion of the day. What are the implications of this development for the field of victimology?

But first: what is 'big data'? Of course the concept refers to huge sets of data. There is no hard and fast rule regarding the transition to 'big'. This varies according to the context. In any case there are many terabytes, petabytes and exabytes involved.[32]

I will argue that the ascent of big data and data science is a potential game changer for victimology. A sweeping statement like this is in need of some substantiation. First, big data offers new opportunities for academic research within victimology. One of the main and lasting questions within our field is about the impact of crime. This is about the psychological consequences of victimization. It also includes the economic implications of being harmed by crime. How do we measure the day to day effects of crime on our society, both on a micro, a meso and a macro level? And where should we position our horizon? Do we merely want to know what the short term or medium time disruptions caused by offenders are, or can we define our ulterior goal as gaining insight into the long term impact of crime? Big data and data science apparently open a window to access a more comprehensive view on crisis, trauma and resilience. It could also increase our knowledge about manmade interventions after a crime has occurred. Which forms and kinds of victim support really work in the short run? Which effects of these strategies are lasting? Until recently, none of these questions – and there are many more of them – could be researched in a systematic fashion, for lack of empirical data and for lack of proper methodology. Now, in the new era of big data, it looks as if many blinds are being folded. Tremendous amounts of loose data from different origins are being interconnected – or can potentially be interconnected in the near future - which opens up opportunities to start addressing new relevant questions which until recently were beyond our reach. Ever since I started work in victimology, over three decades ago, it has always been my dream to start mapping the life time impact of crime. That is: to design a model powerful

32 Gandomi & Haider 2015.

enough to process the (mental) health implications of victimization and the effects on a professional career (= long term economic results) at the same time. It used to be impossible – even unconceivable. We did not have the data, and if we did have large data sets – such as compiled in the ICVS – we did not have the algorithms to study and bring them together in a reliable way. No longer so. Specialists in data science have removed many of the common obstacles to progress. Now it looks like just a matter of time before some spectacular breakthroughs on the basis of pre-existing empirical data might be expected.

Of course, there is no such thing as a free ride. No progress, or projected progress, without any drawbacks. In the case of big data the most obvious potential threat concerns privacy. This should not deter us from exploring new opportunities, it should encourage us to take up new challenges. The most tangible ones are partly practical or technical and partly ethical in nature. They involve notions like accessibility, analyses and storage. They are about replication, validity and generalizability. We have to accept the fact that the research methods and statistical methods we have employed during the past will be insufficient to deal with the demands created by the availability of big data. And there are the inevitable moral, ethical and legal considerations. Data protection laws will assume a new urgency. Their meaning will change dramatically. In a 2018 report published by the Royal Netherlands Academy of Arts and Sciences, two of the recommendations to the government stand out.[33] One is that the academic community has to develop new methods for careful use of big data. The second is that research teams should be supported by data-experts and these teams should include legal and ethical expertise. Big data and data science could bring us to the threshold of victimology 2.0.

As an afterthought, and as an extension of the debate on big data, we will have to pay attention to the current wave of efforts by national governments to digitalize criminal proceedings. It is obvious that this process is as inevitable as it is difficult to complete successfully. The complexities involved are hard to fathom. In an era of informational rights for victims, officials cannot pretend that it is just a simple matter of changing attitudes to facilitate the transition from the paper world to the online world. It will take much more than that. In modern kind of jurisdictions victims have a right to look at the case file before the trial commences. How to deal with that type of rights in a digital environment? How to block access to confidential parts of the case file, for instance about the mental health of the defendant? And so on, and so forth. We have to bear in mind that victims, like offenders, frequently do not belong to the over-privileged parts of our population. Many of them are poorly educated and belong to the low income brackets. It does

33 KNAW 2018.

not require lots of imagination to see that they will most likely not be frontrunners in computer skills. Victim assistance practitioners and victimologists will have to prioritize these emerging issues in order to remain relevant to the field.

3.2. Legal reform

3.2.1. 'Minimum standards'?

International protocols on victims' rights are invariably presented as containing 'minimum standards'. This designation means that every State is expected to comply with all of these standards and is supposed to be capable of doing so. The adjective 'minimum' aims to impress on the signatories that it is indeed allowed to go over and above the threshold established by the international instrument.[34]

This way of presenting things has increasingly become misleading. Perhaps the 1985 UN Declaration comes closest to the traditional model.[35] The demands on the Member States of the UN were worded in a modest way and were designed to accommodate vast cultural differences and immense gaps between the daily realities in Third World countries on the one hand and the more affluent States on the other. Even so, it was demonstrated time and again that *none* of the members of the UN fully complied with all the provisions contained in the Declaration. Since then, international instruments on victims' rights have only become more demanding. We have witnessed a change of direction from 'soft law' to 'hard law'. We have seen that some of the standards that have recently been introduced as 'minimum' standards, are in actual fact excessively high. That is for instance the case with respect to the so-called 'individual needs assessment'. According to article 22 of the 2012 EU Directive mentioned before, victims shall receive a timely and individual assessment, to identify specific protection needs and to determine whether and to what extent they would benefit from special measures due to their particular vulnerability to secondary and repeat victimisation, to intimidation and to retaliation. In my humble opinion, individual needs assessment and individual risk assessment as extremely complicated questions. And they involve time consuming demands. No-one can claim to be able to reliably predict the likelihood of future victimization by administering a simple test within a handful of minutes. Anyone who is familiar with the complexities of designing and fine tuning risk assessment models knows that is has taken generations of

34 E.g. recital 11 to the 2012 EU Directive: "This Directive lays down minimum rules. Member States may extend the rights set out in this Directive in order to provide a higher level of protection."

35 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (adopted by General Assembly resolution 40/34 of 29 November 1985).

researchers and decades of concerted efforts to come slightly closer to this elusive ideal of adequately predicting risk.[36]

Predicting risk is a frustrating business. In this respect it should be born in mind that demanding the impossible from law enforcement officials is very tricky. It is asking for trouble. I will point to three (potential) adverse consequences resulting from the strategy to effectively overburden the criminal justice system under the guise of introducing more effective 'minimum standards'. One: as far as the police is concerned, we should never forget that during the past three decades or so, the community has constantly called on them to change their attitude in order to facilitate reform of the criminal justice system on behalf of crime victims. And the police in many ways has responded and delivered. Next to their traditional job – catching criminals – they have generally accepted that their identity, the *esprit de corps*, will in the future also be shaped by their performance in terms of treating victims with respect and understanding. This transition in mind-set has to be applauded – even though admittedly there still is room for further improvements. However, it cannot be challenged that the police force in nearly every country feels overworked and understaffed. Against this background it would be hazardous to charge them with even more additional obligations in connection with victims' rights, which the individual officers on the ground cannot internalize as being 'reasonable'. This could easily backfire. It could very well lead to a sense of 'victim fatigue'. That must be avoided at all costs. Similarly, and that is number two, imposing excessive demands on the system could mentally alienate the body which is mostly responsible for connecting the different players on the field, which is the prosecutors' office. Let us take the ICC as an example. The Rome Statute has brought 'victim justice' as a concept to the realm of international criminal law. Of course, the OTP officially supports this direction. Nevertheless, it is a well known secret that the OTP in actual practice quite often regards victims as a hindrance, as a burden while executing their many complicated duties. When support for victims is not fuelled by an internal moral drive, it will turn out to be hard to sustain in the longer run. Thirdly and finally, we can observe recurring hesitations on the part of the judiciary. This institution is built on the overriding and cross-cultural value of protecting a fair trial for defendants in criminal cases. Over the past decades, it has been demonstrated that this notion can be stretched to include paying adequate attention to the victims' perspective. Yes, we *can* have reforms on behalf of victims without prejudice to the basic procedural rights of the offender. But this development is not without limits. There comes a point when demands made by outsiders (which can easily be politicians or overzealous victim advocates), invoking victims' interests, actually

36 More on this in the various chapters in Winkel & Baldry 2013.

do interfere with the right to a fair trial on the part of defendants. When that line is crossed, victim advocates – or people pretending to serve the best interests of victims – have to be called to order.

All of the above is in line with my conclusion that even here the role of victimology has gradually and at the same time fundamentally changed. Victimology as an academic discipline has for decades played the role of consistently opening up new and additional opportunities for crime victims. It has provided empirical evidence that reform of the criminal justice system is possible without compromising offenders' rights. Hence the frequently repeated claim that this is 'not a zero-sum-game'. Victimology used to be an *accelerator* of reform. It used to have an exclusive focus on *supporting* reform. Nowadays, however, I see increasing evidence that victimology also has to act as a *brake* to prevent excessive reform which might be harmful – and thus counterproductive - to the best interests of victims.[37] Examples of the latter can easily be found in systems which endeavour to introduce special minimum sentences because that is supposed to benefit the sense of justice of victims. The same is true for countries falsely claiming that the death penalty ultimately benefits crime victims.[38] A final example is constituted by re-opening fully completed statutes of limitation. This author concludes that we should remain careful when using the concept of 'minimum standards'. The idea of having shared minimum rights for crime victims has to be realistic. That means at least that each country agreeing to such benchmarks has to be able to comply with them. And it implicitly calls for an approach which has to be inherently moderate in nature.

3.2.2. Enforceability of victims' rights

The final item of a legal nature that needs to be addressed in this chapter is about enforcing victims' rights in the criminal justice system.

In the preceding sections we have seen that in recent history victims have been granted new and additional rights in their dealings with the criminal justice system. It has also been demonstrated that most of the legal instruments conveying these rights are generally poorly implemented. That observation is phrased on a high level of abstraction. What it comes down to for real people with real problems, is that their rights are just not observed in actual practice. And that is a correct statement of fact. Bringing things back to basics, we have to face the fact that in very large numbers of cases, perhaps even in a majority of cases, the legal rights of victims are violated.[39]

37 This change in the role of victimology was first pointed out in Groenhuijsen 2014.

38 Groenhuijsen & O'Connell 2016.

39 To underscore this point, I refer again to Brienen & Hoegen 2000, whose findings show that

What does it mean that there is such widespread neglect of existing victims' rights? It has turned many doctrinal scholars into sceptics or cynics. Some of them argue that a right is only a legal right when it is legally enforceable. To adopt a practical approach, I suggest that a right is a legal right when it provides a citizen with an entitlement. That entitlement can very well be a service to be rendered by a government official. Such as providing information in a situation where the citizen has fallen victim to crime. That entitlement is similar in kind to many offender's rights. Like the well known *Miranda* warnings in American criminal procedure. Nobody would argue that these informational duties for cops are just 'services' to suspects. The nature of the obligation on the official renders the entitlement of the recipient as a 'right' in itself. Of course, the next – albeit different – question is about enforcement. Here we are faced with a deep divide between offender's rights and victim's rights. For offenders, in case of violation of procedural rights we usually can find a specific remedy when the government pursues further action against him. When he is charged with a crime, the subsequent procedure allows for complaints about the way he has been treated by police or prosecutor. In case of default, remedies are available, such as exclusion of evidence.[40] Here, enforceability of rights equals the availability of remedies in case of non-compliance or outright violation.

This is definitely more complicated in cases of non-compliance with victims' rights. In individual situations sometimes a remedy is readily available, and then there is no special problem. This occurs, for instance, when the victims' offender is found and apprehended, but not prosecuted. If the victim feels that his voice was not heard in preparing for the decision not to prosecute, many jurisdictions allow for a review of this decision, either by an administrative body or by the judiciary. Likewise, when a prosecution is actually initiated and the officials fail to notify the victim of the date and time of the trial, this oversight can easily be remedied by adjourning the case and rescheduling it at a time when the victim can exercise his participatory rights. However, these are the exceptions to the rule. Usually, there is no crisp and clear remedy available in cases of violations of individual victims' rights. There are many reasons for this. How to sanction neglect of victims' rights if the perpetrator is never identified? If there is no criminal procedure beyond the investigative stage? And how to deal with extremely large numbers of cases in which this kind of omissions took place? The legal system is just not equipped to handle massive breaches of procedural

informational rights are fully observed in the best performing countries in 70% of the cases. In most jurisdictions, over 50% of victims are not informed according to applicable standards.

40 Inadmissibility of evidence is just one of the available remedies. Depending on the circumstances of the case and on the features of the domestic system involved, there are many other possibilities. I just mention reduction of a sentence as an example.

rules (keep in mind the 50+% of victims who do not receive all information they are entitled to).

In some parts of the world, most notably in the United States, there have been concerted efforts to enhance the level of enforceability of victims' rights.[41] On the federal level, in 2004 the Congress adopted the Crime Victims' Rights Act. It allows victims to file a motion with the court in order to secure their rights. Besides, a victim has the power to approach the Court of Appeals with a *writ of mandamus* when a right has arguably been violated. This can lead to a suspension of the trial for a maximum of five days. However, research has shown that a large majority of these appeals are denied. Enforceability thus remains essentially problematic[42], unless in cases of violations of the right to be heard in the framework of plea bargaining or in parole proceedings. I humbly point out that all remedies mentioned only apply in situations where some sort of criminal trial takes place. The basic problem can never be addressed in this way, because a large majority of violations of victims' rights occurs when no offender is found or brought before a court.[43]

Which does not leave us necessarily empty handed. Apart from remedies on the individual level we have also witnessed the ascent of *collective remedies*. Where the former ones are commonly referred to as 'hard remedies' and the latter ones are labelled as 'soft remedies', it remains to be seen which of these kinds ultimately is of the greatest benefit to victims. Collective remedies that can be found in different parts of the world include the establishment of an Ombudsman for victims' issues or a so-called Victims Commissioner. Even though their remit can vary according to time and place, the general pattern is pretty much alike. They serve as a desk where victims can file complaints if they feel their rights have been violated. Many Ombudsmen have some powers to investigate such claims and issue a report with findings.[44] They publish an annual report, mostly with general recommendations on how the government agencies can improve their conduct vis-à-vis crime victims. Some of the Ombudsmen and most Victim Commissioners have farther reaching mandates, including providing services to individual victims.

41 Beloof 2005; Tobolovski et.al. 2016.

42 Tobolovski 2115.

43 Kirchengast 2016 has outlined some underlying reasons why soliciting a court's decision on alleged violations of victims' rights can never meet the expectations of the victim involved.

44 It is striking that some Ombudsman offices have a conspicuously high rate of declining complaints. The USA Victims' Rights Ombudsman, for instance, received 259 complaints between 2005 and 2009. Out of this workload, 235 were dismissed on formal grounds (not targeted at federal employees) while all (!) remaining ones were deemed unfounded. Numbers like these are likely to quickly undermine confidence in the office. Moreover, as was pointed out before, raising expectations and then not living up to them can lead to secondary victimization.

These services can be of a very practical nature (like repatriating a body from a foreign country), or they can be about legal services and assistance during the trial.[45] The institutions of an Ombudsman and Victims Commissioner could well be part of a major move to make victims' rights a reality in daily practice.

Additionally, some countries have included the victims' perspective as a job performance indicator for police *forces*. By abandoning the limited focus on individual police officers, with its inherently attached unproductive result of naming and shaming, new opportunities could be revealed – and more incentives could be provided - to actually influence the attitude of all ranks within a police force to pay more attention to victims' issues.

4. Conclusion

This contribution has outlined what 'victimology' entails and which main developments in this field of research have emerged. Some bad news was specifically identified. In the legal area, it was reported that some countries have merely adopted new legislation designed to better meet the needs of victims, without caring about the practical impact of these reform measures. In those instances, we can be sure that for everyday victims nothing much will improve. However, the previous sections have also revealed a lot of good news. Many jurisdictions have brought about more improvements in this area during the last 25 years than during the preceding century. Nobody can complain any longer about the victim being "the forgotten party" in the criminal justice system.

Apart from the still urgent areas such s integrating restorative justice practices in traditional criminal justice systems, the position of victims of terrorism, the role of the victim in proceedings before the ICC and the problems connected with multi-culturalism in modern day societies, this contribution has highlighted some of the latest challenges for victimology in a volatile environment. We discussed the technological revolution and its implications for cybercrime, big data and data science. We reviewed the legal approach and discovered that caution is needed to avoid inflation of the concept of "minimum standards" applying to victims' rights. We touched on the trouble spot of enforcement mechanisms when victims' rights are being violated.

Certainly, a lot remains to be done. However, we can look back with pride. Much more has been accomplished than anyone could have predicted some decades ago. In the light of the developments outlined above, it is clear that victimology is not an ideology, it is an academic discipline. Victimology potentially has a bright future because it embodies the language of empathy and

45 Branchflower 2004.

because the main objective of victimology is to contribute to the quality of life for all human beings.[46] We can only succeed in making further progress if we regard our profession as a collective effort. It reminds me of the old African proverb: "If you want to go fast, go alone; if you want to go far, go together." That is the way we should proceed.

46 Bajpai & Gauba 2016.