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Secondary Victimization of Crime Victims by Criminal Proceedings

Uli Orth¹

It is conceivable that criminal proceedings cause psychological harm to the crime victims involved, that is, cause secondary victimization. To investigate this hypothesis, negative and positive effects of criminal proceedings were investigated, as perceived by 137 victims of violent crimes who were involved in trials several years previously. Trial outcome and procedure variables were measured as potential causes of secondary victimization. Results show a high proportion of victims reporting overall negative effects. Powerful predictors were outcome satisfaction and procedural justice, but not subjective punishment severity, interactional justice, and psychological stress by criminal proceedings. The practical implications of the results pertain to whether victims should be advised to report the crime to the police or not, and to appropriate prevention and intervention measures of secondary victimization by criminal proceedings.

KEY WORDS: social justice; criminal justice; crime victims; secondary victimization.

INTRODUCTION

When crime victims report a crime to the police, the authorities respond by investigating the suspected crime, and, where appropriate, a trial is brought against the accused. Even if the victim only has marginal legal status in the criminal proceedings, he or she may nevertheless be able to benefit from the criminal proceedings and find moral satisfaction in a just verdict. Without the intervention and power of the criminal justice authorities, there would in most cases be no way of restoring justice.

¹To whom correspondence should be addressed at Department of Psychology, University of Berne, Muesmattstrasse 45, 3000 Berne 9, Switzerland. E-mail: uli.orth@psy.unibe.ch

But the trial often fails to lead to the result desired by the victim. Instead, the sentence may be appraised as too lenient, the perpetrator may be acquitted, or the proceedings may be dismissed. General experience teaches us that victims react to court decisions that do not meet their expectations with intense negative feelings of disappointment and moral outrage. To date, however, there has been little empirical research into whether unfavorable outcomes in criminal proceedings have psychological effects that exceed the immediate emotional reactions.

If criminal proceedings cause psychological harm to the victims involved, this must be considered a serious undesirable effect of the criminal justice system and an instance of secondary victimization of victims. Secondary victimization has been defined as negative social or societal reaction in consequence of the primary victimization and is experienced as further violation of legitimate rights or entitlements by the victim (Montada, 1994). Indeed, the criminal justice system is often characterized as causing secondary victimization among crime victims (Fattah, 1997; Gutheil, Bursztajn, Brodsky, and Strasburger, 2000; Koss, 2000; Symonds, 1975). Subjective evidence of secondary victimization by criminal proceedings has been documented (Erez and Belknap, 1998). In a study of mental health professionals, 81% of the participants believed that contact with the legal system can be psychologically harmful for rape victims (Campbell and Raja, 1999). In a study of rape victims, 52% appraised the contact with the legal system as harmful (Campbell, Wasco, Ahrens, Sefl, and Barnes, 2001).

Several studies have been conducted to investigate the question of whether contact of crime victims with the criminal justice system increases the psychological difficulties caused by the primary victimization. In a study of rape victims, legal secondary victimization (e.g., the police told the victim the case was not serious enough to pursue) was positively associated with posttraumatic stress reactions (Campbell et al., 1999). In contrast, results of other studies with victims of violent crimes suggest that trials do not influence posttraumatic stress reactions of crime victims (Hammer, 1989; Orth and Maercker, submitted). In a study of victims of sexual assault, posttraumatic stress reactions were not related to the victims' perceptions of how they were treated by the legal system (Frazier and Haney, 1996). In a study of victims of violent and property crimes the criminal justice variables explained negligible proportions of the variance of depression symptoms (Tontodonato and Erez, 1994).

Besides effects on the psychological difficulties caused by the primary victimization, secondary victimization by criminal proceedings could negatively influence other psychological variables such as the victim's self-esteem, faith in the future, trust in the legal system, and faith in a just world. In the present study, these effects will be investigated from the subjective view of the victims. The potential causes of these effects are the outcome of criminal proceedings as well as the procedure (Tyler and Smith, 1998).

SECONDARY VICTIMIZATION BY THE OUTCOME OF CRIMINAL PROCEEDINGS

Unfavorable outcomes may violate several important expectations of crime victims. First, retaliation is a crucial punishment goal of crime victims, corresponding to the retribution motive of punishment reactions (Vidmar and Miller, 1980). Several functions of retaliation have been distinguished: retaliation shall re-equilibrate gains and losses of the assault, re-equilibrate power, and restore the victim's self-esteem (Frijda, 1994; McCullough, Bellah, Kilpatrick, and Johnson, 2001; Miller, 2001; Vidmar, 2000). Upon hearing the court decision, the victim appraises whether the counterharm done to the perpetrator by the punishment is sufficiently severe. Victims may react with moral outrage if the perpetrator receives better or more costly rehabilitation than they themselves. Victims frequently have a critical attitude toward the perpetrator's rehabilitation, primarily because it improves the outcome of the perpetrator and therefore worsens the relative outcome for the victim.

Second, security is a further key punishment goal of crime victims, corresponding to the behavior control motive of punishment reactions (Vidmar and Miller, 1980). Victims may expect that the trial and the sentence will deter or prevent the perpetrator from committing further offenses against the victim. If the perpetrator is sentenced to prison, he or she does not present a threat for a period of time. However, if the victim considers the term to be too short, the victim may already fearfully anticipate the perpetrator's release at the time of the court decision.

Third, recognition of their victim status is an important motive of crime victims. Through legal punishment a defendant is officially identified as the perpetrator and the victim is publically recognized as victim of a criminal offense. Violations of victims' need for recognition of their victim status are likely to be perceived as a particularly severe form of secondary victimization (Montada, 1991).

SECONDARY VICTIMIZATION BY THE PROCEDURE OF CRIMINAL PROCEEDINGS

When investigating the psychological effects of criminal proceedings, the victims' appraisals of the procedure have to be taken into account as potential causes of secondary victimization as well.

First, procedural justice is a crucial variable in evaluating the criminal proceedings (Lind and Tyler, 1988; Thibaut and Walker, 1975; Tyler, 1990). Several criteria of procedural justice have been identified: the consistent application of rules (consistency), bias suppression in decision making (bias suppression), accurate consideration of all relevant information (accuracy), the review of the decision in case of objections and new information (correctability), representativeness of the views of all parties concerned (representativeness), and compatibility of the decision with generally accepted ethical values (ethicality) (Leventhal, 1980). The

principle of presumption of the defendant's innocence is likely to be perceived by victims as a significant imbalance in the consideration of the victim's interests vs. the perpetrator's interests. The principle is a fundamental guaranty of a fair trial for the defendant; however, questioning the perpetrator's guilt implies questioning the credibility of the victim's testimony.

Second, interactional justice refers to the interpersonal aspect of the procedure. Parties to a trial pay attention to the status they are accorded by the judge: whether they are treated with respect and politeness (Bies and Moag, 1986; Lind and Tyler, 1988). Categories of interactional injustice are victim blaming, insensitive remarks, debasement, and minimization of the harm caused by the victimization (cf. Herbert and Dunkel-Schetter, 1992). Violations of interactional and procedural justice are likely to have particular negative effects on the victim's self-esteem (Koper, van Knippenberg, Bouhuijs, Vermunt, and Wilke, 1993; Tyler, Degoey, and Smith, 1996).

Third, psychological stress by criminal proceedings is another crucial variable of the procedure. The testimony situation, the confrontation with the perpetrator, and the presence of spectators are often cited as being especially stressful (Konradi, 1999; Koss, 2000). Victims may perceive the criminal proceedings as a further serious interpersonal conflict with the perpetrator (Pitman, Sparr, Saunders, and McFarlane, 1996). The long delay between reporting a crime to the police and the beginning of the trial represents a further source of psychological stress for crime victims (Bennett, Goodman, and Dutton, 1999; Gutheil et al., 2000). Some victims feel or actually are blamed by the perpetrator or defense attorney for being partially or fully responsible for the criminal offense (Koss, 2000; Pitman et al., 1996).

OBJECTIVES

Secondary victimization by criminal proceedings will be described as it is perceived by the victims involved. Negative as well as positive subjective effects from criminal proceedings will be measured. The power of outcome variables and procedure variables in predicting subjective effects is tested in hierarchical regression analysis; control variables such as victim age, gender, education, offense type, and victim–perpetrator relationship are included in the analysis.

METHOD

Participants

Participants were contacted with the help of the *Weisser Ring*. This association is the largest and most known victim assistance association in Germany. In the year 2001, the association gave practical, emotional, or financial support to ~10,000 victims. Of these, 35% were victims of sexual assault, 23% were victims of physical

assault, 20% were victims of robbery or theft, 12% were relatives of homicide victims, and 10% were victims of other crimes. In 22% of the cases the victim age was 20 years or less, in 42% between 21 and 40 years, in 22% between 41 and 60 years, and in 13% 60 years or more. 73% of the victims were women. About 1300 victims received financial support for the criminal proceedings (i.e., the fees of the victim's attorney were paid), on average ~450 Euro. Generally, the financial support by the victim assistance association did not include compensation for pain and suffering, or compensation for damages.

Victims who had received financial support for the criminal proceedings within the last 5 years were sent a questionnaire with a request to take part in the study. The individuals surveyed were chosen at random. Participant anonymity was protected. The participation rate was 32%. In this study data from the 137 victims in whose cases a trial actually had taken place are analyzed. Not included are those victims in whose cases the criminal proceedings had been closed without a trial, as data for procedure variables are missing for these individuals.

The sample consisted predominantly of women (83%). Sixty-five participants were victims of rape; 72 participants were victims of nonsexual assault (bodily harm, robbery, deprivation of liberty). The mean age at the time of the study was 38.3 years ($SD = 12.3$, range 19–65 years). Level of school education was as follows: 42% did not finish school or finished the obligatory 9 years, and were coded as low education; 58% finished high school (10 years) or academic-track high school (ca. 13 years), and were coded as high education. The educational level of the sample is roughly representative of the German population. Forty-seven percent of the participants were victimized by a stranger (coded as no victim–perpetrator relationship); 53% knew the perpetrator before the victimization (coded as victim–perpetrator relationship). Mean time since victimization was 4.3 years ($SD = 2.3$ years).

Ninety-five percent of the victims reported the crime to the police themselves or agreed to having it reported. Mean time since the trial was 3.0 years ($SD = 1.9$ years). Ninety-three percent of the participants were intermittently or constantly present at the trial. In 87% of the cases the trial resulted in sentencing of the perpetrator, in 6% the defendant was acquitted, and in 7% the trial was dismissed without a sentence. In 9% the state prosecution department had appealed against the court decision.

Measures

Subjective Effects

Subjective effects from criminal proceedings were assessed with five items specifying psychological changes (Cronbach's $\alpha = 0.87$): “What consequences did the criminal proceedings have on your ability to cope with the crime?”; “What

consequences did the criminal proceedings have on your self-esteem?"; "What consequences did the criminal proceedings have on how optimistically you view the future?"; "What consequences did the criminal proceedings have on your trust in the legal system?"; "What consequences did the criminal proceedings have on your faith in a just world?" Answers were measured on a 7-point scale (-3 = very negative, 3 = very positive).

Outcome Satisfaction

Outcome satisfaction with criminal proceedings was assessed with a single item: "How satisfied are you with the outcome of the criminal proceedings?" Answers were measured on a 7-point scale (-3 = very dissatisfied, 3 = very satisfied).

Punishment Severity

The subjective punishment severity was assessed with a single item: "How lenient/severe is the outcome of the criminal proceedings for the perpetrator, according to your own sense of justice?" Answers were measured on a 7-point scale (-3 = very lenient, 3 = very severe).

Procedural Justice

Procedural justice was assessed with six items (Cronbach's $\alpha = 0.79$): "The judge felt that his primary duty was to administer justice" (ethicality), "The judge had sufficient information for his decision" (accuracy), "The criminal investigation was not conducted well enough" (accuracy), "My interests were not sufficiently taken into account in the trial" (representativeness), "In comparison to the perpetrator, I had too few rights" (representativeness), "I had sufficient opportunities to present my point of view and my demands" (representativeness). Answers were measured on a 6-point scale (0 = not at all right, 5 = completely right).

Interactional Justice

Interactional justice was assessed with three items (Cronbach's $\alpha = 0.64$): "The judge had prejudices toward me," "The judge insinuated that I was partially to blame for the crime," "The judge treated me with respect and politeness." Answers were measured on a 6-point scale (0 = not at all right, 5 = completely right).

Psychological Stress

Psychological stress by criminal proceedings was assessed with five items (Cronbach's $\alpha = 0.60$): "The presence of the perpetrator was stressful to me,"

“The presence of spectators was stressful to me,” “Giving testimony was stressful to me,” “The perpetrator or the defender insinuated that I was partially to blame for the crime,” “It was stressful to me, that it took such a long time before the case came to trial.” Answers were measured on a 6-point scale (0 = not at all right, 5 = completely right).

RESULTS

Table 1 shows means and standard deviations of the measures used and correlations with subjective effects. Mean subjective effects have a negative value that differs significantly from 0, which is the central value of the rating scale ($t = -3.71, df = 134, p = 0.000$); the difference corresponds to a small effect size with $d = 0.32$ (cf. Cohen, 1988). Sixty-seven percent of the participants have negative scores on the scale. Thus, in the sample under investigation a high level of perceived secondary victimization was found. Outcome satisfaction, punishment severity, procedural justice, and interactional justice are substantially correlated with the effect variable; the directions of these correlations are as expected. Psychological stress by criminal proceedings and control variables are uncorrelated with the effect variable. An exception is victim age, which moderately covaries with more positive subjective effects. To assess the problem of biased recall due to retrospective measurement, correlations of time since trial with outcome variables,

Table 1. Means and Standard Deviations of Subjective Effects from Criminal Proceedings, Outcome Variables, and Procedure Variables, and Correlations with Subjective Effects from Criminal Proceedings ($128 \leq N \leq 135$)

Variables	<i>M</i>	<i>SD</i>	<i>r</i>
Effect variable			
Subjective effects	-0.52	1.64	—
Outcome variables			
Outcome satisfaction	-0.93	2.16	0.56**
Punishment severity	-1.68	1.85	0.36**
Procedure variables			
Procedural justice	2.92	1.31	0.54**
Interactional justice	3.89	1.26	0.38**
Psychological stress	3.17	1.12	-0.05
Control variables			
Age	—	—	0.25**
Gender ^a	—	—	-0.01
Education ^b	—	—	-0.06
Offense type ^c	—	—	0.02
Victim–perpetrator relationship ^d	—	—	-0.07

^a0 = male, 1 = female.

^b0 = low, 1 = high.

^c0 = nonsexual assault, 1 = rape.

^d0 = no, 1 = yes.

** $p < 0.01$. (two-tailed).

Table 2. Summary of Hierarchical Regression Analysis for Control Variables, Outcome Variables, and Procedure Variables Predicting Subjective Effects from Criminal Proceedings ($N = 126$)

Predictors	R^2	ΔR^2	B^a	SE B^a	β^a
Step 1: Control variables	0.07	—			
Age			0.02	0.01	0.13
Gender ^b			-0.01	0.35	0.00
Education ^c			0.26	0.25	0.08
Offense type ^d			0.04	0.27	0.01
Victim–perpetrator relationship ^e			0.25	0.25	0.08
Step 2: Outcome variables	0.33**	0.26**			
Outcome satisfaction			0.33	0.08	0.43**
Punishment severity			-0.08	0.08	-0.10
Step 3: Procedure variables	0.44**	0.11**			
Procedural justice			0.39	0.11	0.31**
Interactional justice			0.17	0.11	0.13
Psychological stress			0.07	0.11	0.05

^aFinal results.

^b0 = male, 1 = female.

^c0 = low, 1 = high.

^d0 = nonsexual assault, 1 = rape.

^e0 = no, 1 = yes.

** $p < 0.01$.

procedure variables, and the effect variable were computed. All correlations were statistically insignificant with $-0.10 \leq r \leq 0.10$.

Table 2 shows the summary of a hierarchical regression analysis predicting the subjective effects. In Step 1 the control variables are entered in the regression equation, resulting in low variance explained. In Step 2 the outcome variables and in Step 3 the procedure variables are entered, significantly increasing the variance explained by $\Delta R^2 = 0.26$ and $\Delta R^2 = 0.11$, respectively. If outcome variables and procedure variables are entered in reversed sequence, procedure variables and outcome variables increase the variance explained by $\Delta R^2 = 0.27$ and $\Delta R^2 = 0.10$, respectively. Among the outcome variables only outcome satisfaction has a significant regression coefficient with $\beta = 0.43$; the regression coefficient of punishment severity is not significant. Among the procedure variables only procedural justice has a significant regression coefficient with $\beta = 0.31$; the regression coefficients of interactional justice and psychological stress are not significant. Victim age, which showed a significant simple correlation with the effect variable, has no significant regression coefficient.

Table 3 shows means and standard deviations of the five items that are comprised in the scale measuring subjective effects, and variance explained by the predictors used in the previous regression analysis. Means of all items are negative, but means of items measuring effects on self-esteem and faith in the future are considerably closer to 0 than means of the other items. The difference of the lowest mean (-0.91 , effects on trust in the legal system) and highest mean (-0.15 ,

Table 3. Means and Standard Deviations of Items Measuring Subjective Effects from Criminal Proceedings, and Variance Explained by Predictors Shown in Table 2 ($124 \leq N \leq 125$)

Items	<i>M</i>	<i>SD</i>	<i>R</i> ²
Effects on coping with victimization	-0.55	2.08	0.32**
Effects on self-esteem	-0.15	1.99	0.24**
Effects on faith in the future	-0.28	1.75	0.30**
Effects on trust in the legal system	-0.91	2.10	0.58**
Effects on faith in a just world	-0.89	1.89	0.43**

***p* < 0.01.

effects on self-esteem) is statistically significant ($t = 4.56, df = 129, p = 0.000$) and corresponds to a medium effect size of $d = 0.39$ (cf. Cohen, 1988). Variances of items measuring effects on trust in the legal system and effects on faith in a just world are considerably better explained by the predictors used in this study than variance of the other items.

DISCUSSION

The results suggest that criminal proceedings are frequently a secondary victimization for the crime victims involved. Secondary victimization was measured in this study by assessing effects of criminal proceedings, as perceived by the victims, on coping with victimization, self-esteem, faith in the future, trust in the legal system, and faith in a just world. Negative effects on trust in the legal system and faith in a just world were considerably stronger than effects on coping with victimization, self-esteem, and faith in the future. Powerful predictors of secondary victimization were outcome satisfaction and subjective procedural justice. In contrast, punishment severity, interactional justice, and psychological stress by criminal proceedings did not qualify as significant predictors in multiple regression analysis. Some participants in the study stated in written comments given at the end of the questionnaire that the criminal proceedings against the perpetrator had harmed them even more than the criminal victimization itself. On the other hand, it should be taken into account that in limited cases the criminal proceedings were perceived as psychologically helpful.

Consistent with the literature cited in the introduction, the empirical findings indicate that, even if criminal proceedings do not increase the victim's psychological difficulties caused by the criminal victimization, such as posttraumatic stress reactions and depression symptoms (Frazier and Haney, 1996; Hammer, 1989; Orth and Maercker, submitted; Tontodonato and Erez, 1994), criminal proceedings might induce other negative psychological changes among crime victims, as assumed by victimological authors (Fattah, 1997; Gutheil et al., 2000; Koss, 2000; Symonds, 1975). It should be emphasized that in this study the causes

of secondary victimization could not be attributed to the psychological stress by criminal proceedings, but to the victims' justice appraisals of outcome and procedure.

Sample characteristics is a critical issue, especially when interpreting the mean subjective effects. Admittedly, the data collection was not designed to ensure sample representativeness. However, the generality of the results may be assessed optimistically for the following reasons:

First, the response rate, which was only 32%, might restrict the generality of the study, though it is generally difficult to obtain high response rates in surveys with crime victims. Nonresponders might differ in some unknown way from the sample with respect to their experiences in the criminal proceedings. However, the sample did not substantially differ from the population from which the sample was drawn (age, gender, offense type), as can be seen from the data in the Method section.

Second, age, gender, education, offense type, and victim–perpetrator relationship, which were included in the analysis as control variables, did not contribute to the prediction of the subjective effects. This result suggests that psychological effects of criminal proceedings do not depend on these demographic and victimological variables.

Third, there is no evidence that the sample studied had particularly unfavorable or legally problematic criminal proceedings: on the contrary, in most cases the perpetrator was sentenced and in very few cases had the state prosecution department appealed against the court decision. Thus, the study is a conservative test of the secondary victimization hypothesis.

Fourth, a significant factor in sample selection is represented by the fact that all participants received support from a victim assistance association. Unfortunately, it often proves to be difficult in surveys to recruit victims that are without contact to victim assistance associations. In future research, it might be promising to try to obtain representative samples with the help of courts. Thus, support could have been a moderating factor of negative effects of criminal proceedings on victims. It is possible that the participants were provided with better knowledge about the criminal justice system and were given more social support. Again, this would mean that the study is a conservative test of the secondary victimization hypothesis.

The validity of the scale measuring subjective effects may be restricted. Interfering factors could account for the empirically demonstrated link between outcome satisfaction, procedural justice, and subjective effects. Implicit theories on effects of favorable or unfavorable outcomes and procedures could have influenced the answers, and participants could have formed ideas about the research hypotheses. The high internal consistency of this scale may be interpreted as supporting these hypotheses. However, the variances of the five items of the scale are explained at substantially varying degrees, proving that participants answered differentially to these items. In forthcoming studies the subjective effects should be measured more precisely.

In general, there might be methodological problems with using retrospective assessments of the criminal proceedings, especially with victims of traumatic events. The mean time since the trial in this sample was 3 years. However, correlations of time since trial with outcome variables, procedure variables, and the effect variable were insignificant. This result suggests that there was no substantially biased recall of the experiences in the criminal proceedings.

One practical implication of the results pertains to the question of whether victims should be advised to report the crime to the police. The frequency of secondary victimization determined in this study suggests that victims should be aware of the potential harmful effects of criminal proceedings. If crime victims expect the criminal proceedings to be psychologically beneficial, this will often prove to be an illusion. However, it is conceivable that victims who decide not to report the crime experience even more negative consequences: failure to seek retributive justice may lower the victim's status and lead to harmful negative reactions from the social environment (cf. Montada, 1994; Tyler and Smith, 1998). Moreover, it should be noted that many other factors can play a role in the reporting decision, for instance the motivation to deter the perpetrator from future offenses against other victims, or the necessity to report the crime when claiming financial compensation. Therefore, researchers should provide empirical knowledge that helps psychologists and lawyers in advising victims whether they should report the crime or not.

Another practical implication addresses the prevention of secondary victimization by criminal proceedings. For this reason, sentencing norms, procedural norms, and victim counseling will be discussed.

First, should perpetrators be punished more severely to reduce secondary victimization among victims? Victimology research always runs the risk of being instrumentalized to justify a repressive sentencing policy (Fattah, 1997). However, results of the study show that outcome variables only account for a part of the variance of subjective effects; procedure variables are powerful predictors as well. Moreover, among outcome variables, satisfaction with the court decision outweighs punishment severity. Besides perpetrator punishment, victims have other claims with respect to the outcome: financial compensation, information on the perpetrator's intents, admission of guilt by the perpetrator, and perhaps a request for forgiveness from the perpetrator (Smith and Hillenbrand, 1997).

Second, secondary victimization of victims cannot be taken as justification for neglecting rules of procedural justice for the defendant, even if this interferes with procedural justice for the victim. However, it may be possible to increase procedural justice for victims without violating procedural justice for the defendant. Victim impact statements and victim statements of opinion, which allow victims to give testimony about the harm and losses caused by the victimization, to express their feelings toward the perpetrator, and to state their expectations of the court decision, are legal reforms intended to increase procedural justice for victims (Erez and Tontodonato, 1992; Kelly and Erez, 1997).

Third, secondary victimization can be reduced by offering victims more legal and psychological counseling during the criminal proceedings. Legal counseling issues address information about the course of the proceedings, about the victim's rights throughout the proceedings, about support available in case of threats by the perpetrator, and about confusing legal language (Bennett et al., 1999). Psychological counseling can help victims to prepare for, and go through with the trial, and then to cope with their experience in the criminal proceedings.

As a result of their monopoly on penal action, the criminal justice authorities oblige victims to cooperate as witnesses in criminal proceedings. As a consequence, the authorities should have the responsibility to counteract secondary victimization by criminal proceedings by appropriate prevention and intervention measures.

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