

# Including the Forgotten Party in Legal Education: Victims of Crime

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## Abstract

Since the 1970s, victimologists have identified victims as the 'forgotten party' in criminal law, emphasising its failure to recognise them as more than a witness to a crime. While victimology and our understanding of the effects of crime on victims have advanced considerably in recent years, victims largely remain the forgotten party in legal education. Law schools in Canada continue to approach victims as witnesses and fail to offer tomorrow's legal professionals comprehensive training in victimology. Based on the premise that change starts with education, we created an interdisciplinary legal clinic for victims of crime in which law students work together with criminology students, providing legal information to victims. This article presents findings from an evaluation of the programme, which is based on a qualitative study of law students who participated in our legal clinic for victims. After a brief presentation of the programme and the training provided to students, we explore the experiences of the law students and examine how they feel their experience impacted the way they view law and prepared them to work with victims of crime.

**Keywords:** legal education, victims of crime, trauma-informed law.

## 1 Introduction

The introduction of victimisation surveys revealed that many victims of crime do not report their victimisation to police. It also brought to light victims' negative experiences with criminal justice authorities and their dissatisfaction with the criminal justice system. Crime victims often feel victimised again after the crime, but this time due to insensitive reactions from others, in particular criminal justice authorities. Symonds<sup>1</sup> referred to this as *secondary victimisation*. A fundamental notion in victimology that is found in most introductory text-

books,<sup>2</sup> secondary victimisation has been found to hinder victims' recovery from crime.<sup>3</sup> Yet, the criminal justice system depends on victims to function effectively, and, without victim cooperation, criminal justice authorities lose the little control they may have over crime.<sup>4</sup>

Recognising the vital role that victims play in criminal justice, various instruments have been introduced to improve the treatment of victims by criminal justice authorities and increase victim cooperation.<sup>5</sup> Key international instruments include the adoption of the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*<sup>6</sup> by the General Assembly of the United Nations and Directive 2012/29/EU<sup>7</sup> of the European Parliament and the Council establishing minimum standards on the rights, support and protection of victims of crime. These instruments emphasise the importance of information, participation, reparation and support for victims.<sup>8</sup> In response to these developments, national governments have introduced various measures for victims, including victims' rights legislation. Victims' rights continue to grow, as evidenced in the recent adoption by the Committee of Ministers of the Council of Europe of new, expanded recommendations on rights, services and support for victims of crime.<sup>9</sup>

Despite these developments, reporting to police has not improved and, sometimes, has even worsened. Most vic-

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1 M. Symonds, 'The "Second Injury" to Victims of Violent Acts', *Evaluation and Change, Special Issue 36* (1980). *American Journal Psychoanalysis*, 70(1), 34-41 (2010). doi: 10.1057/ajp.2009.38. PMID: 20212437.

2 See R. Davis, A. Lurigio & W. Skogan, *Victims of Crime* (1997); W.G. Doerner and S.P. Lab, *Victimology* (2005); A. Pemberton and E. Mulder, 'Bringing Injustice Back in: Secondary Victimization as Epistemic Injustice', *Criminology & Criminal Justice* (2023). <https://doi.org/10.1177/17488958231181345>.

3 J.Wemmers, 'Victims' Experiences in the Criminal Justice System and their Recovery from Crime', 19 *International Review of Victimology* 221 (2013); M.A. Lee and I. Kawachi, 'Perceived Unfairness and Psychological Distress: Less Harmful as Age Increases?', 32 *Social Justice Research* 1 (2019).

4 J.Wemmers, *Victims in the Criminal Justice System* (1996); J.Wemmers, *Victimology: A Canadian Perspective* (2017).

5 J.Wemmers and P. Servais, 'Het slachtoffer binnen het strafrecht: De rol van het WODC', in M.M.J. Aalberts, J.C.J. Boutellier and H.G. van de Bunt (eds.), *Rechtsverzorging en wetenschap: een plaatsbepaling van het WODC bij het afscheid van J. Junger-Tas* (1994) 181; Wemmers (2017), above n. 4.

6 GA Res. 40/34, 29 November 1985.

7 Directive of the European Parliament and of the Council of 25 October 2012, OJ 2012 L 315/57.

8 M.E.I. Brien and E.H. Hoegen, *Victims of Crime in 22 European Criminal Justice Systems* (2000); A. Pemberton and S. van der Aa, 'Slachtofferrechten in Europa', in J. van Doorn, J. Brands, M. Kunst, E. Muller, A. Pemberton & L. van Reemst (eds.), *Slachtoffers: Onderzoek, beleid en praktijk* (2023) 493.

9 Recommendation of 19 September 2012, CM/Rec(2023)2.

tims still do not report their victimisation to police.<sup>10</sup> In the Netherlands, for example, 37.5% of victims reported their victimisation to police in 2021.<sup>11</sup> In Canada, 29% of victims reported their victimisation in 2019, and reporting rates in Canada have been in steady decline since the early 1990s.<sup>12</sup> The low reporting rates are worrisome, because reporting victimisation to police is not only important for public safety but also for victims' safety. Research shows that reporting to police is associated with fewer future victimisations, underscoring the importance of police reporting in crime prevention.<sup>13</sup>

Moreover, looking closely at victims' experiences, their role in the criminal justice process has essentially remained unchanged. Victims remain witnesses to a crime against the State.<sup>14</sup> Legal culture still views victims as intruders in criminal justice.<sup>15</sup> Despite the introduction of victims' rights instruments, victims often must rely on the goodwill of authorities to respect their rights, and, when their rights are not respected, they have few options other than to lodge a complaint.<sup>16</sup>

One alternative for victims is civil litigation, where victims are considered parties with rights and standing before the law. In practice, however, they face several challenges. Launching civil procedures can be expensive and complicated. Moreover, enforcement of a civil decision is plagued with obstacles, which means victims' chances of effective recovery of damages are often limited. Faced with these many difficulties, it is perhaps not surprising that crime victims rarely initiate civil proceedings and consider it a last resort.<sup>17</sup> Moreover, civil litigation does not replace criminal prosecution of an offender, and, if the State decides to prosecute, victims, who are often key witnesses, will inevitably be pulled into the criminal justice process.

This invites us to think about the place of crime victims' needs in legal training. While human rights are well established in law, they are not typically associated with victims of crime.<sup>18</sup> In criminal law, legal training continues to focus on learning about the law and defendant's rights. Law students may learn about laws pertaining to victims, such as their right to make an impact statement at sentencing, but victimology is not usually part of le-

gal training. Law schools in Canada and elsewhere are generally conservative and do not offer courses on victimology, secondary victimisation and the impact of trauma on human behaviour.<sup>19</sup> Often any specialised training on victims, occurs only after young professionals have completed their basic legal training and have learned that victims are essentially witnesses in the criminal justice process. Is ad hoc training sufficient, and, if it is not, perhaps we should not be surprised that at its core the criminal justice system remains essentially unchanged and victims are still the forgotten party.

Recognising the importance of education for change, professors Jo-Anne Wemmers and Amissi Manirabona, at the University of Montreal, created an interdisciplinary legal clinic for victims of crime, the *Justice Centre for Victims of Crimes (CJVAC)*,<sup>20</sup> where law students work together with criminology students. In the following, we will present findings from a qualitative study of the experiences of law students who volunteered at the CJVAC. These findings are part of a larger evaluation of the programme. After a brief presentation of the programme and the training provided to students, we explore students' experiences and examine how they feel this impacted the way they view law and prepared them to work with victims of crime. However, before discussing the programme, it is important to contextualise it and consider how victims are impacted by trauma and their experiences in the criminal justice system.

## 2 Trauma-informed Lawyering

Despite being part of the humanities, the discipline of law is widely thought of in universities as a science of argumentation and persuasion rather than one of assistance to persons. The notion that legal services are limited in their scope to answering and tackling legal questions and disputes and not their underlying and root causes has brought legal teaching to put emphasis on the coherence of the legal system rather than on people's well-being.<sup>21</sup> Yet, victimisation can have a profound impact on people's lives. Besides experiencing an array of emotions such as fear and anger, it can leave the person traumatised. Posttraumatic Stress Disorder (PTSD), which is the direct result of either experiencing or witnessing a traumatic event or when one's loved one experiences a traumatic event, can be debilitating.<sup>22</sup> While PTSD is treatable, it requires professional help, which not everyone has access to. If left untreated, trauma can lead to other problems such as an inability to

10 J. van Dijk, J. Kesteren & P. Smit, *Criminal Victimization in International Perspective: Key Findings from the 2004-2005 ICVS and EU ICS* (2008).

11 Centraal Bureau voor Statistiek, *Nederland Aangiftebereidheid 2021* (2022).

12 A. Cotter, *Criminal Victimization in Canada, 2019* (2021); 42 percent of victimizations were reported in 1993 see Wemmers (2017), above n. 4.

13 S.I. Ranapurwala, M.T. Berg & C. Casteel, 'Reporting Crime Victimization to the Police and the Incidence of Future Victimization', 11 *PLoS ONE* 7 (2016). e0160072. doi: 10.1371/journal.pone.0160072. PMID: 27466811; PMCID: PMC4965054.

14 K. Braun, *Victim Participation Rights: Variation across Criminal Justice Systems* (2019); Brien and Hoegen, above n. 8; T. Kirchgang, *The Victim in Criminal Law and Justice* (2006).

15 A. Young and K. Dhanjal, *Victims' Rights in Canada in the 21st Century*, Justice Canada (2021).

16 Wemmers (2017), above n. 4; A. Manirabona, *Introduction aux droits des victimes du Canada* (2020).

17 M.R. Helby, J.D.M. Van Dongen & S.W. Lindenberg, 'Crime Victims' Experiences with Seeking Compensation: A Qualitative Exploration', 10(3) *Utrecht Law Review* 27-36 (2014).

18 J. Wemmers, 'Victims Rights are Human Rights', 15 *Temida* 71 (2012); R. Holder, *Just Interests: Victims, Citizens and the Potential for Justice* (2018).

19 Young and Dhanjal, above n. 15.

20 The actual name of the centre is: *Centre de justice pour les victimes d'actes criminels*.

21 This narrow construction of the social function of law is evident in work such as Kelsen's doctrine of the 'pure theory of law'.

22 American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders DSM-5* (2013).

work (i.e. poverty), substance abuse and render the individual at risk of re-victimisation.<sup>23</sup>

*Trauma-informed law* argues that legal practitioners and systems should be aware of the impact of trauma on human behaviour, including memory and recall of events, to not exacerbate victims' suffering and inflict re-traumatisation or re-victimisation.<sup>24</sup> The notion of trauma-informed law is not a particular body of law. It stems from the wider concept of trauma-informed practices and care, which are well known to medical, psychological and social service providers. The field of law has witnessed limited penetration by such practices until recently, even though victims of crimes, including those coping with trauma, turn to the legal system for help.

Trauma-informed approaches pursue two overarching goals: (1) putting the traumatic experience of the client at the heart of the lawyer's concerns and (2) drawing the lawyer's attention to their own experience of trauma, whether direct or vicarious.<sup>25</sup> Being trauma-informed requires training on the impact of violence and victimisation on a person's development and well-being. It is an approach that acknowledges and responds to the prevalence of trauma among individuals involved in the justice system.<sup>26</sup> Trauma-informed care must begin with the provision of safety, both physical and emotional, by caregivers.<sup>27</sup> Hence, a trauma-informed criminal justice system must incorporate principles of safety, trustworthiness, choice, collaboration and empowerment at every level. To provide a more holistic and supportive approach to those who have experienced trauma, such practices should apply at the personal level of the legal practitioner as well as at the level of the criminal justice system.<sup>28</sup> Therefore, to avoid re-traumatisation, trauma-informed systems must understand the trauma history of the client and the larger societal factors contributing to violence and victimisation.<sup>29</sup>

Secondary victimisation reminds us that we should not ignore the emotional and psychological side of law and legal processes. Several authors note that criminal courts are probably the most antagonistic systems that trauma survivors might experience<sup>30</sup> and the legal sys-

tem can re-traumatise the persons involved in it.<sup>31</sup> The criminal justice process can cause unpleasant feelings such as anxiety and shame.<sup>32</sup> According to David Wexler and Bruce Winick (1991),<sup>33</sup> lawmakers and those who apply the law must be aware of its effects on the mental health of those involved. They introduced the notion of *therapeutic jurisprudence*, which views legal rules, legal procedures and the roles of legal actors (such as lawyers and judges) as social forces.<sup>34</sup> Unlike trauma-informed law, which draws our attention to the reality and consequences of trauma for law, therapeutic jurisprudence focuses on how the law impacts those who come in contact with it (e.g. victims). As a social force, the law and those who apply it produce behaviours and consequences which are sometimes positive and sometimes negative. Secondary victimisation is an example of the negative impact of legal procedures and actors. This view recognises that re-traumatisation (i.e. secondary victimisation) can happen both as consequence of lawyers' conduct and the consequence of the criminal justice system in itself. Hence, trauma-informed law and therapeutic jurisprudence are complimentary notions.

Therapeutic jurisprudence relies heavily on the research on procedural justice, calling for the study of these consequences to determine whether and how the law's negative effects can be reduced, while enhancing its positive effects and without subordinating due process and other justice values.<sup>35</sup> When victims are treated poorly by criminal justice authorities, this can have a negative impact on their healing process as well as their trust and confidence in the criminal justice system.<sup>36</sup> People experience psychological distress when they perceive that they are treated unfairly.<sup>37</sup> Victims who felt they were not treated fairly were found to exhibit more PTSD

- 23 W. De Lind and M. Marmo, *Narrating Injustice Survival: Self-medication by Victims of Crime* (2018); Wemmers (2017), above n. 5; Ranapurwala, Berg & Casteel, above n. 13.
- 24 C. James, 'Towards Trauma-informed Legal Practice: A Review', 27 *Psychiatry, Psychology and Law* 275 (2020); M. Randall and L. Haskell, 'Trauma-Informed Approaches to Law: Why Restorative Justice Must Understand Trauma and Psychological Coping', 36 *Dalhousie Law Journal* 501 (2013).
- 25 G. Smyth, D. Johnstone & J. Rogin, 'Legal Clinic Setting: Increasing Competence in Trauma Informed Practice', 28 *International Journal of Clinical Legal Education* 149 (2021).
- 26 L. Ellison and V.E. Munro, 'Taking Trauma Seriously: Critical Reflections on the Criminal Justice Process', 21 *The International Journal of Evidence & Proof* 183 (2017).
- 27 L.A. Drabble, S. Jones & V. Brown, 'Advancing Trauma-Informed Systems Change in a Family Drug Treatment Court Context', 13 *Journal of Social Work Practice in the Addictions* 91 (2013).
- 28 A. Terry and Z. Qi, 'Trauma-Informed Court', 2023 *John Heinrichs SACAD* 35 (2023). doi: 10.58809/AVLV1373  
Available at: <https://scholars.fhsu.edu/sacad/vol2023/iss2023/35>.
- 29 Drabble, Jones & Brown, above n. 27.
- 30 J.L. Herman, 'The Mental Health of Crime Victims: Impact of Legal Intervention', 16 *Journal of Traumatic Stress* 159 (2003); Drabble, Jones & Brown,

- above n. 27.
- 31 K.M. Cuthrell, 'Trauma-Informed Legal Advocacy: Medicolegal Approaches & Best Practices for Immigration Attorneys', 20 *International Neuropsychiatric Disease Journal* 62 (2023); V.A. Knoche, A. Summers & M.K. Miller, 'Trauma-Informed: Dependency Court Personnel's Understanding of Trauma and Perceptions of Court Policies, Practices and Environment', 11 *Journal of Child & Adolescent Trauma* 495 (2018).
- 32 Knoche, Summers & Miller, above n. 31.
- 33 D. Wexler and B. Winick, *Essays in Therapeutic Jurisprudence* (1991).
- 34 *Ibid.*; D. Wexler and B. Winick, *Law in a Therapeutic Key: Developments in Therapeutic Jurisprudence* (1996); B. Winick, 'The Jurisprudence of Therapeutic Jurisprudence', 3 *Psychology, Public Policy and Law* 184 (1997); B. Winick, 'Redefining the Role of the Criminal Defense Lawyer at Plea Bargaining and Sentencing: A Therapeutic Jurisprudence/Preventive Law Model', in D. Stolle, D. Wexler & B. Winick (eds.), *Practicing Therapeutic Jurisprudence: Law as a Helping Profession* (2000) 245.
- 35 E.A. Waldman, 'The Evaluative-facilitative Debate in Mediation. Applying the Lens of Therapeutic Jurisprudence', 82 *Marquette Law Review* 155 (1998); Winick (1997), above n. 34.
- 36 T. Tyler and E.A. Lind, 'A Relational Model of Authority in Groups', 25 *Advances in Experimental Social Psychology* 115 (1992); J.T. Jost and M.R. Banaji, 'The Role of Stereotyping in System Justification and the Production of False Consciousness', 33 *British Journal of Social Psychology* 1 (1994); Wemmers (1996), above n. 4; B. Bradford, 'Voice, Neutrality and Respect: Use of Victim Support Services, Procedural Fairness and Confidence in the Criminal Justice System', 11 *Criminology & Criminal Justice* 345 (2011); S.C. Marsch, A. Summers, A. DeVault & J. Villalobos, 'Lessons Learned from Developing a Trauma Consultation Protocol for Juvenile and Family Courts', 67 *Juvenile and Family Court Journal* 5 (2016); Cuthrell, above n. 31.
- 37 Lee and Kawachi, above n. 3.



symptoms than victims who felt they had been treated fairly.<sup>38</sup> Unfair treatment appears to exacerbate the distress of insecurity, leaving the person feeling victimised all over again.<sup>39</sup> Conversely, fair treatment can ameliorate the distress of insecurity because of the positive message it sends to the victim about their social value or standing.<sup>40</sup>

Determinants of procedural justice include formal rules and procedures (e.g. victims' legal rights) and the informal treatment of victims by criminal justice authorities, such as being treated with dignity and respect.<sup>41</sup> Victims feel better and suffer less stress symptoms when they are treated with dignity and respect.<sup>42</sup> Providing victims with voice and a sense that their concerns are being heard enhances their confidence in the criminal justice system.<sup>43</sup> This does not mean that victims want authorities, such as the police and judges, to be biased in their favour. Fair treatment also includes the quality of the decision-making, which refers to the neutrality and honesty of the decision-maker, and whether the decision is based on accurate information.<sup>44</sup> People value the impartiality of justice and want criminal justice authorities to be neutral and free from any bias, while treating them with dignity and respect. A victim who has experienced trauma and is treated well by justice system actors is in a better position to be a cooperative client for lawyers.

### 3 Legal Training

Although often lagging behind pedagogical innovations, legal education does recognise the importance of practical training and has systematically followed trends in

this area. The development of clinical pedagogy, where learners are exposed to real patients, has extended to the world of legal education. Clinical legal education in law schools is conducted in many ways: in one way, it can be done by simulating a real-life problem for which students are called to design a solution by mobilising various technical skills such as drafting, communicating, interviewing and litigating skills. In some instances, students are exposed to real clients, who are offered free legal assistance, information, advice or representation in court.<sup>45</sup> In real-life situations, students learn either by observing or interacting directly with clients and practitioners. In either way, making notes of their observations and interactions in a journal and reflecting on the skills they have acquired are common features of the most developed clinical programmes.<sup>46</sup> This reflexive part of clinical legal education can also be achieved through case rounds by which students discuss with each other around their teacher about their cases and projects.<sup>47</sup> It is argued that such a dialogue reinforces professional reasoning and ethical decision-making. Cahn and Gray considered that case rounds should be tailored to include the clients in order for them to 'exercise their power to affect the changes' instead of being passive consumers.<sup>48</sup>

The people turning to real-life legal clinics are usually disempowered people seeking legal services in criminal matters, social assistance, social housing, injuries resulting from crime, family law, employment, human rights, or immigration and refugees.<sup>49</sup> These legal clinics are disproportionately used by vulnerable, marginalised and oppressed people, who are likely to have experienced trauma, such as racialised groups, Indigenous peoples, single parents and people living with disabilities.<sup>50</sup> Indeed, when it emerged in the 1960s, clinical legal education had a dual mission: to promote social justice by offering access to legal services to the wider community and, incidentally, to train students to practical client advocacy.<sup>51</sup> In law schools where it is offered as an optional course, students who pursue clinical legal education do so because of its many inspiring values.<sup>52</sup> Clinical legal education does not merely bridge the gap between law in the books and legal practice;<sup>53</sup> it also prepares students to meet the challenges that only exist in real life.<sup>54</sup> It is by reflecting on the disconnect between the law in the books and the many real-life challenges

- 38 R. Campbell and S. Raja, 'Secondary Victimization of Rape Victims: Insights from Mental Health Professionals Who Treat Survivors', 14 *Violence and Victims* 261 (1999); Wemmers (2013), above n. 3.
- 39 E.A. Lind and K. van den Bos, 'The Implications of Uncertainty for Fairness', in M.A. Griffin and G. Grote (eds.), *The Oxford Handbook of Uncertainty Management in Work Organizations* (2022). <https://doi.org/10.1093/oxfordhb/9780197501061.013.7>.
- 40 S. Blader and T. Tyler, 'Relational Models of Procedural Justice', in R. Cropanzano and M.L. Ambrose (eds.), *The Oxford Handbook of Justice in the Workplace* 351 (2015); Tyler and Lind, above n. 36; Lind and Van den Bos, above n. 39.
- 41 S. Blader and T. Tyler, 'A Four-Component Model of Procedural Justice: Defining the Meaning of a "Fair" Process', 29 *Personality and Social Psychology Bulletin* 747 (2003).
- 42 U. Orth and A. Maercker, 'Do Trials of Perpetrators Retraumatize Crime Victims?', 19 *Journal of Interpersonal Violence* 212 (2004); R. Vermunt and H. Steensma, 'How Can Justice Be Used to Manage Stress in Organizations?', in J. Greenberg and J. Colquitt (eds.), *Handbook of Organizational Justice* (2008) 383; Wemmers (2013), above n. 3.
- 43 Bradford, above n. 36; Wemmers (1996), above n. 4; J. Wemmers, 'Victim Notification and Public Support for the Criminal Justice System', 6 *International Review of Victimology* 167 (1999).
- 44 G. Leventhal, J. Karuza & W.R. Fry, 'Beyond Fairness: A Theory of Allocation Preferences', in G. Mikula (ed.), *Justice and Social Interaction* (1980) 167; U. Orth, 'Secondary Victimization of Crime Victims by Criminal Proceedings', 15 *Social Justice Research* 313 (2002); Wemmers (1996), above n. 4; J. Wemmers and K. Cyr, 'Victims' Perspectives on Restorative Justice: How Much Involvement Are Victims Looking for?', 11 *International Review of Victimology* 259 (2004).

- 45 J. Kaczmarek and J. Mangan, 'Clinical Legal Education: Bridging the Gap between Study and Legal Practice', 2 *International Journal of Clinical Legal Education* 86 (2014).
- 46 *Ibid.*
- 47 S. Bryant et E. Milstein, 'Rounds: A "Signature Pedagogy" for Clinical Education?', 14 *Clinical Law Review* 196 (2007).
- 48 E.S. Cahn and C. Gray, 'Clinical Legal Education: Where Next? Clients as Co-producers of System Change', 24(2) *Clinical Law Review* 171, at 172 (2018).
- 49 Smyth, Johnstone & Rogin, above n. 25.
- 50 Cotter, above n. 12; Smyth, Johnstone & Rogin, above n. 25.
- 51 J. Macfarlane, 'Bringing the Clinic into the 21st Century', 27 *Windsor Yearbook of Access to Justice* 36 (2009); Cahn and Gray, above n. 48, at 171.
- 52 Kaczmarek and Mangan, above, n. 45 at 87.
- 53 *Ibid.*
- 54 Macfarlane, above, n. 51, at 44.

that clinical learners reach the ‘disorienting moment’, defined by Quigley as the time ‘when the learner confronts an experience that is disorienting or even disturbing because the experience cannot be easily explained by reference to the learner’s prior understanding’.<sup>55</sup> It is an occasion for teachers to help students learn by realising how they are privileged and how their vision ‘is partial and deeply influenced by their privilege’.<sup>56</sup>

The disorienting moment can be catalyst for engagement in social change as well as for moral development for the learners.<sup>57</sup> Such a moment will reveal itself through acquaintance of clinical students to the underlying factors without the knowledge of which they will not be able to offer efficient legal services. These underlying factors include not only client’s worldview, race, class, gender and sexual orientation but also whether the person is coping with trauma.<sup>58</sup> The very added value of clinical legal education consists in the opportunity offered to students to confront such complexities before entering professional life.

Both at the individual level of the actor in the justice system and at the institutional level of this system, insensitivity to the condition of the traumatised victim can result in secondary victimisation. In both cases, education and training are at the heart of measures that can be adopted to limit the risk of re-traumatisation. Indeed, in their research, Canadian academics exposed students working at three legal clinics to clients without having received training on trauma and then after being trained on this issue. Students’ sensitivity improved significantly when they were trained on the trauma. When not trained, students had disproportionate expectations of clients’ ability to discern and systematically seek out legal facts, while minimising emotions, even though the two may intertwine.<sup>59</sup> Conversely, when trained to recognise trauma in clients, students felt more equipped to construct alternative explanations to clients’ narrative. This improved their empathy and understanding of clients’ situations.<sup>60</sup> After receiving the training, students recognised the need for a holistic solution for clients and drew less dichotomy between legal and non-legal facts. They reported feeling better able to meet clients’ needs, develop strategies for a better client relationship and eliminate or reduce their own frustrations.<sup>61</sup>

In contrast to student training, which seems promising, research tends to argue that training and education in the organisational context do not always produce the

desired results. Judicial organisations tend to require certain skills from employees entering the criminal justice system, but less often once the employee is integrated into the system.<sup>62</sup> Integrating a trauma-informed approach into the justice system requires that staff be periodically trained on trauma recognition.<sup>63</sup> However, organisations tend to be resistant to change. Studying perceptions of justice system members in large and small cities in the United States, Knoche et al.<sup>64</sup> examined four dimensions of trauma-informed approaches: (1) understanding trauma, (2) perceptions of court policies, (3) perceptions of court practices and (4) perceptions of the court environment. Although both groups showed gaps in applying trauma-informed practices, such as identifying a person experiencing trauma, employees at rural courts fared better than those at urban courts even though they received the same amount of trauma training.<sup>65</sup> According to the authors, courts in large urban centres face a significant number of challenges that rural courts do not face, such as workload, turnover, formalised processes, court culture and the characteristics of the population served.<sup>66</sup> Therefore, the training itself is not sufficient to ensure that justice system personnel are trauma-informed.

Despite many benefits for the client, the lawyer and the justice system, trauma-informed approaches face many challenges. At the level of the lawyer, considering the trauma of their clients requires them to transform their profession. Not only must they find time to devote to non-legal issues, such as listening and referral to other resources, but they must also undergo training to acquire the necessary skills to intervene adequately.<sup>67</sup> It is not clear that the legal profession, starting with law schools, is ready for such change. The interdisciplinarity that characterises trauma-informed practices also mandates a certain degree of openness, collaboration and sharing of values with other actors, including health professionals and social workers.<sup>68</sup> They need to work together to achieve common outcomes. However, through their respective trainings, which most often take place in silos, social workers, health professionals, police, judges and lawyers are inhibited by the possibility of leaving their traditional role to embrace a different culture, philosophy and values.<sup>69</sup> These challenges are compounded by more structural and systemic barriers, such as limited financial resources, labour shortages and the ever-increasing service needs of victims and workloads of professionals.<sup>70</sup>

55 F. Quigley, ‘Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics’, 2 *Clinical Law Review* 37, at 51 (1995); Macfarlane, above, n. 51, at 45; J.H. Aiken, ‘Beyond the Disorienting Moment’, 26(1) *Clinical Law Review* 37, at 38 (2019).

56 Aiken, above n. 55, at 39.

57 L. Donnelly, ‘Putting “Disorienting Moments” at the Centre of Legal Education’, 24 *International Journal of Clinical Legal Education* 88 (2017); Aiken, above n. 55.

58 S.E. Gold, ‘Trauma: What Lurks Beneath the Surface’, 24 *Clinical Law Review* 24, at 204 (2018); Macfarlane, above, n. 51, at 48.

59 Smyth, Johnstone & Rogin, above n. 25.

60 *Ibid.*

61 *Ibid.*

62 Terry and Qi, above n. 28.

63 Knoche, Summers & Miller, above n. 31; Terry and Qi, above n. 28.

64 Terry and Qi, above n. 28.

65 *Ibid.*

66 *Ibid.*

67 Smyth, Johnstone & Rogin, above n. 25.

68 Drabble, Jones & Brown, above n. 27; Knoche, Summers & Miller, above n. 31; N.K. Young and S.L. Gardner, *Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare* (2002).

69 Drabble, Jones & Brown, above n. 27.

70 *Ibid.*

Notwithstanding the considerable challenges, these obstacles do not outweigh the benefits of trauma-informed approaches. Victims who have benefited from a trauma-informed approach report feeling heard and not judged<sup>71</sup> and are more willing to participate in court proceedings. We know that a dissatisfied victim may withdraw their complaint, potentially undermining the success of State-led proceedings. Time seems ripe for a shift in legal education for the sake of victims' safety and confidence in the criminal justice system.

## 4 CJVAC: A Legal Clinic for Victims of Crime

The CJVAC combines a socio-legal service for victims of crime with an interdisciplinary training for undergraduate<sup>72</sup> students. Based on a human rights approach, the CJVAC recognises victims as persons with legal rights and considers victimisation a violation of human rights.<sup>73</sup> This perspective underscores victims' importance within the justice system and their right to be treated with dignity and respect. Its mission is threefold: (1) empower crime victims by providing them information; (2) educate future criminal justice professionals about victim needs, rights and expectations; and (3) contribute to institutional knowledge to improve the treatment of victims in the criminal justice system and reduce the risk of secondary victimisation.

The CJVAC provides free information to direct and indirect victims of crime, including the family and friends of direct victims, and witnesses, which is customised to their unique circumstances. Victims can use this service regardless of whether their victimisation has been reported to police and whether the identity of the perpetrator is known. A dedicated interdisciplinary team of law and criminology students, overseen by accredited professionals, is entrusted with addressing victims' inquiries. The CJVAC was launched during the pandemic, which meant that all consultations took place virtually. After the pandemic, we have continued to work in a virtual setting as this allows us to serve victims from across the province of Quebec.

Besides serving victims, the CJVAC aims to educate future criminal justice professionals about victims' needs and rights. Prior to working with victims, students follow an online training and learn about victims' needs, secondary victimisation, impact of trauma on memory, as well as receive training to develop skills such as interview techniques and maintaining client confidentiality. The interdisciplinary approach exposes students to different viewpoints and dispels misperceptions about other disciplines. Working together, students not only learn about the victims' needs and the legal challenges

they face but also learn to collaborate in an interdisciplinary team. Upon completing their degree, many of these young professionals will go on to work as lawyers and bring with them their awareness of the needs and rights of victims.

Law and criminology students work together in interdisciplinary teams, serving victims. Meetings with victims are conducted together, and, while each student works on their own area of discipline, they discuss the case together and prepare a comprehensive report to present to the victim. Criminology students address victims' psychosocial needs and provide information about relevant services, such as victim assistance and victim compensation programmes. They offer assistance, direction and referrals to help victims access the information and services that they need. Law students answer victims' legal questions, which can cover not only criminal law but also civil, family, immigration and labour laws. Victims can receive information about a range of topics, such as submitting police complaints, navigating criminal court proceedings, exploring restorative justice, understanding victims' roles in the legal process, familiarising them with their rights, outlining compensation procedures, and introducing victim support programmes and specialised support services. Until recently, the Quebec government did not allow law students to provide legal advice; they could only provide information. To improve access to justice, in 2021 the government allowed law students to offer advice but only under strict conditions.<sup>74</sup> The CJVAC was created prior to this change, and, while it is exploring the possibility of offering legal advice, it continues to provide victims legal information.

After the initial in-take meeting, the team then has two weeks to work on the case before meeting with the victim again and presenting them with their findings. At this meeting, victims are provided with pertinent legal information and recommendations for resources that align with their specific situation. If they have further questions, victims can continue with the CJVAC team for an additional session.

## 5 Method

The research presented in this article is part of a larger evaluation of the CJVAC, which includes victims' experiences and their satisfaction with the legal clinic, and students' experiences with the clinic. This article focuses on legal education and is therefore limited to law students' experiences.

The research design is prospective and longitudinal, meaning that data were collected twice from the same sample of students. Concretely, students' experiences with the project were studied using a qualitative methodology. Each student was invited to participate in two focus groups: one when they joined the Centre, before

71 *Ibid.*

72 In the province of Quebec, law and criminology are both undergraduate degrees.

73 Wemmers (2012), above n. 18.

74 Barreau du Québec, *Guide sur les cliniques juridiques universitaires* (2022).



they began working with victims, and once again three months later, upon completing their term at the Centre. Each focus group session lasted about an hour and was facilitated by the project coordinator. Over the course of the project, five cohorts of students were invited to participate in the focus groups. Data were collected between September 2021 and August 2023. The focus groups were conducted in French.

Focus groups were carried out with a semi-directive interview guide. This allowed the students to express themselves freely on the topic, while allowing the researchers to ask further details.<sup>75</sup> Three main themes were addressed in the focus groups:

1. Expectations and attitudes towards victims of crimes and their role in the criminal justice system
2. Perceptions of the experience of crime victims in this system
3. Perceptions of their future role as lawyers in the criminal justice system and of their role towards victims of crime.

Content analysis was used to analyse the data from the focus groups. Specifically, the analysis identified themes emerging from the data, which were then used to categorise and sort the different elements arising from the exchanges between students and thus establish links that allow us to identify interpretations. These themes are illustrated using quotes from students. The quotes have been translated from French to English by the researchers. To respect participants' confidentiality, quotes are associated with pseudonyms.

## 6 Sample

In total, sixteen law students volunteered at the Centre during the evaluation period, and half of them accepted to participate in this research. Six students participated in a focus group before starting their work with victims at the Centre, and eight students participated in a focus group at the end of their term. Students were recruited from five cohorts that worked at the Centre between September 2021 and August 2023. Each focus group contained between one and three students.

These students were all females, between 20 and 23 years of age (median age 21). They were mostly in the second or third year of their bachelor's degree in law. Half of them ( $n = 4$ ) had never been in contact with victims of crime before working at the CJVAC. The other half ( $n = 4$ ) had already worked at a legal clinic or in legal assistance previously, which allowed them to sometimes interact with crime victims, although these resources were not specialised in serving this clientele.

75 J. Poupart, 'L'entretien de type qualitatif : considérations épistémologiques, théoriques et méthodologiques', in J. Poupart, J.-P. Deslauriers, L.-H. Groulx, A. Laperrière, R. Mayer & A.P. Pires (eds.), *La recherche qualitative : enjeux épistémologiques et méthodologiques* 60 (1997).

hile the qualitative methodology used in this study does allow us to explore the students' experiences at the CJVAC, it does not allow us to generalise the findings to other law students. The sample is not random, which means there may be inherent biases in the data that can affect the findings. To begin with, students volunteered at the CJVAC; they were not randomly assigned to it. It is likely that students who chose to volunteer were already sympathetic to the plight of victims. Also, not all students who volunteered at the clinic agreed to participate in the focus groups. It is important to keep these points in mind when reading the results.

## 7 Results

The focus groups with law students explored the impact of their involvement in the CJVAC on (1) their expectations and attitudes towards victims, (2) their perceptions of victims' experience with the criminal justice system and (3) their perceptions of their future role within the system with victims and actors from other disciplines. Comparing students' responses before and after volunteering at the clinic allows us to examine the evolution of their views. In the following, students' views prior to working with victims are presented, after which we examine their views at the end of their term.

### 7.1 Before Volunteering

#### 7.1.1 Expectations and Attitudes

Before starting their experience, the law students had certain expectations regarding the victims who would consult the CJVAC. The students believed that their expectations were largely shaped by prevailing societal trends. For example, all students expected there to be more female victims than male victims, primarily because men were perceived as less likely to seek help than women. All but one student expected most people contacting the clinic would be victims of personal crimes rather than property crimes. One student expected most people contacting the clinic would be domestic violence victims, while another expected mostly victims of sexual violence.

Regarding victims' needs, the students expected that victims would come to the CJVAC seeking legal information, possibly requiring legal advice or representation. They thought victims would seek to understand their options and chances of success before getting involved in any process or obtaining more information about the post-complaint process. One law student thought that although victims would focus on their legal needs, their colleague in criminology would broaden their view by introducing a wide range of available resources.

Some students were concerned that victims would have unrealistic expectations. One student mentioned expecting to encounter emotionally distressed victims due to their difficult experiences. This led her, along with another student, to fear that victims might have overly high expectations of the CJVAC's services and would

leave feeling disappointed because of the clinic's limited mandate (i.e. legal information vs. advice, opinions and legal representation).

I expect to have clients who are very emotional ... they have experienced something not easy. I'm a little afraid that clients will come in with too high expectations ... and then expect us to take their file as if we were lawyers. (Camille)

Initially, the students were somewhat apprehensive about meeting victims and reflected on how they should treat victims. Three students believed it was important to not objectify victims and adopt an attitude that avoids reducing them to a label. These students believed it was crucial to strike a balance between treating victims just like any other person and acknowledging the gravity of their experiences. Two students mentioned that empathy, active listening, understanding and acceptance were essential attitudes to adopt:

The first reflex I have, once ... the person is labelled a 'victim', is that we tend to tread lightly around them. We don't want to say things that might upset them.... They're a normal person, we shouldn't make them feel worse or, you know, handle them with kid gloves just because they've come to see us. (Marilie)

Regarding victims who may hesitate to report to the police, all the students agreed that this choice belongs to the victim. Rather than encouraging or advising them to report, they should provide information about how the criminal justice system operates, allowing the victim to make this decision based on their needs. Students would adapt the information they provide according to the type of crime the victim experienced; however, always with the same aim, namely, to allow the victim to make an informed decision.

It's their choice, but I'll explain the judicial process to them, I'll explain what the process is, but I know how difficult it is as a system, that it's not at all designed for victims. I have a lot of friends studying law, and if they were ever sexually assaulted, they would never file a complaint. And it's a personal choice, so it's something I respect. (Katherine)

### 7.1.2 *Perceptions of Victims' Experiences with the Criminal Justice System*

Prior to starting work at the CJVAC, all the law students expected that victims' experiences in the criminal justice system would generally be difficult and challenging. This, they thought, was primarily due to the lack of consideration for victims within the criminal justice system, as well as victims' limited access to information. The criminal justice system is complex, burdensome and slow. According to the students, the system is designed for the accused, not the victims who are relegated to the status of witnesses to crimes committed against the State. This limitation affects the ability of prosecutors to consider the victims:

The judicial system is not adapted to victims. Just the basic principle that the victim, it's not their case. They're a witness in a case for a crime against the State. This creates a dimension that tends to leave the victim more on the sidelines. The prosecutor's job is not necessarily to take care of the victim. (Marilie)

According to the students, this lack of consideration for the victim and their status as a witness limits victims' ability to access justice. Rather than providing victims with justice, the system is designed to provide the State with justice:

I don't think we can call it justice for the victim because ... the State doesn't work for the victim. They always say it's the State against the offender. So the victim ... it's not justice for them. (Camille)

One student mentioned that even if public prosecutors genuinely want to consider the victims, they are restricted not only by the functioning of the system, which is focused on the rights of the accused, but also by their lack of skills to interact effectively with victims:

Even if the prosecutors really want to help the victim, they are not delicate.... They don't know how to approach them, and it's a very legal way of thinking. (Katherine)

All law students thought that victims, like the average citizen, would know very little about the criminal justice system and that there was a lack of access to information. Two students thought that victims would not always receive information about the justice system and that it would be difficult for them to seek out this information:

We see the legal system as this huge machine and it can be very intimidating, and I feel like not many people necessarily have information on how it works, and there are a lot of victims who must ... hit a wall realising that, well, the prosecutor is not my lawyer. (Marilie)

While the students acknowledge that there have been advancements and measures put in place to consider the needs or at least the rights of victims, they all agree that their application and the means to enforce them are deficient. The criminal justice system is designed to protect the society and the accused and not the rights of victims:

Take the example of the Victims' Bill of Rights ... The Canadian Charter of Rights and Freedoms, if it's not applied to a person, for example, an accused, well right from the start, the judges can ensure a sort of protection. But if ... the police don't protect the rights of the victims that are in the Bill of rights, well, the victim has to file a complaint.... If on top of that, she doesn't know these rights exist ... she has to file a complaint because someone didn't respect her rights



after being ... assaulted.... It adds complexity. (Katherine)

Three students also said that they expected the protection of victims' rights would be weak because it relies largely on the discretion of system actors. Hence, it would be up to the victim to seek information and ensure their needs and rights are met:

There are victims' rights, like the right to assistance when testifying.... But again, it all comes down to the discretion of the actors. So it's hard, I find, to assess whether the judicial system can really meet the needs of victims or protect their rights. (Marilie)

What I find might be a bit more tenuous, is that it's often the victim who has to find out if they have rights to assistance and protection, rather than something that is automatically offered to them. It's ... a barrier to accessing these protections. (Sonia)

To address the challenges victims face, all the students thought that the role of the victim in criminal proceedings should be more than that of a mere witness. Indeed, all the students thought the possibility for victims to be a full-fledged third party in the trial, with their own lawyer, was a good idea or possible solution. However, they also believed that such a modification would be difficult to implement in our conservative and change-resistant criminal justice system:

I think it would be phenomenal to have representation for the victim.... And if we want to compare, maybe it could start a little, like the lawyers for children in family law cases ... because that's kind of what would need to happen. It would almost have to be a trial with three parties to have three lawyers essentially: One for the State, one for the victim, one for the accused. But, you know ... (Laughs) I don't see that happening ... (Laughs). It would be an exceptional revolution of the judicial system. (Marilie)

We must reach a point where it becomes more humane for victims. They don't even have a place to sit with the other parties.... They really are just a witness ... even though it's the victim who experienced everything that's going to be discussed. (Emilie)

Regarding other non-traditional forms of justice, such as restorative justice, the students expected that victims would not have access to this information as legal professionals themselves have little knowledge in this area. In fact, almost all the law students (five out of six) mentioned right away that they did not know enough about this form of justice to properly inform victims about available programmes, benefits or risks. Two of them felt that restorative justice was not discussed enough in law schools and that it seemed to be gradually gaining prominence due to the need to find alternatives to the traditional criminal justice system:

There is ... a lack of knowledge, in general, about restorative justice, whether on the side of legal professionals, or even on the side of victims.... I think not enough people know what it is. In law, the only reason why the concept of restorative justice and mediation is starting to emerge is that we've reached a point where the courts are so congested that we had to find other solutions. It's not the human and social aspect, it's just the practical aspect. That's what I find unfortunate. (Emilie)

### 7.1.3 *Perceptions of the Future Professional Role in the Criminal Justice System*

Regarding their future role as legal professionals, all the students believed there were limitations in terms of what they could offer victims. After all, they are not psychologists, criminologists or professionals with expertise or knowledge in other related fields.

I think there are limits to what each person can do. I believe everyone has a specific profession, and we talk a lot about how prosecutors, for example, are not trained, and they don't know how to intervene with victims, and they don't know how not to retraumatise the victim. But at the same time, these prosecutors are legal experts and are specialised in the law. I find it very demanding to ask them to also be psychosocial clinicians, which they are not. (Katherine)

I think our role is mainly to make sure we know our limits. We are not trained as psychologists, we are not trained as criminologists, we are not trained in toxicology or other fields. It's to redirect them to the right resources, but above all, to respect our limits. (Camille)

The law clearly doesn't have all the answers, and we must not overlook the importance of other actors. (Emilie)

This led three students to specify that they believed the role of 'taking care of victims', especially taking the time to inform them properly, belonged to other actors, such as victim support workers, rather than prosecutors. They also suggested the need for a new dedicated function, specifically for this role in the criminal justice system:

It's not the role of the prosecutor to take care of the victim. I think that role falls more to people who work for the CAVAC (victim support). Prosecutors are very limited in terms of the time they have to spend with the victim. (Camille)

However, this didn't prevent the students from recognising that in their future roles as legal professionals they would have to consider many different aspects, including the victim and their needs, and not only legal views. They would have to bear in mind the human being in front of them, even though it can be emotionally challenging for the lawyer:

Constantly dealing with difficult cases and working with victims, it's not easy, so you must step back a little. But I think that sometimes we take too much of a step back and we really forget to have empathy for the person.... To see them as a human being, and not just another case to be solved like any other. (Camille)

Students felt that they would need to have training on how to interact effectively with victims and be aware of the available support resources:

I think that everyone has to do their part, to educate themselves personally and professionally about how to interact with victims.... But there are limits on what each profession can offer victims. (Katherine)

Just giving them a reference ... educating myself as a lawyer to make sure I have this reference, to be able to direct victims to someone who can help them emotionally, psychologically ... I think it's super important. (Camille)

Recognising their limits as lawyers, students believed part of their future role would be to refer victims to other resources in order to address victims' needs that the legal aspect cannot cover. This primarily concerns emotional support:

My role as a future lawyer ... I will be very aware that if I have someone in front of me who is experiencing these things ... of course I will want to ensure their safety. I will want to refer them ... ask them about their needs.... Just being aware that the person, yes, they are in your office as a lawyer ... but there's also the whole environment that is super important. Ultimately, it will help them through their legal process. (Marilie)

The students believed that in their future role as lawyers, collaboration and communication with various actors, services and resources would be important:

The role of the lawyer ... it's about information sharing. It's just about being able to share the information that we have ... so that they can also share with us the information that they have.... In the end, all together, we're just doing our best to reach our goal, but together. (Sonia)

## 7.2 After Volunteering

After their experience at the CJVAC, the students' discourse regarding their expectations concerning victims and how to interact with them became fuller, more attentive and emotionally informed.

### 7.2.1 Expectations and Attitudes

Contrary to the students' expectations, victims were not demanding clients. While they expected victims to need legal information, they did not anticipate that victims would be so very unfamiliar with rudimentary aspects of the justice system. They found victims were grateful for the information they received, even though students

only provided extremely basic and general information to victims:

I think, for the most part, we realise just how much people are in need ... More than we might have thought ... Sometimes they came to us with questions that were so basic ... If they don't even have this information, thank goodness we're here to provide it to them ... Because otherwise, ... I don't know how they would even go about finding these resources. (Marilie)

The students were deeply moved by the victims' situations. They would have liked to have been able to spend more time to connect with them but due to time constraints could not. As a result, they wanted to enhance the quality of their services:

I really found it touching, even though I admit, we really didn't have much time to connect more with the victim. I found their stories ... really touched me. And I felt much more motivated to work on my report. I wanted to add more questions ... to make sure I answered all their questions, so that they would be as satisfied as possible.... Whereas with fictitious cases (used as part of the training prior to meeting with victims), it was like regular schoolwork. (Claire)

After engaging with victims, students emphasised the importance of active listening and taking victims' needs into consideration. For example, students felt it was important to recognise victims' efforts or progress and to carefully choose one's words. By listening to victims and treating them with courtesy and respect, students hoped to prevent victims from misunderstanding the legal system and, more broadly, experiencing secondary victimisation:

It's one thing to say, 'yes, I'll be empathetic ... I'll go slowly,' but it's another thing to really have to do it, and to have to ask those very difficult questions. It's completely different to actually do it with real people who will have real reactions afterward. I think we don't realise how ... if we don't express ourselves well enough ... it can create an instant secondary victimisation. It's just being aware of that. We become much more aware of it in practice compared to theory. (Marilie)

It's not in law that we learn to do this kind of thing.... The challenge for me ... what I found more difficult ... was explaining to someone who doesn't study law ... who doesn't necessarily understand legal terms ... explaining to them ... verbalising it so they understand what you're trying to explain to them. I think that was my challenge ... in terms of communication with clients. We don't realise it when we're in the undergrad, or when we're just with people who are familiar with this field. (Emilie)

Students learned about the impact of victimisation. Initially, some students were more sensitive to the victims' emotions in cases of domestic violence or sexual assault,

but after meeting with victims they realised that even objectively less serious crimes could have a huge impact on victims:

I realised that there are also people who experience other crimes very intensely, which we might consider 'less severe' ... Even though I don't want to say that. It made me realise how ultimately, no matter the crime, it's just really important to consider the other person's emotions and to always remain attentive and open. (Emilie)

Regarding victims who are reluctant to report their victimisation to police, all the students felt that based on their experience, it was not their role to judge whether the victim should report the crime or to assess the validity of the allegations. Their role was to listen to the victim's needs and provide information accordingly. This included information regarding the criminal justice system as well as other possible options, such as restorative justice. By providing victims with information, students believed that victims could make an informed decision based on their personal needs and choose the option that suited them best. Students emphasised the need to remain neutral and not steer victims but, instead, help them by informing them of their options:

It depends on the circumstances.... There were victims who really needed recognition ... they wanted to go through the process. There were others, on the contrary, who didn't want it at all. They wanted all of it to stop ... for their own well-being. (Klara)

Sometimes, in class, we learn to give tools: 'Since you're a victim of domestic violence, here's the tool I'm giving you.' But here, I really learned to give the victim a lot of options so that they can take their own power: 'Okay, this is what I want, and this is what suits me best.' Instead of really imposing a choice. (Josianne)

### 7.2.2 *Perceptions of Victims' Experiences with the Criminal Justice System*

Students continued to believe that victims' experiences with the justice system were generally difficult. Compared to their expectations prior to starting work at the clinic, their views remained largely unchanged and perhaps even worsened. They continued to feel that the justice system failed to adequately consider victims. Criminal justice actors, especially police and public prosecutors, were believed to lack consideration for victims:

I had thought that the prosecutor was also there for the victim. I now think that I have a much more realistic idea. I was a bit disappointed. I find that it relegates the victim to a figurative role when they should be the focus, considering what they are going through. (Josianne)

The confrontation was very much with the police ... I find that it is still very difficult to access [justice]. They should have an understanding ... at least empa-

thetic ... I find that there is still a barrier ... a lack of understanding of what a victim is ... a lack of respect and empathy. (Katherine)

The lack of consideration for victims was attributed to the rigidity of the law, which limited possibilities for meeting victims' needs and protecting their rights:

I think the capacity of the system is really very limited, especially regarding their needs and expectations in general. The problem is that, since the law is based on legal elements, on the level of evidence and things like that, which they don't know about, that's where we see this kind of gap between their expectations, their needs, and the capacity of the system. (Sonia)

After working with victims, all the students found that victims had a blatant lack of access to information. Many victims who contacted the clinic had already some experience with police, courts and lawyers. Some victims had even been represented by a lawyer in civil or family court. Yet, despite their experiences with the law, they still lacked basic information:

We often talk about how the criminal justice system is difficult, it's a big machine ... but from the questions victims ask ... the information we give them ... I realise that it's not just the entry into the system that is difficult, or the criminal justice process ... It's just the ... very ... very basic level. People know practically nothing.... Some are more proactive in their search for information.... They have more means to do the research.... But it's not the majority who will be proactive and who will even know where to start. (Marilie)

All the victims we had, no matter where they were in the criminal justice process, had trouble understanding what the process is.... (They) had trouble reaching people, whether it was the police, the prosecutors ... No information was available ... No one was available to answer their questions. (Katherine)

What struck me, especially coming out of my last meeting with the client, was realising just how much.... This client has had a lot ... her case, it's been 'in progress' for years, she's had a lot of lawyers, and she's often gone to court too.... It made me realise to what extent ... there's a lack of information ... Even just on how the judicial system works, and their rights.... It's as if no one could answer those questions or provide her with explanations. (Emilie)

Recognising the lack of consideration and access to information for victims in the criminal justice system, after having worked with victims, the students believed it necessary to grant victims a more substantial role in the criminal justice proceedings. This included allowing victims to have their own legal representation: A lawyer dedicated to protecting their interests:



My opinion hasn't changed since the beginning of the semester. I think that a victim who doesn't have a role in the criminal process, should have one. (Klara)

In my view, there should be a prosecutor for the victim and a prosecutor for society. These should be two different issues. (Josianne)

After working with victims, students' view of the criminal justice system was expanded. They now recognised that the criminal justice system includes other related services, such as psychosocial support services and other resources for victims. When asked about access to justice for victims, they also discussed services for victims and not just criminal law. However, like law, they observed that victim support services are also bound by limitations. Each service serves a specific group, which means that some victims fall between the cracks and are unable to access services:

The biggest issue I noted is that fundamentally, you must fit into a defined category of victim, you really need to have experienced a specific crime to even have access to all these things ... Even though, we think there are a lot of resources, ... and in any case, the government of Quebec is happy to say that there are many organisations. But what we noticed is how there may not necessarily be links between these resources, and there are no legal bridges. We realised that our client had already contacted all the resources we were suggesting. We thought we were being innovative: 'Have you thought about this?' ... 'Yes, I already had consultations, they turned me down, they referred me to another.' We realised that it was really a game of tag with all the resources, and in the end, she ended up falling through the cracks. (Marilie)

The students found that although the victims coming to the clinic were clearly distraught and in need of support, they were often so focused on legal questions, and criminal justice in particular, that they sometimes seemed uninterested in other information:

I really wanted to help them and give them this information (about victim services), but if they're not receptive, ... we're not going to impose it either.... They force themselves into the criminal system ... and my opinion on the criminal system itself hasn't changed since the beginning, it's ... maybe even more difficult than I thought. (Camille)

Victims seemed to focus on criminal justice and showed little interest in alternatives, such as restorative justice programmes. However, the students recognised that once victims knew that alternatives to criminal justice existed, they could think it over and always come back to it later:

Firstly, people don't even know what it is, and secondly, when they do know what it is, they don't understand the benefits of this process. It's still somewhat marginalised, I feel. It's only just starting to

come.... People are starting to understand the benefits. (Emilie)

Healing for victims ... I feel like that's what makes them not necessarily ready to take the step towards restorative justice when they come for help understanding the justice system. But it's still relevant that we talk to them about it.... They know it exists now.... Eventually, it could be a tool they know exists, so they can use it later. (Sonia)

### 7.2.3 *Perceptions of the Future Professional Role in the Criminal Justice System*

After working with victims, the students continued to stress the importance of having a basic education in non-legal aspects, referring victims to other services and resources, as well as collaborating with various other actors. Compared to when they began at the clinic, students were less likely to underscore the difficulty of expecting a lawyer to have skills outside the legal domain. Instead, they seemed to value the ability to address victims' non-legal needs:

From what I've experienced, I think it's important, especially later, when I'm a lawyer, ... that I'm not just here to give legal advice or guide them in their decision-making, but above all, they are humans, and I am human too. One should not detach the emotion from the situation, I think. (Emilie)

It's the idea of staying alert to be able to spot certain things ... Before having had this kind of experience, we might not necessarily have picked up on ... For example, the criminological resources that exist, like moral support and psychological support.... Just having that as a lawyer ... having a role that is more open than just the legal aspect.... Not being a professional in the others, but just having the basic knowledge to guide a little. (Sonia)

However, one student who specifically commented on the victims' legal needs and mentioned that her role would be to provide as much legal information as possible in an accessible way:

What I noticed in the last few months is that the main need was information, and one of the reasons I did my law degree was to make legal information, which is complex, more accessible to everyone. (Katherine)

The human aspect underlying victims' legal questions meant that all the students felt that it should be part of their future role as legal professionals to direct the victim towards resources:

With the experience from the clinic, I now know that there are so many more resources I can refer my clients to. Even if I end up in civil law, there are people who come to civil law who have still been victims of criminal acts or who have experienced some form of victimisation.... Recognising ... that I can't do everything for them, that I can only meet certain

needs, but also knowing and understanding what the other resources are. I'll definitely take that with me in my career, no matter which field I end up in. (Klara)

With respect to working with criminology students in interdisciplinary teams, all the law students believed that they learned a lot and benefited from it. Not only did working together help them to develop a better understanding of victims' needs, they also learned about the available resources. Almost all the students (seven out of eight) felt that collaborating with these and other actors in the system should be part of their future role as lawyers, to enhance their own work as well as improve the treatment of victims in the criminal justice system:

In our intervention with victims, we can try to collaborate with our criminology colleagues, with our police colleagues, investigators, ... to put victims back at the center of this process. Because they are the victims ... it's not just society ... well, it is society.... But even more so, it's the person who is the victim. (Claire)

It gives us, as lawyers, the tools too. Of course, we have our job to do in law, and we might not necessarily think about everything else and consider everything else. I think it's really a plus for this partnership between the two disciplines. (Marilie)

I find it allows us to offer more comprehensive answers to clients.... It allows us to think outside the box, to be more creative in our search for solutions.... And it's ... relevant in the legal field to start working more collaboratively with other fields. (Emilie)

To sum up, the law students enjoyed working in interdisciplinary teams together with criminology students. They felt the experience helped them grow and expand their understanding of the criminal justice system. It enhanced their comprehension of the plight of victims in criminal justice, allowed them to recognise the importance of their work for victims and convinced them of the need to change the system. The students were adamant that we stop regarding victims as witnesses to a crime against the State and start treating them as parties with rights. As future legal professionals, working in an interdisciplinary team, they learned about available resources for victims and appreciated the value of other professionals, who they saw as allies in the quest for justice for victims.

## 8 Discussion

Despite the introduction of various victims' rights instruments over the years, victims' role in the criminal justice process has essentially remained unchanged. Victims often must rely on the goodwill of authorities to respect their rights, rather than enjoy enforceable rights. Victimologists have warned of the risks of secondary

victimisation and its harmful impact on the individual victim as well as public safety. Victims play a vital role in the functioning of the criminal justice system, but most victimisations are not reported to police. The criminal justice system can be daunting for victims who often do not fully understand the possible consequences of reporting.<sup>76</sup> Information can help victims make informed decisions and reduce their anxiety and uncertainty.<sup>77</sup> The CJVAC combines a socio-legal service for victims of crime with an interdisciplinary training for undergraduate students. Besides meeting victims' need for information, it aims to educate future criminal justice professionals about victims' needs, rights and expectations. Recognising the importance of education for change, the CJVAC aims to improve victims' experiences by teaching law students about victims' needs, secondary victimisation, and the impact of trauma on memory. Students also learn about interview techniques and are provided opportunities to practice these new skills. The law students' focus was on providing legal information, and although it was challenging for them to explain law to laypersons who lacked a basic understanding of legal notions, they recognised how important it is that victims understand the law to make informed decisions. The findings support those of Smyth, Johnstone, Rogin<sup>78</sup> and Cuthrell,<sup>79</sup> who found that trauma-informed approaches improve lawyers' ability to communicate with their clients and build stronger relationships. Indeed, the legal system inevitably benefits from trauma-informed lawyering in terms of potentially improved outcomes.<sup>80</sup>

Trauma-informed law encourages legal practitioners to be aware of the effects of trauma on victims and better identify memory issues that may affect their ability to testify coherently. Yet, legal education generally fails to include victimology. Our findings echo those of Smyth, Johnstone and Rogin<sup>81</sup> and suggest that by recognising victims' trauma, law students may become more empathetic and understanding of victims' needs. Working at the clinic, students were mindful of the needs and rights of victims. Victims feel safer when they are in an environment that minimises frustrations and reduces multiple interrogations.<sup>82</sup> The safety provided by trauma-informed approaches enhances victims' autonomy, improves their well-being and enhances their ability to cope with trauma.<sup>83</sup> Positive experiences with legal professionals reduce victims' risk of secondary victimisation and promote healing by making victims feel valued, restoring their trust and confidence in the criminal jus-

76 Herman, above n. 30.

77 Lind and Van den Bos, above n. 39.

78 Smyth, Johnstone & J. Rogin, above n. 25.

79 Cuthrell, above n. 31.

80 *Ibid.*

81 Smyth, Johnstone & Rogin, above n. 25.

82 L. Haskell and M. Randall, *The Impact of Trauma on Adult Sexual Assault Victims*, Justice Canada (2019).

83 Cuthrell, above n. 31.

tice system and improving their collaboration with police.<sup>84</sup>

Legal clinics provide an excellent opportunity for students to gain hands-on training and begin to hone their professional skills. By integrating victimology in the clinic and applying an interdisciplinary approach, the study enabled the law students to acquire a basic level of knowledge in victimology, which appears to have sensitised them to victims' needs. Students overcame their initial fears and prejudices and learned to listen to victims. By working together with criminology students, the law students learned to put the traumatic experience of the client at the heart of their concerns. The law students did not become criminologists but learned to appreciate the work of others and recognised it as complementary to their work as a lawyer. They learned to work in a team with people from different backgrounds, and view the other as an ally, someone they could work with to achieve justice for victims. These findings suggest that many of the challenges or obstacles discouraging trauma-informed legal training may be overcome rather easily and with a minimal investment.

Vicarious or secondary trauma among lawyers, especially those working with traumatised clients like victims of violence, is a real concern.<sup>85</sup> By learning about trauma-informed practices, lawyers also acquire tools to address secondary trauma that may affect them.<sup>86</sup> Drawing students' attention to trauma and its symptoms may help them to recognise any signs of trauma they themselves experience and encourage them to reach out and seek help. Hence, besides reducing the risk of re-traumatising the victim, becoming trauma-informed, students potentially reduce their risk of developing secondary trauma later in their career.

In sum, after working with victims, students recognised the many challenges victims face and the need for change. They developed a broader view of the criminal justice system, recognising the resources and services available for victims, which in turn allowed them to better inform victims. Law students are tomorrow's lawyers, prosecutors, judges and lawmakers. By providing tomorrow's legal professionals with basic training in victimology, we may begin to change the criminal justice system and finally recognise victims as persons before the law.

It is important to emphasise the limitations of this study. The findings are not generalisable, and caution must be used when interpreting the results. Qualitative research can make a valuable contribution in understanding the perceptions of students, but in this case we cannot extrapolate to law students in general. Given the

small, non-random sample, the findings should be regarded as simply an *indication* of the experiences of law students. The study is an empirical exploration of a new teaching method. Even *anecdotal* material forces us to think about the possibilities for improvement, and this study, while it is limited, inspires further reflection on legal education.

84 Knoche, Summers & Miller, above n. 31.

85 M.-E. Leclerc, J. Wemmers & A. Brunet, 'The Unseen Cost of Justice: Post-traumatic Stress Symptoms in Canadian Lawyers', 26 *Psychology, Crime and Law* 1 (2019).

86 Cuthrell, above n. 31; R. Kim, N. Tyler & Y. Tinsley, "'Wading through the Worst that Humanity Does to Each Other': New Zealand Crown Prosecutors' Experiences of Working with Potentially Traumatic Material in the Criminal Justice System", 14 *Frontiers in Psychology* 1 (2023). *Front. Psychol.* 14:1164696. doi: 10.3389/fpsyg.2023.1164696