



This article is published in a peer-reviewed section of the Utrecht Law Review

Crime Victims' Experiences with Seeking Compensation: A Qualitative Exploration

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1. Introduction

This article describes and discusses the results of an exploratory qualitative study regarding the experiences of victims of crime with damage recovery.¹ It examines the steps taken by crime victims to obtain compensation, their considerations in whether or not to follow different legal 'pathways' and their actual experiences in their attempts to obtain compensation for their losses. This study offers a unique insight into Dutch 'law in action', as experienced by this group of victims.

First we will briefly review the increasing attention for victims' compensation in the Netherlands (Section 2), after which we will give a brief overview of the legal pathways to compensation in the Dutch law system (Section 3). Then, we will focus on the present study; first by presenting the study design (Section 4), followed by some sample characteristics of the group of respondents (Section 5) and finally the qualitative results of the current study, with some reflections of the authors (Section 6). Finally, we will make some concluding remarks on this (type of) research (Section 7).

2. Focussing on the victim's position

In the past two decades, the position of crime victims and in particular their possibilities for compensation have gained increased interest. The wish to improve the position of these victims is part of a national and international development. With regard to Dutch criminal law, elements worth mentioning are the Terwee Act (*Wet Terwee*) (1995) concerning the strengthening of the position of the injured party in criminal proceedings, the victim's right to speak (2005) and the State's 'advance arrangement' (*voorschotregeling*) for unsuccessful collection of a victim's claim by the Central Fine Collection Agency (*Centraal Justitieel Incassobureau*) (2011) – which applies in criminal court cases involving a victim's compensation claim.

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1 This article is a reflection of a research report published in the autumn of 2013. See J.D.M. van Dongen, M.R. Hebly & S.D. Lindenbergh, *'Je hebt geluk als je van een pauw mag plukken'. Ervaringen van slachtoffers van strafbare feiten met het verhalen van hun schade*, WODC 2013. The full text is available at <http://www.wodc.nl/images/2184-volledige-tekst_tcm44-502422.pdf> (last visited 22 May 2014); for an English management summary, please refer to <http://www.wodc.nl/images/2184-summary_tcm44-502421.pdf> (last visited 22 May 2014).

International attention for the improvement of the position of victims of crime is illustrated by European Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime. Although the position of crime victims is gradually improving, questions have risen about the consequences of the measures taken and whether (and how) the rules and facilities can be improved even further.

Regarding the Dutch legal system several studies have been conducted regarding crime victims. Recently, Schrama and Geurts investigated the role and importance of civil proceedings for victims of crime, for which they explored the 'legal roadmap for compensation' and the actual (quantitative) use of the various pathways.² They also identified problems in civil proceedings as a route for damage redress. They explored these issues by interviewing experts, lawyers and judges. However, they did not approach the crime victims themselves. The present study, as described in this article, focusses on the victim's experiences, and concerns not only the experiences with civil proceedings, but also covers the other legal pathways for compensation. The current study aims to add *a victim's perspective* to existing research and knowledge on damage recovery, a perspective that should not be overlooked if the scope of policy is especially aimed at improving their position.

3. Legal pathways to compensation in the Netherlands

To understand the following study results, it will be useful to briefly outline the legal pathways to compensation offered in Dutch law. When someone suffers damage as a result of a crime, the Dutch system offers several options for compensation. It should be noted that we will not take account of any provisions from the general social security institutions (e.g. social disability benefits) in this context: although they can strengthen the financial capacity of crime victims, they cannot be regarded as *specific* provisions established for these victims (they apply to everyone). Focussing on the Dutch law system, Schrama and Geurts described the more specific 'routes' and the victims' use of them, especially focussing on the route of civil litigation.³ In short, the authors stated that victims' compensation can be obtained (1) through a fund, (2) through their own insurance or (3) from the offender himself (for which the offender must be known). In the last case, the offender may be addressed (a) by requesting a settlement (with help from the police or the Public Prosecution Service), (b) by joining in criminal proceedings as an injured party or (c) by civil litigation. These three routes will be explained briefly.

The first route, as mentioned above, is through a fund: in the Netherlands, victims of severe violence and sexual abuse may file an application with the Criminal Injuries Compensation Fund (*Schadefonds Geweldsmisdrijven*) which offers standardized (and thus maximized) compensation that covers only part of the loss.⁴ Of course, and that is the second route, victims can also obtain compensation in whole or in part by their own private insurance (e.g. contents, valuables or health insurance). These two recovery routes have in common that they may apply regardless of whether the offender is known.

If the offender is known, there are options to claim damages from the offender himself. In some cases, one can reach a settlement: the police may mediate between the offender and the victim, and the public prosecutor also has a number of legal tools to encourage the offender to compensate the victim without being convicted by a court. When it comes to criminal proceedings, the injured party can join in the proceedings: when it comes to a criminal conviction, the court may also immediately address the question of compensation. Because of the nature of Dutch criminal proceedings (its inquisitorial character), the victim only plays a passive role. This is different in civil proceedings: a victim can sue the perpetrator for damages in civil proceedings. In this case, the victim initiates civil proceedings in order to try and obtain compensation according to the rules of liability law (a criminal offence also constitutes

2 W.M. Schrama & T. Geurts, *Civiel schadeverhaal door slachtoffers van strafbare feiten. De rol van de civiele procedure: gebruik, knelpunten en oplossingsrichtingen*, WODC 2012. The report can be found at <<https://www.wodc.nl/onderzoeksdatabase/civiel-schadeverhaal.aspx>> (last visited 22 May 2014).

3 Ibid.

4 For specific information, visit the Criminal Injuries Compensation Fund online at <<https://schadefonds.nl/english>> (last visited 22 May 2014).

a civil tort), ultimately by conviction by a civil court (whether or not in line with previous criminal proceedings in which the criminal court has been unable to award the claimed damages).

This very basic picture of the legal pathways to compensation should allow the reader to understand the qualitative findings that will be presented below. Although we could give a much more comprehensive description of each different route for compensation, we believe that this is not necessary: our intention is to give an impression of victims' experiences as we recorded them.

4. Research design and sample characteristics

4.1. Semi-structured in-depth interviews and preselection

The sample of the current study consists of 36 in-depth personal interviews. Our victims were approached by using a file of individuals who had already participated in victims' surveys before and who had expressed their willingness to participate in future studies. These victims were assisted by the victim support organisation (*Slachtofferhulp Nederland*, SHN) in 2010 and 2011. These are victims that were not (or not entirely) reimbursed (yet), which indicates a certain preselection: victims who had been fully compensated were not included in the file. Letters were sent to the participants with an application form: 106 out of 178 forms were returned and 85 people declared their willingness to participate.

On the application form, respondents were asked to tick the compensation route(s) that they had attempted. On this basis, the respondents were classified in four 'main routes' for compensation: (i) joinder as injured party in criminal proceedings, (ii) settlement via police or public prosecutor, (iii) the Compensation Fund and (iv) claimants in civil proceedings.⁵ Initially, a proportional distribution of respondents over the four categories was aimed for, so the victims were selected for interviews on the basis of what they had stated in the application form as being 'their' route. Several interviews, however, revealed that respondents regularly filled in the wrong route, often wrongly assuming that they had initiated civil proceedings whereas in fact they had joined criminal proceedings as an injured party. While conducting the interviews it became clear that the vast majority had actually followed this route and there seemed to be a shortage of respondents in each of the other categories. To address this, the lack of respondents that had actually attempted to reach a settlement via the police or the public prosecutor was overcome by directly approaching a claim's representative from the police; extra respondents who had initiated civil proceedings were sought through the researcher's connections with specialized law firms. In the end, the first category consists of 18 respondents, the other three categories of six each.

Moreover, the distinction in these four different routes only gives a rough picture of the pathways explored within this sample, as in most cases several routes were attempted simultaneously or sequentially.

4.2. Sample characteristics

We will now describe some sample characteristics that we were able to record on the basis of the interviews. The type of offence respondents had been faced with varied considerably (see Table 1). It should be noted that the researchers had to rely on the respondent telling the story from his/her own (layman's) perspective; the interviewers then attributed the legal qualification (by interpreting the type of offence). Where possible, the interviewers checked the legal classification of the offence in the documents that were present at the interview. The most common offence of which the interviewees had become a victim was burglary (10 cases), followed by the category of simple assault (8 cases).

5 This study does not regard private (first-party) insurance as one of the main routes; experiences with this route were nevertheless recorded by way of 'by-catch'.

Table 1 Frequency of type of offence in sample

Type of offence	Number of respondents
Burglary	10
(Simple) assault	8
Fraud	4
Theft of debit cards (with code)	2
Theft	2
Destruction/damage to property	2
Burglary with violence	2
Rape and kidnapping	1
Aggravated assault	1
Murder	1
Sexual exploitation	1
Armed robbery	1
Damage caused by a dangerous animal	1

As noted, a substantial number of respondents had tried several (combined) ways to obtain compensation (see Table 2). The most common combination of routes was that of joining in criminal proceedings as injured party as well as obtaining compensation under a first-party (contents) insurance, usually in cases of burglary.

Table 2 Combinations of recovery routes

Combination	Number of respondents
Joinder in criminal proceedings + Insurance	8
Joinder in criminal proceedings + Civil proceedings	3
Joinder in criminal proceedings + Compensation Fund	2
Compensation Fund + Insurance	1
Joinder in criminal proceedings + Settlement	1
Joinder in criminal proceedings + Compensation Fund + Insurance	1

4.3. Which routes were (relatively) successful?

Table 3 shows how often certain types of damages had been paid per recovery route, in whole or in part. It shows the number of cases in which respondents had some success in financially recovering the type of damages. For seventeen respondents in the sample, there was no compensation at all. Also here, the researchers legally qualified and classified the losses mentioned or suggested by the respondents: financial loss (property damage, personal injury and purely economic loss) and immaterial damage.

Table 3 *Obtained compensation (full or partial) for damage types per recovery route*

	Financial loss			Immaterial damage
	Property damage	Pure economic loss	Personal injury	
Joinder in criminal proceedings	5	1	1	1
Settlement	2	1	1	1
Compensation Fund		2	4	3
Civil proceedings	1	2		1
Private insurance	9		2	

5. Qualitative findings and some reflections

5.1. *The quest for respondents*

With regard to the question which steps crime victims take to obtain compensation, we should firstly note that the quest for respondents in itself also taught us something. The majority of respondents tried to obtain compensation by joining in criminal proceedings as an injured party. The detailed search for respondents for the category ‘settlement’, and especially for the category ‘civil proceedings’, was not easy at all. In conversations with lawyers (five law firms, handling only or mostly injury cases, were approached) they indicated that they rarely advise crime victims to initiate a civil action (in contrast to victims of traffic accidents, for example) because of the perpetrator’s expected lack of financial capability considered in combination with the victim’s emotional burden related to such proceedings. This suggests that the perception of lawyers with regard to civil proceedings and their limitations affect the decisions made by victims. Also with regard to joining as an injured party in criminal proceedings, one of the respondents expressed strong concerns, particularly related to the fact that the injured party must provide information regarding his medical situation, which he need not release in civil proceedings because of the protection of his privacy. Also having to depend on the policy of the prosecution and the lack of information were mentioned as objectionable aspects.

Although eventually some respondents were found, the search was – especially with regard to respondents who had started civil proceedings – like looking for a needle in a haystack. This research confirms the impression that individuals who initiate civil proceedings to recover their losses after a crime are scarce. It also confirms that joinder as an injured party in criminal proceedings is the most common route for recovery. The relative simplicity of it, the support of SHN and the (further) improvements of this type of proceedings are likely to have resulted in this relative attractiveness.

5.2. *Joinder as an injured party in criminal proceedings*

For the majority of respondents who had joined in the proceedings, this opportunity for recovering damage had been pointed out to them by SHN. Respondents received a claim form using which they could join in the criminal proceedings. For most of the respondents it seemed the most logical route to follow in their attempt to recover the damage. In a few cases some of the damage was covered by their own private insurance company, but it was still a matter of principle for them to apply for joinder in the criminal proceedings for the uncompensated losses.

With respect to the interviews with respondents who had joined in the criminal proceedings, the following three aspects were noted in particular: the motives of principle underlying the choice to try to obtain compensation, the ‘supporting role’ experienced in the proceedings (the victim and his claim were mostly addressed as a side issue in the criminal proceedings) and the fact that the State’s advance arrangement is expressly mentioned as a motive to join (which does not apply in the case of civil proceedings).

Although some respondents joined in the criminal proceedings for purely financial reasons (and considered it more or less necessary to recover their financial capacity), several respondents mentioned reasons of principle for their joinder. This was proven most explicitly for respondents with low residual

damage, caused by burglary, who had a substantial part of their damage already covered by their own insurance. They considered it unacceptable for the offender to get away with it. Several respondents therefore saw their joinder as well as their report of the crime to the police as a kind of 'civic duty'. Often they were very well aware of the fact that their action was not very rational from a financial cost/benefit perspective, but the importance lay in the larger emotional, principled or social significance. This finding underlines the fundamental character of the possibility of joinder as an injured party: even victims with only minor residual financial harm include the immaterial benefits of their action into their considerations (recognition, satisfaction, fulfilment of citizens' duties). Examples of typical statements on this point are the following (freely translated):

'If someone does something like this, you want them to bear the costs.'

'One can't squeeze blood from a stone. This man, he has not got a penny. (...) Now he pays 12.50 Euros per month. If it were up to me, it will take him ten years to finish the payments. He should feel like: "I shouldn't have done this."

Remarkably, several respondents emphasized how they experienced the attention and the facilities that were especially offered to the offender, which underlines their position as a victim after joinder in criminal proceedings (the 'supporting role'). This particular aspect is well known from previous research, but we noted that – despite the substantial improvements in the position of the injured party – respondents had strong opinions on this matter:

'The letter announcing the hearing of the court made it clear that my travel and accommodation expenses would not be reimbursed, but the perpetrator gets it all: bigwigs, surveillance, safe transport... (...) The victim has very little to say.'

'One would prefer to be an offender than a victim, as for the former a team of helpful people is pulled out of a hat. Justice does nothing, while I'm stuck with the damage... If you are an offender, the criminal lawyer automatically comes to help you. I feel like a cheap-treated victim.'

The sample used in this study – victims who had their damages only partially compensated, or not at all – may have biased this outcome. It is also conceivable that the increased general focus on *improvement* – with a plausible increase of the use of this recovery route as a result – reveals precisely this problem. Of course it is a 'legal system issue': criminal prosecution of perpetrators is fundamentally different from the recovery of damages, but for litigants this systematic distinction is far from obvious. Especially with regard to the joinder in criminal proceedings, the dependence on the prosecution policy was mentioned several times as an obstacle. Admittedly, compensation can also be claimed for damage resulting from offences merely appended for the court's information (since 2011) and furthermore, the public prosecutor is obliged to adjust their policy to the interests of the victim, but still every case depends on the decision to prosecute. The sample included some cases of fraud, where the victim was informed that the prosecutor would take no action at all (and that a civil action was the preferred route for recovery):

'I think that's weird. You steal a tin of Coke and you will be prosecuted. You trick someone out of thousands of Euros and then they call it a 'civil case' and do nothing.'

It is also imaginable that the previously identified fundamental character of various joinders, but perhaps also the seemingly 'automatic' joinder (victims just return the forms they receive, without further consideration), have strengthened the victims' confrontation with their 'supporting role'.

One respondent mentioned the advance arrangement (which has applied since 2011) as an important motive to join. It seems reasonable to assume that this measure has a priming effect on the joinder as an injured party in criminal proceedings, in the sense that it offers a great chance of actual payment (if the offender does not pay on time, the State pays the victim's claim and takes recourse action against

the offender). Although the risk of this priming effect in the drafting of the advance arrangement was foreseen, little is known about the manner in which – and the extent to which – this actually occurs.

5.3. Settlement by police or public prosecutor

In our sample, the number of people that had reached a settlement with the help of the police or the Public Prosecution Service was remarkably low in comparison with the number of jointers in criminal proceedings (six cases, one of which was an arrangement with the prosecutor). Remarkably, the cases not only dealt with very simple offences (for which this feature was originally designed), but in one case also with a more complex assault case. Furthermore, victims' experiences with regard to this route were mainly positive: the possibility in itself, the rapidity of the settlement and the absence of direct contact between victim and offender.

5.4. Compensation Fund

The number of respondents who had turned to the Criminal Injuries Compensation Fund was initially low, but could be supplemented by targeted searches. The findings were not very surprising: victims were especially pleased with both the *existence* of the Fund and its *operation* (application and payment), although criticized by some respondents, who experienced the Fund's formal rejection as blunt. Regarding this Compensation Fund, another study also showed that the existence of the Fund is highly valued by victims, and that they consider the fact that a less than full compensation is paid as not really problematic, or at least understandable.⁶

5.5. Damage recovery via civil proceedings

As indicated earlier, it was difficult to find any respondents who tried to obtain compensation by filing a civil claim. This in itself may illustrate the relative importance of this recovery route when it comes to the recovery of damages after crimes.

People do not seem to regard civil proceedings as an interesting option. The reasons given by respondents are significant: high estimated costs ('lawyer's invoice for every second of work') weighed against the likelihood of success in the proceedings ('How do I prove a fact that the public prosecutor was unable to prove, or which has led to acquittal in the criminal proceedings?'), the likelihood of actual payment (one still can't squeeze blood from a stone), the emotional burden related to the confrontation with the perpetrator, the fear of reprisals and being 'tired of fighting' after first having attempted other routes of recovery. The following statements are good examples:

'I left it all behind me. I would have had to engage a lawyer, and before they even know what this case is all about I have to pay them a fortune, and the question whether it's profitable would still remain.'

'It's an extra burden, but with what result? You're lucky if your offender is like a rich "peacock" with beautiful feathers, but in most cases, one has to deal with a "bald chicken"...'⁷

'I would say: "let sleeping dogs lie". It's quiet now and we don't have to see him... . Ultimately, you want to put it all behind you; you want peace and you're tired of the struggle. I'm o.k. with it now.'

'You mean I have to have him found guilty of the facts of which he has been acquitted in the criminal proceedings? That will be a very annoying task, of course.'

6 J.D.W.E. Mulder, *Compensation, the victim's perspective*, dissertation Tilburg University, 2013, pp. 81 and 111.

7 In the Dutch language, we have an expression similar to 'one can't squeeze blood from a stone', which can be roughly translated as 'one can't pick feathers from a bald chicken', but many speakers also refer to frogs: 'one can't pick feathers from a frog'. Regardless of what animal the speaker prefers to enter the scene, the meaning will be clear: you will never get anything from someone who has no possessions.

Several of the objections mentioned above sometimes deserve some additional perspective, e.g. the fact that for cases that do not reach the limit of access to the Subdistrict Court there is no mandatory legal assistance, and legal assistance can be provided free of charge in serious violent and sexual offences (which does not apply for other crimes). Also, the conditions for providing evidence in civil proceedings are less strict than in criminal proceedings. Moreover, a confrontation with the perpetrator can offer a chance of emotional processing because of the equivalent procedural position. Nevertheless, in individual cases it appears to be a combination of several of these elements that leads to the decision not to initiate civil proceedings. The weighing of the costs against the expected benefits, in combination with the emotional burden of the proceedings, seems to be the decisive factors. The situation obviously seems to be different when the financial risks of the proceedings can be transferred to another party (like a personal injury agency that works on a *no cure, no pay* basis) or when the possible benefits (a large amount of damage such as in fraud cases) are presumed to justify the expected costs and burden and the costs can be shared with other victims.

Sometimes, apparently, ignorance or misunderstanding also played a role: in some cases the respondent did not even know about the possibility of civil proceedings. Sometimes SHN advised waiving the civil proceedings because a joinder as an injured party had already been attempted and because the respondent therefore had to start from the beginning – on their own. Some people were confused by information in the correspondence from the prosecution service or the court, in particular the letters which stated that the accused had been acquitted, but that the victim could nevertheless consider civil proceedings: this led to misunderstandings, or to the exclamation that it looked hopeless anyway. Here we see some room for improvement, despite the more fundamental barriers that still remain.

The limited use of civil proceedings for damage recovery is noteworthy, especially because civil proceedings have been identified in literature as including 'positive potential' for crime victims with regard to the satisfaction of the victim's *immaterial needs*.⁸ Civil liability actions were said to meet the need to confront the offenders with their wrongdoing, to actively participate in the proceedings, to be treated with respect, to be socially recognized and to influence the final results of the proceedings. It should be noted that the study referred to relates only to victims of *accidents*, in which cases there will be coverage by a liability insurance, so in such cases the risk of recoverability is not the major problem. With respect to this 'positive potential' we also comment that it is not easy to determine the relative importance of these immaterial needs in relation to the material need to obtain financial compensation. Moreover, it is likely that if the financial need is not satisfied – the claim is rejected, or recovery ultimately proves impossible – the immaterial benefits of the civil proceedings evaporate and even turn into their opposites (disappointment and secondary victimization). Since in the case of crime the risk of irrecoverability is relatively large, it is doubtful whether this 'positive potential' of civil liability actions applies to crime victims. In addition, the civil proceedings in cases of crimes have particularly high emotional risks. As was mentioned by respondents, the confrontation with the perpetrator, the emotional burden of it and fear of reprisals are considered as serious barriers. These emotional risks are certainly experienced differently from the emotional risks involved in cases regarding accidents, which mostly result in proceedings against a liability insurance company. In conclusion, it is subject to serious doubt whether the potential immaterial benefits of a civil action for victims of crime outweigh the disadvantages and (emotional) risks of such proceedings.

All in all, the present study has confirmed the problems regarding civil redress that had previously been recorded in interviews with lawyers, judges and scholars. In our sample, the civil suit was generally seen as a 'last resort' with severe obstacles and a limited chance of *effective recovery*. It is remarkable, however, that our respondents did not mention the length of the civil proceedings as a problem – no information was obtained about the expected duration of the proceedings – but especially the fact that they were asked to take an *additional step*, after having attempted other recovery routes without any success, which stood in the way of the need to put it all behind them. For several respondents it was clearly too much to have to initiate civil proceedings after a joinder in criminal proceedings. It could

8 See R.M.E. Huver et al., *Slachtoffers en aansprakelijkheid, een onderzoek naar behoeften, verwachtingen en ervaringen van slachtoffers en hun naasten met betrekking tot het civiele aansprakelijkheidsrecht, Deel I, Terreinverkenning*, WODC 2007, pp. 81 et seq.

be inferred that the fundamental desire to *participate* gradually decreases and, at least when it comes to the actual own initiative and risk, such as required in civil proceedings, that this desire is then found to have weakened. Here we noted a contradiction with what victims having joined in criminal proceedings designated as their ‘supporting role’: the opportunity to play a leading role in civil proceedings remains unused.

5.6. *The role of (private) insurance*

In addition to the concerns regarding the various recovery routes, our respondents also had positive experiences to report. The experience with first-party insurance was the most frequent. This is obviously not a recovery route in the strict sense, because it is a financial facility that people can provide for at their own expense, but private insurance does cover (at least) the financial needs of the victim. Moreover, the ‘first-party nature’ of the insurance product implies that the payment does not have to come from ‘enemy territory’ (the offender), but from a ‘cooperating friend’. Not only the actual payment, but also the smooth claim handling was valued highly by our respondents. However, the role of such insurances is now limited: they only cover certain damages (replacement costs, costs of repair, costs of medical treatment) and usually up to a certain level.

These positive experiences with private insurances have raised the question of whether it would not be an option to strengthen their role. In this context, it has previously been advocated that personal liability insurance, which in the Netherlands is taken out by a very large number of individuals, should provide first-party coverage for damage as a result of violent crime, by way of a ‘sidecar’.⁹ With a few exceptions, insurers were not very enthusiastic at the time, but perhaps the current timeframe would favour the creation of such a facility. The now fairly extensive experience with regard to personal injury related to insurance for vehicle occupants may also be a source of inspiration here. However, private insurance has the disadvantage that it – in a sense – is covered by the victims’ own facility (they pay for it themselves) and that the compensation is not directly paid by the perpetrator. This first aspect can be a rational choice, especially in a situation where the risk of damage is relatively small, but the extent of the damage can be significant. The second aspect is to some extent inevitable, because often the perpetrator simply offers no recovery at all. However, in cases where recovery is actually possible, the insurer may play a role in this regard by taking recourse action (as a professional *repeat player*).

5.7. *Problems and points for improvement*

This article has discussed several issues mentioned by the respondents. In the interview sessions, we asked every respondent to mention the biggest problem that they experienced in their attempts to obtain compensation. The problems mentioned can be ranked as follows:

Table 4 *Problems mentioned with regard to damage recovery*

Problem	Times mentioned
Poor involvement and information supply from prosecution services	13
Slowness of the judicial process	10
Offender offers no recovery	7
Emotional burden	6
Lack of understanding of proceedings	4

Several improvements have already been implemented in recent years. Some examples are the improvement of the position of the injured party by the State’s advance arrangement, the changed criterion for joinder in criminal proceedings, the opportunity to join proceedings that include offences appended for the

9 See J.H. Wansink, ‘Assurance Oblige: de maatschappelijk verantwoord handelende verzekeraar in de 21e eeuw’, *AV&S* 2003, p. 50 and J.H. Wansink, *De algemene aansprakelijkheidsverzekering*, 2006, p. 273.

court's information and the structural assistance of SHN. Furthermore, the provision for free legal aid for violent crimes could be included here.

Some problems are simply too difficult to avoid in the current system, such as the victim experiencing a supporting role in criminal proceedings, the lack of recovery, the perceived slowness of the judicial process and the emotional burden of the process. The increasing role of private insurance companies may help partially circumvent these problems.

Improving the role of the public prosecutor with regard to compensation of crime victims, given the necessarily limited resources and the task of the prosecution, is not an easy task. At this point, serious steps have been taken, such as 'self-regulation' through the instructions for the care of victims by the board of Attorney Generals (2010). When it comes to the communication between the Public Prosecution Service and the victim – the undisputed leader of the list of issues raised by respondents (and also known from previous research) – improvements still need to be made.¹⁰

6. Concluding remarks

This article presents the most important qualitative results, together with some reflections and assessments. It is important to emphasize the limitations of this study: in-depth interviews can make a valuable contribution in understanding the perceptions and ideas of respondents, but in this case one cannot extrapolate the findings regarding this very specific sample to all crime victims in general. However, a valuable aspect of this (kind of) study is that the 'anecdotal' material can expose certain issues that would otherwise remain unseen, which can lead to new explorative hypotheses and reasons for further research.

Given the size of our sample, the findings outlined above should be regarded as only an *indication* of the experiences of crime victims with attempts at damage recovery: one should regard it as an 'empirical exploration'. Nevertheless, this research inspires the thought process when it comes to this particular group of litigants, for even 'anecdotal material' forces us to think about the possibilities for improvement. And more: aren't these victims – in a way – *experts par excellence*?

Points for improvement mentioned by respondents include better communication by the public prosecutor, (even) better service by SHN, acceleration of the legal process and (paid) assistance of the victim by a lawyer. Because of the apparent satisfaction of victims with the compensation obtained from insurances, we recommend assessing whether insurance companies are able and willing to create a first-party insurance product for damage caused by crime. A second recommendation is to at least continue to improve the (standard) communication between the public prosecutor and crime victims. Exploratory hypotheses could be aimed at this, and it could be the next step for legal (empirical) research in order to improve the position of victims. ¶

¹⁰ Remarkably enough, the *Slachtoffermonitor* (a Dutch large-scale quantitative victim survey) seems to have a somewhat more nuanced outcome: most of the surveyed victims expressed predominantly positive experiences with the treatment by the prosecution services, although they also mentioned that improvements could be made by giving clearer information on what these victims are entitled to. See M. Timmermans et al., *Eerste meting slachtoffermonitor. Ervaringen van slachtoffers met justitiële slachtofferondersteuning: Deel 2: Openbaar Ministerie, Rechtspraak & Slachtofferhulp Nederland*, WODC 2013, pp. 21-34.