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Victims' Access to Justice in Trinidad and Tobago:

An exploratory study of experiences and challenges of accessing criminal justice in a post-colonial society.

**A thesis submitted in fulfilment of the requirements of the University of
Kent for the degree of
Doctor of Philosophy**

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2021

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Abstract

This thesis investigates victims' access to justice in Trinidad and Tobago, using their own narratives. It seeks to capture how their experiences affected their identities as victims and citizens, alongside their perceptions of legitimacy regarding the criminal justice system. While there have been some reforms in the administration of criminal justice in Trinidad and Tobago, such reforms have not focused on victims' accessibility to the justice system. Using grounded theory methodology, qualitative data was collected through 31 in-depth interviews with victims and victim advocates. The analysis found that victims experienced interpersonal, structural, and systemic barriers at varying levels throughout the criminal justice system, which manifested as institutionalized secondary victimization, silencing and inequality. This thesis argues that such experiences not only served to appropriate conflict but demonstrates that access is often given in a very narrow sense. Furthermore, it shows a failure to encompass access to justice as appropriated conflicts are left to stagnate in the system as there is often very little resolution. Adopting a postcolonial lens to analyse victims' experiences, the analysis identified othering practices that served to institutionalize the vulnerability and powerlessness associated with victim identities. Here, it is argued that these othering practices also affected the rights consciousness of victims, delegitimizing their identities as citizens. Moreover, as a result of their experiences, victims had mixed perceptions of the justice system. It is argued that while the system is a legitimate authority victims' endorsement of the system is questionable, therefore victims' experiences suggest that there is a reinforcement of the system's legal hegemony. The findings suggest that within the legal system of Trinidad and Tobago, legacies of colonialism shape the postcolonial present as the psychology and inequalities of the past are present in the interactions and processes of justice. These findings are relevant for policymakers in Trinidad and Tobago and other regions. From this study it is recognized that, to improve access to justice for victims, there needs to be a move towards victim empowerment that promotes resilience and enhances social capital. Going forward it is noted that there is a need for further research.

Chapter One: Introduction: The Socio-Legal Legacy of Justice in Trinidad and Tobago.

The past is never dead; it's not even past

(Faulkner, 1951, Requiem for a Nun Act I, sc. 3)

This thesis investigates victims' access to justice in Trinidad and Tobago and seeks to capture how their experiences affects their citizen identity and the perception of the criminal justice system. In Trinidad and Tobago, successive governments have struggled with crime rates - in particular homicide rates, crime detection, and the weight it places on the criminal justice system and the wider society (Deosaran 2007; Pino 2009; Mastrofski and Lum 2008). Mastrofski and Lum (2008) in exploring the challenges to police governance in Trinidad and Tobago, noted an increase in homicides between 1999 and 2007 from seven to thirty per hundred thousand. Between 2000 and 2008, there was a notable steady increase in homicides reaching a peak of 547 murders, and after 2008 a decline until 2011, where there was another increase until 2013 (Seepersad, 2016). Recent data (2013- 2020) on overall reported crime note that there is also a fluctuation in reported crimes, with a low detection rate, lower than 50% (Source: Trinidad and Tobago Police Service Website).

This dynamic has led to an increased focus on crime fighting and institutional responses to the influx of criminal cases. Besides reforms to the national police service, there has been the enactment of the Criminal Division and District Criminal and Traffic Court Act No. 12 of 2018 established to develop the Criminal Division of the High Court; the District Criminal and Traffic Courts; and the Administration of the Criminal Division of the High Court and the District Criminal and Traffic Courts. Moreover, the implementation of criminal caseflow management strategies in the Criminal Division of the High Court, allowed for the use of Judge Alone Trials, designed to improve timeliness and expediency (Judiciary, n.d.). Despite these measured efforts, there has been a decline in citizens' confidence in the institutions and processes of justice and a further divide between these citizens and the system (Seepersad and Williams 2012).

Some Caribbean authors have deemed the current issues in criminal justice and the lack of citizen confidence as rooted in the indelible influence that the 'shadow of colonialism' has exerted on the cultures and institutions' in the society (Seepersad and Williams 2012, p.117). This includes

the continued imitation of common law systems that are bureaucratized, anachronistically administrative and characterized by social, economic, and political inequities (Pryce, 2007; Birkbeck, 2007). This thesis continues this line of inquiry through the examination of the perspectives of victims who have engaged with the criminal justice system in Trinidad and Tobago. Moreover, it contributes to the ongoing discourse on the need for academic engagement and research within the Global South and the wider decolonisation of criminological thought. Using a grounded theory methodology, this study explores the following research questions which provide the focus for the study and frame its narrative:

1. How do victims describe their experience of accessing criminal justice in Trinidad and Tobago?
2. How do experiences of access to the criminal justice system shape victims' identities as citizens?
3. How do victims' experiences of access to criminal justice impact on their perceptions of the legitimacy of the criminal justice system?

This thesis explores the resonance of Trinidad and Tobago's colonial past in the present day – particularly, by examining how such historical developments have come to bear on victims' experiences in the criminal justice system. It is for this reason it begins with a historical overview and analysis which will provide some context about criminal justice in Trinidad and Tobago. The following section offers a comprehensive and historical overview of the context in which the research is set. It explores the development of criminal justice in the colonial Caribbean era, in particular the 'creole'¹ process of criminal justice which currently exists post-colony (Smith, 1965). As such, it highlights the impact of colonialism and the movement of decolonialisation on the emergence of the contemporary justice system. Through this contextual situating, it provides an understanding of the evolution of criminal justice institutions in Trinidad and Tobago and provides a starting point for the research that follows.

¹ The term creole refers to nature of criminal justice system in the Caribbean as a 'creole product' which is an end-product that incorporates elements drawn from the different cultures that are in conflict, and do not look exactly like any of its European prototypes.

Situating the Context

Trinidad and Tobago won its independence from Great Britain in 1962 and became a republic in 1976, thus becoming a parliamentary democracy. However, like some of its Caribbean neighbours, the country has a legacy of a colonial economy and a political history of European (British, French, and Spanish) expansionism and servitude. For Trinidad and Tobago, the colonial occupation began after 1592 by Spanish conquistadores after having been visited by Christopher Columbus in 1498. During this period, the island's inhabitants the indigenous Amerindians peoples (Tainos and Calinagos), fought Spanish occupation until 1592 (Brereton, 1996). Subsequently Trinidad became a Spanish colony, which Spanish settlers under the rule of the King of Spain (Brereton, 1996). The Spanish colony consisted of Spanish Settlers, Amerindians (living in villages or in the forests as a majority had died out from disease or overwork), a few African slaves and some people of mixed race (mixtures of Spanish, African and Amerindian) (Brereton, 1996). Therefore, the first formal legal system on the islands were the product of Spanish settlers. Between 1592 and 1797, the Spanish, settled the colony with the inclusion of the French. However, with the arrival and capturing of the islands by the British in 1797 and the islands being ceded to Britain by the terms of the Peace of Amiens in 1801 (Epstein, 2012), there was a reconfiguration of the judicial system. This reconfiguration was in accordance with the understanding of the proper place and purpose of law and courts in a British colony. Governance of the islands by the British was characterised by a single-chamber Legislative Council, consisting of top officials and 'unofficial' private citizens (referred to as the '*unofficials*') chosen by the Governor to represent the island's property interest. The majority of "*unofficials*," who were substantial men of property, shared a general outlook on how the island should be governed, exercised influence over policy making (Brereton, 1997) and were able to instigate Governors to follow their lead (Wiener, 2008). According to F. R. Augier (1966), quoted in Brereton (Trinidad, op. cit., p. 25) as cited by Wiener (2008) "The theory of the constitution," it has been observed of Trinidad then, "asserted autocracy. The practice of politics assumed an oligarchy."

As a 'frontier society' the islands were developed for sugar cultivation to support the European imperialists. As such the islands were slave colonies where various estates were owned by French and British planters 'supervising' slaves into producing sugar, cotton, and cocoa (Wiener, 2008). The labour force on the plantations consisted of African slaves until 1834, which

saw the abolition of slavery on the islands. During this period (pre-abolition of slavery) the law served as a tool to legitimise the exploitative nature of plantation society, as it was imperative to keep the black masses in subordination, without rights and social mobility, to sustain the plantation and its metropolitan base (Antoine, 2008). As such the plantation acted as a 'total institution' being the administrative surrogate for the European imperialist. It was the responsibility to the plantation to manage status relationships of the slave society as well as be the instruments of social control. The 'planter rules/house rules' acted as the principal instruments of social control and as an authority in the settlement of disputes. According to Goviea (1970), the virtually unlimited law-making powers resulted from the British political tradition, where slavery and serfdom were not legal. Therefore, British colonies adopted the systems of slavery brought to the West Indians by Spaniards. As such slave laws were an immediate reflection of what the slave owner considered to be the necessities of the slave system and by extension the economic and social framework of a whole society (Goviea 1970). The slave system turned the slave into a special kind of property subject to police regulations with the police and police regulations as the superstructure maintaining the 'very heart of the slave system' (Johnson 2017). While slaves were tried for criminal infringements, they were also able to bring complaints through a system of slave courts. However, the frequency and success of these procedures are unknown but based on the nature of the system it seems unlikely that any decision would have been weighted towards the dominant (mass) class. Although traditional courts existed during this period (pre-1834), they had no influence on the structural relationships created by the plantation system nor the paternalistic and authoritative role.

Between 1834 and 1838, there was a gradual emancipation – a period of apprenticeship that saw a mass exodus of former slaves leaving the plantation in hopes of finding work in more urban areas of the islands. This exodus led to the beginning of indentured labour in 1845, where exploited labour forces (of indentured labourers) were imported from countries such as East India and China. The importation of indentured labour into the previous slave society created a structure of relations within the society that was derived from and based on the plantation system (Weiner, 2008). Brereton (1997) describes Trinidadian society in the late nineteenth century as being complex and distinctly heterogeneous, due to the changing of imperial powers prior to 1797. By the 1880s the white elite consisting of people of French, Spanish and British descent were the local aristocracy rooted in the possession of land and slave ownership. During this period, British whites

dominated the sugar industry and the commercial sector while the French (French Creoles) controlled most of the cocoa estates. Moreover, added to this social structure were the masses belonging to two major groups: black Creoles of African descent (descendants of ex-slaves or post emancipation immigrants) and 'East Indians' (indentured immigrants from India). Moreover, amongst the masses there was a growing black and mixed-race middle class, educated and employed in teaching professions and civil service but were also becoming increasingly politicized and resentful of white domination. There were also smaller groups from Venezuela, China, and Portugal (from Madeira) (Brereton, 1997).

In their assessment of criminal justice in the Caribbean during the colonial period, Dodd (1982) and Lowenthal (1972) highlight an interesting paradox in the relationship between the society and the system. This dynamic being the distance between the two parties. In Lowenthal's (1972) assessment of the West Indian masses, those that form the lower status in West Indian society, the colonized:

see formal law as an elite weapon and the police as their natural enemies...in court, unfamiliarity with the forms, if not outright illiteracy, gravely disadvantages the folk litigant...the whole system seems to conspire against him...Viewing the law as an elite weapon, the poor in the Caribbean sometimes react by not cooperating with the police, by seldom invoking legal processes...

Dodd (1982) interprets this description of formal law as revealing a specific gulf between individuals and the *higher courts* as, in his assessment, communities still saw themselves as being in close proximity to the magistrates and the police, which were commonly known settings for settling of disputes. In many instances the police acted as parental surrogates for disobedient and unruly children (threatening their children with the system and the likelihood of incarceration), whereas this proximity was not apparent with the higher courts (High Court). During the post-emancipation and colonial era, the Magistrates Court and the police were the only tangible experience citizens had with justice (Dodd, 1982). This may be due to the nature of work assigned to the magistracy and the police, in the management and control of the population and dispute resolution.

In the nineteenth century post-emancipation (post-1834), the movement of the labour force away from the plantation, resulted in some adjustments to law and justice (Brereton, 1996).

Additionally, the importation of indentured labours from India during this period (1845–1917) added to the need to control the burgeoning work force. Such control was the use of legal sanctions of the court, where the main legal sanction for the enforcement of the indenture laws was prosecution, followed by fines or (more likely) jail sentences. While plantation owners (employers) of indentured labour had no legal right to flog or whip their workers, physical violence against indentured labourers was customary. In his exploration of colonial period violence, Trotman (1986) found that the extra-legal violence inflicted upon labourers by land-owning perpetrators were rarely punished even when such violence resulted in the labourer's death. Brereton (2010) gives the example of Soudar Singh, who was severely beaten by the owner of his estate and seven African labourers in 1867; they were all acquitted. In 1871, an estate manager was fined six pounds for horsewhipping two Indian women, one of whom subsequently died. Here, a charge of manslaughter was not sought as the medical evidence stated that the woman was said to be in poor health prior to the whippings. Such violence against indentured labourers was not explicitly criminalised, and these acts of brutality were thus rarely subject to legal redress under existing legislation.

In his historical analysis of law enforcement and crime during 1870-1899, Trotman (1986) found that the ruling elite consistently complained about crime. They persistently visualized a spectre of steadily increasing criminality perpetrated by 'the great horde of uncivilized' with whom they were surrounded and on whom they depend on for their wealth' (p.68). The ruling elite often used the police and the courts to further control 'crime' in the colony. Throughout the nineteenth century, the police were a 'paramilitary organization headed by military officers.... who envisioned their organization's role as repression of a rebellious public that threatened the island's elite' (Mastrofski and Lum, 2008, p.486). During the colonial era policing was primarily conducted by the Royal Ulster Constabulary, with the Constabulary Ordinance of 1905, changing the police into an armed constabulary charged with paramilitary duties (Ottley, 1964). Such changes provided the basis for how the police would function for the rest of colonial period and even after the country's independence in 1962 (Mastrofski and Lum 2008; Pino 2020). Moreover, during this period the police force, located in the major urban centres were perceived as biased, corrupt, and incompetent. Post-1865 there was the appointment of private rural constables on every estate that took orders from and reported only to the estate owner or his attorney. However, these constables were under

the jurisdiction of the Inspector general of the police. In the courts it was found that decisions relied less on law but on prejudicial and racist notions of African and East Indians. Further, creole magistrates depended on their notions of class and colour and the English imports imparted by the racial stereotypes rampant in Victorian England. At the superior courts, while reportedly having better legal talent they were equally biased as the lower courts, sharing the class interests of the plantocracy (Brereton, 1996). A further historical account by Brereton (1996) notes that amongst the masses was the feeling that the planter class had an undue influence on the legal machinery, and therefore arose feelings of mistrust. Additionally, many of the planters and estate managers were justices of the peace. The entire legal profession was connected by blood relationships, marriage ties, membership in the same social clubs and their common allegiance to the race and colour stratification that was an integral part of the ideology of the plantation society (Brereton, 1996). The cultural distance between the masses and the justice system was also realised in the physical arrangements of the Court, where there were special seats set aside for planters, their attorneys and other gentlemen of class sat and mixed with the magistrates even when matters with which they were connected were on trial. Additionally, the courts schedule at times was subject to the plantations needs (Trotman, 1986). As such during this period the criminal justice system as a legal entity was characterised as corrupt, incompetent, and prejudiced.

Accounts of the colonial period posit that the immigrant populations had a significant want of confidence in the magistrate's impartiality. Unlike the black ex-slaves, they initially expected fair treatment and were irate when they did not receive it. During this period there were complaints about the administration of justice, as ordinary people felt they had no access to the higher courts and the Magistrates' courts routinely handed down unfair decisions (Brereton, 1996, p.229). It is recorded in a local paper in 1873, where a correspondent stated, 'we have here two distinct laws and customs, one for the favoured few and the other for the common herd' (Brereton, 1996 p.229-230). This commentary was also supported by a villager: '*when the laws of Trinidad comes in Trinidad, we poor fellows don't get none of it, don't hear none at all. When we hear the laws of any case brought before the court, we don't know how to speak for ourselves, because we don't hear no laws, for it is hidden from us...*' (Brereton 1996, p.230). Given the widespread mistreatment, eventually all members of the colonial 'working/labouring class' came to be suspicious and mistrustful of the Courts and the administration of justice. According to another

commentary, the colonial labourer was ‘in the hands of a system which elaborately twists and turns him about but always leaves him face to face with an impossibility’ (Jenkins 1871 as cited in Brereton 1996). This reality created by the colonial experience meant that, for both the victim and the offender, the law was often used to exploit, to ‘divide and rule’ and maintain hegemony for the elite interest group, reinforcing the ‘institutionalised patterns of discrimination against the poor’ (Sebba, 1999). It is against this backdrop that the historical context of legal provisions in administering justice within post-colonial societies is seen as fraught with mistrust, tension, and inaccessibility (Watson and Kerrigan, 2018).

After 1962, Trinidad and Tobago—like several colonies—began the process of decolonization as it received its independence from the United Kingdom. The society’s class structure was one that shifted boundaries but consisted of three social classes: (1) an upper class (2) a middle class of civil servants, teachers, shopkeepers and (3) a lower class, including the working poor and unemployed. Class position was determined principally by employment and income, as well as by education and the size and location of the family home (Lazarus-Black, 2007, p.10). The challenge for the newly formed government in the aftermath of colonialism was the journey of nation-building. They began the process of building a sense of both national identity and diversity from the repressive colonial legacy. However, what occurred was a transfer in ownership of the state-structure to the post-colonial elites. In this post-colonial world ‘the elites that the colonial education created inherited the government following independence and continued to use their privileged position to monopolize the control of the state’ (Nitri, 1993 as cited in Jammulamadaka and Murphy, 2017). As such, the new postcolonial society included both a merger of and antagonism between the culture of the colonized and that of the colonizer. Moreover, these ‘vestiges of colonial rule’ created ideologies surrounding structure and power and intensified the disintegration of the humane experience when dealing with its practitioners (Merry et al. 1991, p.917). Therefore, forms and structures of government and legal systems continued to exhibit characteristics of their colonial predecessors. As Merry et al. (1991, p.917) observes, the ‘law often serves as the handmaiden for processes of domination, helping to create new systems of control and regulation’. Examining this dynamic, others have concurred that forms and structures of government and legal systems in societies like Trinidad and Tobago exhibit characteristics of their colonial predecessors. Sebba (1999), when examining the evolution of criminal law in colonial and post-colonial societies, highlights that the conflict model best explains

law-making in colonial societies, as the law was often used to exploit, to ‘divide and rule’ and maintain hegemony for the elite interest group.

Since independence (post-1972), ex-colonies like Trinidad and Tobago have attempted to re-shape their legal identities and expressions, which remains largely British, or, at least, neo-colonial. As Sharma JA explained in *Boodram v AG and Another* (1994):

‘ . . . even after independence, our courts have continued to develop our law very much in accordance with English jurisprudence. The inherent danger and pitfall in this approach is that, since independence our society has developed differently from the English and now requires a robust examination in order to render our Constitution and common law more meaningful’

This situation has resulted in a number of Caribbean authors arguing for a move away from colonial institutions. In their estimation the continuity of these structures and institutions can result in a mimicry of the colonial past (Bennet and Lynch 1996). The use of borrowed political (broadly construed) and socio-legal institutions has also resulted in a mimicking of colonial responses to crime and victimization. While there is an impetus to move away from these institutional and procedural remnants, Caserta and Madsen (2016) argue that such a push has resulted in postcolonial anxieties. Such ‘anxieties’ arise from the concerns that a departure from the colonial approach implies that there will be a removal of the guarantees of due process associated with the fabric of social and political life since British conquest (Caserta and Madsen 2016). However, many have argued that there is a need to move away from the colonial identity and structures as the distinguishing feature of such inherited legal systems is that those discriminated against constitute the great majority (Lowenthal 1972; Pryce 1976).

Trinidad and Tobago has taken the pathway of legal regulation with the state maintaining control over the administration of victims’ rights and level of engagement. In 2005, the sitting Attorney General ‘recalled that in 1999 it was decided that there should be some starting point where the state would fund a programme in which compensation would be given to victims of crimes.’ He stated that ‘the Government has recognised the need to address this position of victims, to balance their interest and needs. There was little redress to victims of crimes’ (Hassanali 2005). This resulted in the enactment of legislation guiding victims’ compensation, the creation of other government services to deal with the needs of the victims and, later, the use of Victim Impact

Statements (VIS). Other measures have sought to improve the administrative processes in the criminal justice system through the elimination of some inherited bureaucratic processes. Moreover, the Judiciary has undergone a reorganisation to ensure improved efficiency and productivity, alongside better management of its processes by justice actors, and accountability to citizens accessing justice. There has also been the creation of legislation and the amendment of colonial legislation to re-affirm the reforms within the Judiciary, the police and other justice related services. Such legislation has given effect to the establishing departments and institutions such as the Victim Support and Witness Unit (VSWU)² within the Trinidad and Tobago Police Service (TTPS)³, the Police Complaints Authority (PCA)⁴ as well as the Criminal Proceedings Rules, to improve criminal procedure and the criminal courts. Court processes have also been subject to digitalisation, with developments in legal procedures and management structures. Additionally, to improve effectiveness and efficiency the legislature has amended the Indictable Offences Preliminary Enquiries Act phasing out the use of a preliminary enquiry due to the process's contribution to issues of delays in the court. It should be noted that these changes have not necessarily been victim-focused, nor have they been measured to explore the effect they have had on victims' access to justice.

Despite the lack of comprehensive data collection and analysis around institutions and their processes in Trinidad and Tobago (Jamadar and Elahie, 2018), there exists a history of mistrust, cynicism of the law and lack of confidence in justice institutions and the process (Kerrigan 2020). National public opinion surveys conducted yearly between 2002 and 2007 indicated that citizens viewed the police as ineffective and expressed little to no confidence in them (MORI International 2002–2007). Confidence in the legal system and the social inequalities that exist are well noted in Caribbean artforms by calypsonians and other artists, (indigenous observers), social critics and organic intellectuals of the society (Kerrigan, 2020). Calypsos such as *No Truth in Justice*, *Money is King*, *Sedition Law*, *Class Language* and *the Law is an Ass* (Rohlehr, 1990) highlight the

² The Victim Support and Witness Unit is a civilian branch of the Trinidad and Tobago Police Service which bridges the service gap between the Trinidad and Tobago Police Service (TTPS) and victims and witnesses of crime.

³ The Trinidad and Tobago Police Service (TTPS) is both a civil and para-military body which functions in accordance with the Police Service Act Chapter 15:01. It is the law enforcement agency of Trinidad and Tobago.

⁴ In Trinidad and Tobago, the Police Complaints Authority (PCA) was created by an Act of Parliament, the Police Complaints Authority Act, 2006, Chapter 15:05. Each member of the PCA is a civilian, trained to work alongside legal advisors to resolve complaints, therefore they are not connected to the police.

injustices in the criminal justice system and reflect a wider history of inequality that exists in the system. For example, Luta's 1990 calypso hit *No Truth in Justice*:

The Judiciary, is a mockery

The administrators would die in the fire.

You don't know who to trust.

The noble men unjust.

The barrister is a professional liar.

There is no truth in justice, no justice in the law.

The system works for the rich,

but it holds no hope for the poor.

There is no truth in justice, no justice in the law.

Facts don't really matter.

Once your name ain't big, you is who?

It's a case of who could lie better,

and who have more money than who

These sentiments stem from the perceived inability to prompt and translate legal changes and top-down reforms into significant institutional changes (Pino 2020). Additionally, the justice system's mimicry of 'Western bureaucracy' encourages some level of passivity and impartiality by its administrators with a certain measure of variability and discretion (which may be informal). Such discretion and variability reinforce the 'oppressive normative system designed to serve the interests of the colonial power' (Sebba 1999) or more so, the state and its interest. The bureaucratization of the criminal justice systems creates features that function as a filter between class antagonisms and interest groups by quieting opposition to decisions made in the ranks of the system (and the decisions forced on the higher ranks of the system from outside) and generally of quieting opposition to the mode of operation of the system (Mathiesen 2004). This was also expressed in the work of Lazarus-Black (2007), who found that the events and processes that occur regularly in the legal processing and enforcement of court orders preserve and promote class and gender hierarchies. The institutions' mechanisms of the day serve to keep subordinated persons in their place through the everyday activities in courts which reproduce inequalities and perpetuate structures of domination (Lazarus-Black 2007, p.92).

As Faulkner wrote in the Requiem of a Nun ‘...*the past is never dead, it’s not even past*’. As will be shown in this thesis, the colonial past of Caribbean societies plays an important role in understanding contemporary criminal justice, informing the relationship between the system and the society it is required to serve. Therefore, this thesis will speak to how the remnants of colonial past have allowed the criminal justice system of the postcolonial present to mimic its bureaucracy and operations. Moreover, it demonstrates how the present system reinforces institutionalised patterns of discrimination, accentuates the postcolonial ideologies surrounding structure and power, and intensifies the disintegration of the humane experience when dealing with its practitioners. It is within this context that postcolonial theory provides an appropriate framework to understand victims’ experiences of access to justice in relation to their identity as citizens and the legitimacy of the system.

An Overview of this Research

This research attempts to build knowledge about the criminal justice system via an exploration victims’ experiences of accessing justice. By adopting a postcolonial lens this thesis explores the nexus between victims’ experiences of access to justice, identity, and perceptions of the criminal justice system. It illustrates how the organization of relationships with victims, the mobilization and processing of victims and information, and the structural barriers in place impact how victims view themselves in relation to the system and the state. It argues that victims’ experiences of access affect their identities as citizens and their perceptions of the criminal justice system and its legitimacy.

In the following chapter (Chapter Two) this thesis situates the research within the extant literature on victims’ engagement and participation as well as their perceptions on the system. A review of past and present scholarship provided guidance for the methodology and the parameters of the research project. It also provided some reflection on the way victims’ access to justice is discussed and highlights the under-exploration of such a subject within the postcolonial world. The review of the literature is divided into four major themes. Firstly, an understanding of the concept of victims’ access to justice is undertaken. Here, the chapter begins by exploring the separate concepts of victims and their engagement with justice systems. Such an understanding of

these concepts provides the groundwork for understanding the boundaries in which the research would reside. Secondly, the practicalities of victims accessing justice is discussed. This section explores implementation of victims' service rights and procedural rights. It also maps victims' experiences in the workings of the criminal justice system and provides some context on the current understanding of the victim experience. The third section examines varying studies on barriers encountered by victims, providing context for what can be expected and the commonality of such experiences. The last theme studied in this chapter is victims' perceptions of the criminal justice system. This focuses on the research around victims' satisfaction and how it has been related to perceptions of legitimacy.

Chapter Three of this thesis attempts to question the present theoretical frameworks used to understand victims' access to justice and the paucity of reliable theorizing on the subject matter. It highlights the need for theorization that is appropriate for the Caribbean context and suggests the usefulness of a postcolonial lens as a means of 'creolising' methodology and theory. As such the chapter explores important elements of a postcolonial theoretical framework, shedding light on how such a framework can provide a valuable approach in the examination of discourses produced in postcolonial settings. Moreover, it acknowledges that the postcolonial lens can offer insight into the practices and structures which are perpetuated in contemporary societies. It also investigates the key concepts that may be useful in the analysis of the narratives presented in the study.

Within this study, the methodology was guided by Charmaz's (2006) grounded theory. This chapter (Chapter Four) explains the epistemological position and the methods used to understand victims' experiences of accessing justice. It provides a clear and concise overview of the grounded theory methodology, alongside an examination of how constructivist grounded theory was used within the present research. The subsequent sections describe the formulation of the research question, sampling and selection of participation, data collection and analytical phases within the study. The chapter concludes with an explanation of some of the ethical issues considered.

Chapter Five provides the first look at the victims' experiences of access to justice in Trinidad and Tobago. Adopting a multi-layered analytical approach which focuses on the micro, meso and macro levels of victims' experiences, each section explores various elements of victims'

quests for engagement and the issues they encountered. In the concluding segment, the chapter invokes Christie's (1977) notion of 'conflict as property' to explore how the arguments contained within this chapter reflect on his thesis and its consistency with experiences within a postcolonial setting. Examining the victims' narratives in this manner offers a fuller understanding of how the loss of conflict ownership operates in postcolonial societies.

Against the backdrop of the previous chapter, Chapter Six contextualizes victims' experiences of accessing justice. Using a postcolonial analytical framework to examine victims' experiences of engagement, this line of inquiry explores how their experiences shaped their identities both as victims and citizens. In this section, the postcolonial concept of 'othering' is used as an analytical lens to explore how the criminal justice system casts victims as the 'other' within the process. Two modes of othering identified in victims' narratives are explored: the victim's relevance to the system, and the relevance of their victimization. These narratives are replete with language and experiences indicating that participants felt marginalized, put-down, and otherwise disregarded by those working in the criminal justice system. This 'othering' creates a specific framework of relevance that shapes victims' identities because of their engagement with the justice process. The emergent victim identity as a representative of victims' otherness (cultural and legal) is either aligned with or resistant to the vulnerability and powerlessness associated with otherness. Further, the chapter explores how victims' experiences of othering impacts upon their rights consciousness and delegitimizes their citizen identity.

The final analysis chapter builds on victims' experiences and assesses victims' narratives to understand their perceptions of the criminal justice system. Drawing on the victims' experiences, three inter-related themes that moderated victims' perceptions of the criminal justice system were identified. These are the quality of interpersonal treatment, the trustworthiness of authorities and the fairness of interactions and process. With these themes in mind the chapter contends that despite victims' perceptions, and issues of legitimacy the narratives suggest that the legal hegemony of the criminal justice system is reinforced.

The concluding chapter of this thesis identifies and explores the major contributions of the research. It synthesizes the experiences of victims and victim advocates within the system, to conclude that there exists variability in victims' access to justice. Reflecting on emergent themes of gender and social capital, the chapter notes how these themes contributed to the inconsistency

of access and its uniqueness in the postcolonial context. Moreover, it reiterates how such impacts the appropriation of conflict. Further to this, the chapter conceptualizes victims' experiences of access to justice as narratives that speak about power and knowledge, the establishment of otherness through cultural dissonance. Lastly, it focusses on the implications from the lessons learned in this research and provides insight into victims' pathways for accessing justice. It proposes a victim empowerment approach recognizing that victims are extraordinarily diverse and empowering engagement should stress recognition of and engagement with the analytics of class, gender, sexuality, and disability. Moreover, it should consider how these analytical factors intersect with the experiences of victimisation and differential experiences of institutional and social power relations.

Chapter Two: The Practicalities of Victim's Access and Perceptions of Justice

In the aftermath of a criminal event, victims are left with multiple decisions in their efforts to cope with and recover from their experiences of victimization. Such decisions range from coping silently alone to seeking informal support from social circles, or professional advice from recognized agents. Some victims seek pastoral care from sources such as family, friends, communities, and non-governmental organizations to overcome their criminal victimization. This decision may influence the likelihood of reporting to more formal outlets, including the police. On the other hand, some victims only seek help from state-run criminal justice institutions to gain redress for their victimization (McCart, Smith and Sawyer 2010). However, in many jurisdictions, adversarial style criminal justice systems have been critiqued as being exclusionary to victims (Boateng and Abess 2017; Blondel 2009) as they are primarily concerned with the resolution of disputes between the state and the defendant (Doak 2008). The victim of crime is characterized as the forgotten party in the criminal justice process (Ofori-Dua, Onzaberigu and Nimako 2019; Garvin 2012). Their exclusion in the criminal justice system has led to concerns about the negative impact on victims and their recovery (Orth 2002). This concern has resulted in the emergence of victims' rights movements promoting a focus on the victim's needs and their rights as stakeholders in the justice process (Gillis and Beloof 2001; García-Godos 2013). Such discourse supports victims' access to justice as an important component of criminal justice policy in many jurisdictions (Pugach and Tamir 2017). Moreover, it highlights the system's inability to respond adequately to many victims' needs, particularly in relation to their ability to participate in the justice processes or obtain relevant information and services from the system. This has resulted in reforms in criminal justice policy where the state and other agencies provide support services, participatory rights, and compensation to victims (Englebrecht 2012). Despite these reforms, the opportunities for enhancing and improving victims' access to justice have been affected by concerns that engagement and participation conflicts with other aspects of the criminal justice system.

This chapter examines past and present scholarship on victims' engagement with the criminal justice system, exploring how their experiences have been researched and documented. It also highlights the possible gaps in the research and areas for further investigation. The chapter is divided into three major areas. Firstly, it investigates the conceptualization of both victims and

access to justice as separate (stand-alone) notions and provides some guidance to the context in which these two concepts affect how victims' access to justice works. Secondly, the chapter examines the practicalities of seeking out justice for victims. Here, the section explores implementation of victims' service rights and procedural rights. It also maps victims' lived experiences within the criminal justice system. This is done through an examination of the literature on victims' experiences of service rights, their position in the criminal justice system and the other complications associated with the legal and procedural practicalities within the adversarial criminal justice system. Here, reference is made to Christie's (1977) exploration of 'conflict as property'. What it means to be a victim in the criminal justice is explored, alongside the social construction of the victim as an identity. Finally, the chapter investigates victims' perceptions of the criminal justice system, through studies that focus on their satisfaction with their experiences. This exploration of victims' experiences of justice also frames the latter parts of the thesis, which seeks to understand victims' positioning within the criminal justice system and its impact on how the system is perceived. Additionally, it will reveal aspects of the subject matter that are underexplored.

Understanding victims' access to justice

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) provides a framework for access to justice for victims of crime. The principles of the Declaration form the foundation of victims' rights legislation and policy in several countries, while also establishing an understanding of victims' rights: access to justice and fair treatment, restitution, compensation. It specifies that victims should be treated with compassion as well as respect. Moreover, they are entitled to access to the mechanisms of justice and to prompt redress for the harm have suffered, within the confines of national laws. Such redress should be in a manner that is expeditious, fair, inexpensive, and accessible. The Declaration also stipulates that the system should be responsive to victims' needs and should therefore inform victims of their rights when seeking redress, their roles within the process as well as the scope, timing, and progress of the proceedings. Additionally, such a system should minimize any inconvenience to the victim, avoiding delays in the disposition of cases while considering the use of informal mechanisms for

the resolution of disputes, facilitate conciliation and redress for victims. It was also specified that access to justice should include the protection of victims' privacy, ensuring their safety and where appropriate, make fair restitution to victims, their families, or dependents (OHCHR 1985). While the Declaration provides guidelines, further understanding of victims' access to justice requires insight into the meaning and relevance of the concept 'victim' and the notion of access to justice. Moreover, it explores how the concept of access to justice has been contextualized in relation to crime victims. The conceptualization of such terms provides some context to the practicalities of victims' access to justice and the issues encountered.

The Concept of the Victim

The UN Declaration (1985) specifies that victims are:

persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws.

While some jurisdictions have provided definitions of the term 'victim' in their legislation, for example the Victims Bill of Rights (Canada), others have contained their definitions within guidelines, such as the Victims' Code (United Kingdom) and rules related to criminal procedure and sentencing guidelines (United States). The Canadian Victims Bill of Rights legally defines the victim as 'an individual who has suffered physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of an offence (victime)'. In the United Kingdom (UK), the revised 2020 Victims' Code, defines a victim as 'a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence' (Ministry of Justice 2020, p.3). The Code further states 'a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence' can also be considered a victim (Ministry of Justice 2020, p.3). Here, a 'close relative' is defined as the spouse, the partner, the relatives in direct line, the siblings and the dependents of the victim, other family members, including guardians and carers, may be

considered close relatives upon discretion. In the United States, some aspects of federal criminal law and guidelines propose that the definition of the term 'victim' be grounded in five core concepts: adequacy of victim injury, the defendant's actions being the proximate cause and victims who are imaginary, culpable, or consenting (Nash, 2008).

These legal definitions of the term 'victim' mean that the concept is comprised of expectations that are universalistic, functionally specific, effectively neutral, and collectively oriented (Strobl, 2004). Therefore, these definitions allow for a universal ascription within the law that provides guidance for restitution as per the requirements by law. Additionally, they highlight two major issues about the term 'victim', these are 'who can be a victim' and 'what qualifies as victimisation'. These definitions refer not only to the person actually harmed (primary victim) but also representatives of a person who is affected by a crime or subjected to unprovoked harm (Holstein and Miller, 1990) such as families, relatives and friends of the primary victim (Morgan and Zedner 1992; Howarth and Rock 2000). While who is a victim and what qualifies as victimization is somewhat clear due to the objective criterion of legislation, its application to engagement and participation in the system is more complex. This complexity stems from the reality that the victim and their victimization are subject to the socially constructed ideas of justice actors, society, and other structural influences (Jacoby 2014). This social construction of the victim and victimization also impacts how they access and experience criminal justice and thus worth further study in the understanding of victims' access to justice (Strobl 2004; Wilson and O'Brien 2016).

The constructivist perspective conceptualizes the term victim as a social status attained by social- and self-identification (Miers, 1992, 1990; Strobl, 2004). The identification of the injured party as a victim is dependent on the definition of others and the individual's own assumption of their status as victim in the system. In the criminal justice system, the victim status is defined by the offender, witnesses, prosecutors, police, jurors, defence, counsel, and others who may not always handle the individual case (Rock, 2002; Leisenring, 2006). More importantly, the victim is a social object based on a criterion that dramatizes their innocence and conveys their loss, weakness, and pain (Holstein and Miller, 1990). Christie (1986) refers to this criterion as 'the ideal victim'. Christie's 'ideal victim' thesis argues that the ascription as a legitimate victim in Western society, means individuals must fit the criteria of being weak, not engaging in any illegal activity

or immoral project when the crime occurs, and not a party to the harm which was incurred (Christie, 1986). Additionally, the offender must be physically daunting and unknown to the injured party.

The acquisition of victim status involves the individual being party to a range of interactions and processes. Identification as a victim of a crime carries positive and negative consequences as well as numerous social and psychological burdens. The concept of the 'ideal' victim creates the expectation of an innocent individual and perpetuates an image of the individual being passive and helpless (Holstein and Miller, 1990; Jägervi, 2014) and associated characteristics such as weakness, vulnerability, frailty, and fear. However, it also creates a criterion for disqualification for the 'victim' status; the non-ideal victim (Christie, 1986) or the 'victimological other' (Walklate, 2007). Christie's (1986) explanation of the non-ideal victim presents a historic account of 'witches and workers' as they represented individuals who do not have sufficient strength/power to claim legitimate victim status. Therefore, the contributory factors in becoming the non-ideal victim are the power and belief systems of the individual (Fohring, 2018a; c).

The recognition of an individual as a victim of crime precedes legal intervention and the prospect of redress. The social construction of the victim can have implications for their access to justice and their experiences with criminal justice system. Firstly, it implies that the role of the victim is performative. Victim status is an achievement and therefore persons conform to behaviours and attitudes that may allow them to claim the label as victim. Thus, portraying the idealised constructions of the victim and the desired characteristics as prescribed by Christie (1986) makes the role of the victim 'performative'. Judith Butler explains the term performative as 'where the act of recognition becomes an act of constitution.... The terms by which recognition is regulated, allocated and refused are part of larger rituals of interpellation' (1997 pp.25-26). Therefore, the victim is a construction, a concept that is produced and given meaning based on interpretation, organisation, and social interaction (Quinney, 1972). The implication of the victim as a performative role also signifies that it is constructed by the culture within which it is embedded; shaped by the society and its legal culture (Garcia and McManimon, 2011; Holstein and Miller, 1990). Therefore, when a victim fails to perform in the manner expected they may be subject to exclusionary practices and unable to easily access the justice system or support services.

Secondly, there is the implication that individuals and their harm can become a question of legitimacy and deservedness. Goffman (1963, p.9) described such labelling and the resultant stigma as ‘the situation of the individual who is disqualified from full social acceptance’. The legitimacy of their victim identity will be subject to a hierarchy (Carrabine et al 2004), where their access to justice and engagement with the system is subject to their level of perceived legitimacy (deservedness). The socially constructed stereotype contributes to a hierarchy of victimisation (Carrabine et al, 2004) that places victims within an order of most to least legitimate according to their adherence to the stereotype of the ideal victim. According to Chancer (2005), placement in the hierarchy is based on problems which resonate with, and potentially affect, many in society, such as school safety, racist violence, institutional child sexual abuse and other campaigns that are likely to garner high levels of public support. Therefore, at the top of the ‘hierarchy of victimisation’ is the elderly female identified in the media as the victim of violent crime, while at the bottom is the homeless person, the drug addict, the street prostitute and all those people for whom it is presumed that victimisation is endemic to their lifestyle. Consequently, for those at the bottom of the hierarchy making a claim to victim status can become highly problematic. The hierarchy of victimisation can also lead to a hierarchy in support provision between victims who merit attention (Hall, 2009, 2011). For those individuals who do not warrant merit or prioritization, access to justice and its related support services may not be easily achieved as they fail to meet the idealised construction of the ‘victim’.

Therefore, the term ‘victim’ relates to self-perception (as a victim or not), identity (understood as the different ways in which one relates to oneself and presents oneself to others), and feelings (e.g., of self-worth, self-respect, confidence, and dignity, or on the contrary demoralization, depression, hurt and loss of confidence) (Walklate 2011). Moreover, it involves interests that can hinder access. Through the victim identity, individuals can gain social recognition, seek justice, benefit from reparations, influence public opinion, and even highlight the guilt of perpetrators. Mythen (2007, p.466) notes that ‘being, or becoming a victim is not a neat or absolute journey. Acquiring the status of victim involves being party to a range of interactions and processes, including identification, labelling and recognition.’ However, within such an understanding there should be a focus on the construction of identity in the context of a citizen engaging with a state institution and how identity is affected when individuals’ expectations of the system are not met.

Understanding Access to Justice

Access to justice is considered a complex phenomenon with various meanings across different legal systems and socio-cultural settings (Maranlou, 2014, p.9). While traditional notions of access to justice focuses on access to lawyers (e.g., legal aid) and court-based processes (MacDonald 2005), it is argued that access should go beyond the ability to present a grievance before a court. Anderson (1999) elucidates that access to justice includes an effective remedy whereby rights are translated into reality. Accordingly, access to justice is defined ‘the ability of groups and individuals to be able to bring an alleged rights violation to the attention of a court and to have that court adjudicate the claim in a fair and impartial fashion on the basis of evidence and according to the applicable rules of law’ (Baumgartner 2011, p.457). Consequently, access to justice should include all the elements needed to enable persons to seek redress for their grievances and their rights to be upheld. These elements include the existence of a legal framework granting comprehensive rights to all parties, legal awareness and rights consciousness, the availability of affordable and quality legal advice and representation, the availability and accessibility to dispute resolution mechanisms that are timely, effective, efficient, impartial, free of corruption and trustworthy, and impartial mechanisms for the enforcement of judicial decisions (Marchiori, 2015). As such the concept of access to justice has taken on a much broader definition (Fitzsimons 2016). It goes beyond the formal structures and needs of the justice system to incorporate a citizen-focus (McDonald, 2019).

For many, the broader definition of access to justice is grounded in notions of legality, legitimacy, the rule of law and equality (Moorhead and Pleasance 2003). Therefore, the term connotes not only people’s commitment to the principles of law but an increase in equality and stability of justice (Anderson 2003). Therefore, contained in the understanding of access to justice is the ideology that justice is equally accessible to everyone and that all persons have access to high-quality legal services of mechanisms to protect their rights and interests. Further it encompasses equity, ensuring that all persons, regardless of circumstances created by biases of race, ethnic origins, gender, or disability, are entitled to equal access to services (Rhode 2000; Rhode and Cummings 2017). Additionally, it can mean the equal application of the law as a response to inequalities. However, some may argue that the ‘equality’ of access to justice is a

fallacy, as not all persons can bring rights violations to the judicial system (Olenik, 2014; Anderson 1999). The inability of persons to bring rights violations to the judicial system may be the result of inaccessibility to legal counsel due to the cost of arbitration and the insufficiency of legal aid (Oleinik, 2014). Therefore, the understanding of access to justice as a concept based in equality fails to consider the practicalities and realities that exist within society.

Other conceptualizations of access to justice explore definitions that related to the way the system organizes its relationships with citizens; mobilizes and processes people and information; makes decisions; and holds agents accountable for their decisions (Reiss 1974). Access to justice is also dependent on how the system and its actors are mobilized to take action, either through citizen initiatives or by the initiative of agents within the justice system. According to Edwards (2004, p.968) the victim should be ‘a beneficiary or recipient of services provided or supported by the state, with the individual being able to input into the criminal justice decision-making process’. As such, access to justice also relates to the given opportunities for participation as well as the awareness of the process or rights consciousness. According to Edwards (2004, p.973) participation has no single form or rationale, but may involve being in control, having a say, being listened to, or being treated with dignity and respect.

While these discourses portray access to justice as a ‘universal’, ‘procedural’ and ‘technical’ matter, such conceptualizations ignore the historical and political factors as well as cultural dynamics that can affect access. The reality is that in the context of pluralistic societies, there is no singular meaning of access to justice (Cappelletti and Garth, 1978; Morris and White, 1973). This makes ‘access’ itself an ‘instrumental value’, which can promote any of number of substantive results, however it gives no clear indication what means are employed to accomplish results. It also highlights ‘justice’ as an ambiguous term, as it can refer to a variety of possible situations (Cappelletti, Garth and Trocker, 1976, 1982). More importantly, it raises the issue of ‘what does justice mean and how is justice defined in the context of accessibility?’ (Maranlou 2014, p.16)

The Practicalities of Victims' Access to Justice

In a democratic society, the State has the responsibility to prevent the social marginalization of the crime victim and to protect them where necessary by offering material (financial assistance) or immaterial (pastoral care) assistance (Travis *et al.* 1998). Accordingly, it is the existence of 'legally enforceable rights and duties which underpin a democratic society, and access to justice which is essential in making these rights and duties real' (Tony Blair, as cited in Sommerlad, 2004). While the United Nations Declaration provides guidance around victims' access to justice in principle, in practice this is often conceptualized as how victims participate.

Discussions on victims' engagement and participation in the adversarial model of criminal justice is often concerned with the distinction between service rights and procedural rights. These ongoing discussions have focused on which rights are more useful to the victim, and which benefit the criminal justice system (Orth 2002; Boateng and Abess 2017; O'Connell and Mulvenna 2011). Some believe that victims' participation should exist as service rights, such as respectful sympathetic treatment by criminal justice personnel, support for the provision of information, facilities at court and compensation (Sanders, 2002; Hall 2009; Ashworth, 2002). It has been argued that participation beyond these service rights may not be in the public interest. Viewing victims' participation through a procedural rights lens focuses on their role in court-related processes and allows them to contribute to key criminal justice decisions regarding prosecution, bail, sentencing and parole. However, objections to considering procedural rights in this way rest on the suggestion that such participation can lead to biases and impartiality within the criminal justice process (Erez and Tontodonato 1990). Opponents of the procedural type of participatory rights also express concern that such rights can mean a loss of defendants' rights (Sebba, 1994). Moreover, the extension of victims' participation as procedural rights can promote retributive principles that are not in sync with those of the criminal justice system as it may lead to inconsistencies and disparities in punishment, therefore hampering the process and criminal defence (Shaw and Dube 2020).

On the other hand, proponents of victims' participatory rights have argued that these can enhance procedural justice for victims of crime without encroaching on the rights of the accused or convicted persons (O'Connell, 2020). Arguments for victims' greater participation state that

this will provide enhanced recognition of victims' interests (as party to their cases) and ensure their dignity (Pemberton et al. 2017). Moreover, it is suggested that participation will remind justice actors of the humanity of victims, bring awareness of victims' loss or injury resulting from the crime and consequently increase restitution and compensation as well as proportionality and accuracy of sentencing (Shapland 1985; Shapland, Willmore and Duff 1985; Erez 1994; Erez and Tontodonato 1990; Méndez 2016). The mobilization of victims' rights movements in countries of the Global North have prompted a greater interest in the needs of victims and their participatory rights within criminal justice systems (Boateng 2017). For example, in the United States the victim's movement which is a consequence of rising social consciousness of the 1960s, contributed to the energies of the idealistic of the 1970s (Young and Stein 2004). This movement involved the confluence of five independent activities: 'the development of a field called victimology; the introduction of state victim compensation programs; the rise of the women's movement; the rise of crime that was accompanied by a parallel dissatisfaction with the criminal justice system; and the growth of victim activism' (Young and Stein 2004, p1). Concerns about the impact of victims' participation within the procedural context has caused some advocates to propose that any reform be instituted as a balance of rights between victims and defendants (Yaroshefsky 1989; Drake and Henley 2014). This has resulted in the legislating and implementation of victims' rights within some national procedural systems that allow victims to participate; however, this has caused concerns about consistency with respect to the rights of the accused (Tapley 2020).

Sebba (1996, p.13) provides an overview of victim-oriented reforms, characterizing these as being concerned with: improving upon the traditional criminal process from the victim's standpoint; providing alternatives to the traditional processes of the criminal law; and designed to ameliorate the victim's situation without impinging upon the nature of the criminal process and/or "catch-all" remedies. Such reforms have attempted to create a 'victim inclusion infrastructure' (Globokar, Erez and Gregory 2019, p.2) which includes implemented laws, compensation structures, information-sharing practices, and other support functions (Hall, 2009) as well as an increase in victims' involvement in proceedings from prosecution to sentencing (Erez and Roberts 2009; Roberts and Manikis 2012).

The United States passed (at the federal level) the Crime Victims' Rights Act (CVRA) in 2004 which was intended to empower crime victims and expand and define the role of victims in

criminal proceedings. It was a legislative effort to address the needs of crime victims by allowing them the right to be heard, the right to confer with the prosecution, as well as right to express their opinion about plea bargains in Court (Cassell and Joffe 2010; Boateng and Abess 2017). Moreover, throughout the United States at the state level, there has been the enactment of legislation that secures victims' rights to participate in criminal proceedings and to be heard (Doerner and Lab 2015). Similarly, in Canada, the federal government passed Bill C-32, the Victims Bill of Rights Act, in 2015. This provides four principal rights for victims: information, protection, participation, and restitution, and requires these rights to be considered during each step of the criminal justice system. This Act also made changes to their Corrections and Conditional Release Act allowing victims to request information from the Correctional Service of Canada (CSC) about an offender's correctional plan and progress toward meeting the objectives of the plan. Additionally, it allowed the CSC to provide victims access to a photograph of the offender prior to certain releases into the community, and to request access from the Parole Board of Canada to listen to an audio recording of a parole hearing if unable to attend in person (Correctional Services Canada (CSC), 2021). In the United Kingdom there has been the implementation of measures such as the Victims' Code (Ministry of Justice, 2020), which specifies the rights of victims regarding the support they should receive from the police, courts, and other criminal justice agencies as well as the use of Victim Impact Statement (VIS). While Trinidad and Tobago has no Victim Code or legislated victims' rights, in AG's Reference (No 2 of 1995) (RvS) [1995] Crim LR835 'it has 'sanctioned the tendering by the prosecution for consideration by the sentencing court, a statement by the victim as to the impact of the offence on him' (Seetahal 2011, p.325). Therefore, like some jurisdictions it allows the use of Victim Impact Statements (VIS).

The discourse on victims and justice has often focused on the use of VIS and their effect on victims and the punishment of the offender. The VIS serves as an expressive function (Booth, Bosma and Lens 2018) and provides the victim with an opportunity for non-dispositive participation (Edwards 2004). A non-dispositive model of participation takes the form of consultation, information-provision, and expression; therefore, the victim is not the decision-maker, but their input might influence the decision (Edwards 2004). These statements, which often include a description of the harm experienced because of the crime as well as its ongoing consequences, are seen as affording victims a 'voice'. According to O'Connell (2020), this voice and its subsequent recognition are essential for victims' engagement and important for making the

criminal justice system fairer, just, and equitable. Through the VIS, victims are provided the opportunity to express themselves in accordance with their lived experiences of the crime and its aftermath (Bekink 2018). According to Englebrecht (2012), attention on the VIS has focused on two major themes: its purpose and appropriateness, and its effects on crime victims and their participation in the criminal justice system.

Booth (2012) examined the containment and management of victim participation through oral victim impact statements in the sentencing hearings of homicide offenders in a New South Wales courtroom. It was found that oral VISs raised some tension in the hearings, however, using various ‘cooling out processes and structures’ the adverse impact of such tensions was managed and contained. Booth (2012) examines ‘cooling out processes and structures’ as a two-phased process: the consultation phase and courtroom phase. Certain components of these phases allow the victims and their families to adjust to the legal constraints associated in their position in the process. This supports the argument that victim participation can help victims regain their sense of control over their lives reduce feelings of helplessness and alienation (Pemberton, Aarten and Mulder 2017). However, there has been some uncertainty about the usefulness of VIS in relation to the functioning of the sentencing hearing. This uncertainty stems from the disjuncture between the established legal values and goals of the adversarial process in the punishment of offenders and the needs of the crime victim. Moreover, it is argued that the VIS is detrimental to the offender’s entitlement to a fair hearing, detrimental to victims’ wellbeing, and harmful to the integrity of the legal proceedings (Booth, 2016). Despite such concerns, the research on victim impact statements and sentencing seems to conflict with this assessment. The effect of victim impact statements on court officials has been examined. A survey of prosecutors, judges, and probation officers in the United States found that the principle of considering victim impact in sentencing decisions was favoured by the majority. Many respondents thought that VIS improved the quality of justice, and few officials believed that VIS created or exacerbated problems in the criminal justice process (Hillenbrand and Smith, 1989). Davis and Smith (1994) explored the influence of victim impact statements on the harshness of sentencing. They found that impact statements neither increased officials’ consideration of harm to victims nor resulted in generally harsher sentencing decisions. This was also supported by Cassell (2008) finding that statements convey information without interfering with the legitimate interests of criminal defendants.

The impact of the VIS has also been explored in relation to the restitution needs of the victim. Henley, Davis, and Smith (1994) in a study of judges and prosecutors' reactions to victim impact statements found that in principle both considered the statements appropriate in understanding the impact of crime on the victim and were useful in the assessments of injury, economic loss, psychological damage, and effects on family members. However, in practice prosecutors cited that there were many implementation problems. These problems stemmed from a failure to distribute the statements as prosecutors seldom believe that they contained additional information to that already attained, and that the statements in themselves could be problematic. As end-users, judges were not privy to the production and distribution of impact statements, but they did indicate there was no clear evidence of how these judges regarded them or whether the statements were always read.

Other implemented forms of victims' access have taken the shape of compensation rights, victim-offender mediation, legal counsel for certain types of victims (Carroll 2021) as well as service rights through access to information and case updates. According to Shapland (1984), victims view compensation as a symbolic acknowledgement of their loss and suffering. More recently, Kunst, Koster and Heugten (2015) studied violent crime victims' levels of satisfaction with services provided by a Dutch state compensation scheme. Their findings supported the idea that victim satisfaction with the justice system partly depends on whether compensation is available.

The discourse highlights the efficacy of certain access to justice policies and suggests that archaic structures and procedures are slowly changing. However, this begs the following question posed by Edwards: 'are reforms and the repositioning of victims in the criminal justice process a means of self-legitimation for the State?' (Edwards 2004). According to Robert Elias (1986, 1993), the politicization of the victim has created an identifiable group which functions not only to gain political mileage and enhance self-control but also to bolster state legitimacy. The positioning of the victim through their participation and treatment by the system is part of the rituals of self-legitimation (Barker, 2001, p.6). Therefore, such policies relating to victims and the practicalities of their justice access should be further explored to uncover the relationship between the victim and the state, alongside the differing interests of both parties. This mobilization and the participation of individuals in the criminal justice system can be seen as intimately tied up with

the idea of citizenship (Reiss 1974). Citizenship as a concept, while subjective and contested, signifies legal status and the matrix of rights and duties which regulate relations between the individual and the state (Sommerlad, 2004). As a normative ideal, in practice it is about civil, political, and social rights, responsibilities and legal status as well as participation, identity and belonging in relation to the state and society (Lister 2007; Abraham et al. 2010). In relation to victims' access, these concepts are underexplored in the literature.

It should be noted that these tools and policies concerning victim participation are subjected to the discretionary power of bureaucratic agents which results in unequal treatment and distributive justice being denied (Hagan, 1977 p.598). Despite advances, victims' participation is often non-dispositive as the practical application of access measures allows input but not decision-making. The literature cited in this chapter has not provided the link between such forms of victim participation and the State. There needs to be some understanding of the impact of participation on the victim's relationship with the state. Moreover, there is an under-exploration of the standardized response by hegemonic classes to the demands from marginalized groups for greater inclusion in modern systems of control and resource distribution. There is also a need to consider the extent to which gender informs participation and experience, alongside harbouring an identity which transcends the (supposedly) mutually exclusive categories of victim or offender (Drake and Henley 2014). Additionally, this focus on victim participation in Western societies has left the subject matter underexplored outside of these locations. Consequently, there is very little understanding of structural and societal factors that influence the adoption and operation of legal proceedings and victims' legal standing in countries of the Global South.

Barriers to Victims' Access to Justice

Although victims can access the criminal justice system via reporting, investigation and the processing of the criminal cases, the research on their entry to, and movement within, the system shows that many encounter barriers. Moreover, victims' participation through the reformation of criminal justice policy has done very little to alleviate the impediments victims face when seeking justice (Brown and Gordon 2019). It is purported that these obstacles are the result of victim's characteristics and situational factors, interactions with justice actors (Meyer 2011) as well as the

procedural and legal practicalities within the adversarial criminal justice system. The nature of the adversarial process accommodates the state and the offender and seeks to establish blameworthiness that may lead to the punishment of the offender. Therefore, in such a system, victims are as agents with a diminished capacity to engage in the process and as passive objects who have been acted upon by other forces and not active agents (Gilligan, 2003 p.30). This situation creates further systematic and institutional barriers for victims' participation in mechanisms of justice.

Victims' Characteristics and Situational Context

Research on victims' engagement in the criminal justice system has focused on the victim's characteristics, the situational context of their victimization and the factors that may increase or decrease the likelihood of persons making a formal disclosure. Hardy (2019) found that victim decision making to report is influenced by structural, social, situational, and individual barriers, which interact symbiotically to create layers of resistance. While studies have mainly focused on victims of interpersonal violence and their interaction with police, they indicate that a victim's engagement with the system is often influenced by their characteristics and other situational factors related to their victimization (Wolf *et al.* 2003; Boateng 2018).

Brown, Hamilton, and O'Neill (2007) explored the characteristics of rape allegations associated with attrition, examining evidence for the existence and role of legal or extralegal modes on police and prosecution decision-making. They found that victim and offender characteristics were one of the factors respondents believed held influence over the attrition rate for rape cases. The characteristics of the victim related to their behavior at the time of the offence, possible consumption of alcohol, relationship with the offender and any previous convictions or contact with the police (Brown, Hamilton, and O'Neill 2007). In the review of literature on help-seeking among adult victims of crime, McCart, Smith and Sawyer (2010) found several variables associated with the increased likelihood of formal help seeking. Two of the predisposing characteristics commonly associated with reporting a crime to law enforcement included the victim's gender and ethnicity. Studies also suggested that female adults were more likely report crime than male adults (Barrett, Peirone and Cheung 2019; Voce and Boxall 2018). Moreover,

some studies also indicated that non-white females also are more likely to report to the police. Bachman and Coker (1995) found that African American women who sustained injury as the result of their victimization, who reported that the offender had not abused them before were more likely to make a report to police. Females from ethnic minorities were more likely to contact police following an incident of rape or domestic violence when compared to female victims from other ethnic groups (Bachman and Coker 1995; Hollenshead et al. 2006). Further to this, Voce and Boxall (2018) in the analysis of Australian and international quantitative studies of victim self-report data found that victims who are female, non-white, experiencing frequent violence and who have been abused in the past are more likely to report.

Other factors such as the victim's age, marital status, and employment status are important predictors in their reporting behavior (Boateng, 2016). Bonomi et al. (2006) explored severity of intimate partner violence (IPV) on the occurrence and frequency of such victims calling the police. It was found that victims with experiences of severe physical and psychological abuse and IPV-related injury were more likely to report to the police. Among these women with situations that involved a weapon, sexual abuse and severe physical abuse were more likely to call the police. Moreover, it was found that women with children were more likely to call and report to the police (Bonomi, et al. 2006).

Besides victims' characteristics, situational and personal factors also play a role in whether victims report their victimization to the police. It was also found that victims' reporting behaviours were affected by whether they possessed physical proof (Wolf et al. 2003). In some situations, female victims of emotional abuse failed to seek help as a result of harboring confusion about their abuse and the need to provide 'physical evidence' with many presuming that their victimization did not warrant reporting (Wolf et al., 2003). Other factors which affected victims' reporting behaviours were related to their own self-doubt, low-self-esteem, and a desire to protect the perpetrator. Such factors often affect a victim's perception of their situation, their possible perceptions of the police and their psychological reasoning.

Victims' characteristics and the situational context of victimization can also impact how they are perceived or constructed as victims, acting as impediments to their access to justice (Garcia and Mc Manimon, 2011; Holstein and Miller, 1990). As previously stated, the victim in many jurisdictions is understood to be an individual or group that is subject to some form of harm

that is considered illegal. Therefore, persons in this criterion may have rights to restitution, to information from prosecutors, and to speak at the offenders' sentencing (victim impact statements). However, their interactions with those within the system, and their ability to participate or claim rights as a victim, can be subject the assignment of meaning that the legal culture attaches to the victim.

O'Neal, Beckman and Spohn (2016) examined the effect of the victim/suspect racial/ethnic dyad on the decision to arrest amongst officers in the Los Angeles County Sheriff's Department (LASD) and the Los Angeles Police Department (LAPD). They found that besides strength of evidence indicators, and measures of case factors, victim characteristics predict the police decision to make an arrest. More specifically their findings coincide with previous studies that purport that law-enforcement personnel take crimes against Blacks and Hispanics less seriously than crimes against Whites. Additionally, studies have focused on female victim whose failure to meet the expected criteria of the ideal victim has, on occasion, resulted in further (secondary) victimisation by justice actors (Cubells and Calsamiglia 2017). In an examination of female domestic violence victims, Merry (2003, p.353) found that women who turn to the law 'encounter conditional help' in accordance with whether they are considered deserving or undeserving, innocent, or complicit (Bumiller 1990; Stanko 2000). Such victims are required to perform a self that conforms with the socially constructed ideal victim; that is innocent and blameless and therefore deserving of help. Raeder (2006) found that abused women and victims who committed offences often lost their victim status in the courts as their offender status negated that their ideal victim status (a victim is not an offender). Presenting as an ideal victim appears connected to accessing justice services and support, and a necessary element for those seeking help (Loseke, 2003). Roychoudhury (2015) argues that women who fit the mold of a good victim are those who appear innocent and docile. Such women are reorganized as deserving of redress, while others are left out in the cold. As such the individual's inability to fit the criteria of victim can influence justice actors' perceptions of them as victims and create a barrier to victims' access to justice. Zvi (2021) in their examination police officer blame attributions and judgments toward rape victims and offenders who were sex workers or not, found that police officer's attributions of victim-blaming were more prominent toward the sex working victim, and they assessed the consequences that she suffered as less severe. Additionally, male officers manifested lower levels of blame towards offenders and more lenient

sanctions where the victim was a sex worker. Such findings indicate that victims' characteristics and situational context can be not only barriers to reporting but affect access to justice.

Interactions with Justice Actors

To meet victims' procedural needs, interactions between the victim and criminal justice personnel are rendered important. Research on victims' engagement has focused on the application of victims' service rights and the use of services in the criminal justice system (Coulter et al. 2016; Zaykowski 2014; Wilson and Segrave 2011). These studies have identified that the inappropriate application of victims' service rights, such as the failure of victims to receive information and the poor interpersonal treatment, can lead to secondary victimisation. Secondary victimisation refers to the negative social reaction in consequence of the primary victimisation and is experienced as further violation of legitimate rights or entitlements by the victim (Montada 1994).

For many victims, reporting their victimisation initiates a criminal justice process which can become long and grueling. The mobilization of the criminal justice process is often dependent on victims' disclosures to the police (Holder 2017; Tutty et al. 2008). This makes police officers the first contact and experience many victims have with the criminal justice system. It also appoints officers as the gatekeepers of access to the system (Hotaling and Buzawa, 2003). Studies exploring victims' interactions with the police have found that a common problem experienced is the lack of information from the police on the progress and outcome of their cases. Brienens and Hoegen (1998) investigated the implementation of Recommendation R (85) II of the Council of Europe on the Position of the Victim in the Framework of Criminal Law and Procedure which encompassed guidelines that deal with the implementation of information systems for victims of crime. Their examination found that in some jurisdictions the provision of information about the progress of the case was disappointing. This was the result of authorities reporting negative decisions to victims, such as the closure of their case or no prosecution ensuing. This was done to a greater extent than the reporting of positive decisions (such as sending the case to the prosecutor or trial dates being set). They also found that, in some jurisdictions, the provision of information was subject to victims indicating their wish to be informed; authorities' attitudes towards their 'informatory duties'; and victims' knowledge of their rights to opt-in to receive information. Reed

and Caraballo (2021) found that court requirements to provide notifications were infrequently met and attorney's practice to supply information about case progress and counseling to family members regarding plea-bargaining and sentencing decisions were restrictive. They also found that respondents perceived the information offered by justice actors as perceived as highly technical. Additionally, victims may also lack information about procedures such as giving evidence and other aspects of the trial. Van den Bos and Lind (2002) found that procedural information which precedes outcome information has a stronger impact than distributive justice on the individual's perception of fairness.

Studies have also focused on interpersonal interactions between the police and victims, particularly the treatment victims received when interacting with police officers and other justice actors (Bachman and Coker, 1995). The research suggests that these interactions influence victims' access to justice through aspects such as the creation of police reports, the investigation of crime, and the provision of information as it relates to criminal cases. Shapland's (1984) study of victims' journeys through the criminal justice system found that the police's initial response, attitude and expression of concern played an important role in shaping the victim experience. When exploring crime victims' experiences of Swedish police interviews, Holmberg (2004) found that attitudes influenced a victim's inclination to provide or omit information in such interviews. The exploratory study of rape or aggravated assault victims revealed that crime victims perceived police attitudes to be characterised by either dominance or humanity. Adopting a humanitarian interviewing style where crime victims felt respected was more conducive to victims providing more information in their statements. However, crime victims who experienced a dominant interviewing style or feelings of anxiety reported consciously omitting information during the police interview (Holmberg 2004). Other studies have demonstrated how rape survivors described their experiences and interactions with justice personnel hurtful at times, as officers blamed them for their assaults and questioned them aggressively, making some individuals re-evaluate their continued participation in the process (Patterson and Campbell, 2010). Patterson (2010) found that when detectives asked their questions slowly and were attentive to the victim's well-being, victims were able to remember and share information in a more productive manner.

Additionally, the police's indication of belief concerning a victim's report, alongside the attitudes they displayed in relation to the alleged offender, were also cited as important factors

informing victims' access to justice. Stephens and Sinden (2000) explored victims' experiences with mandatory arrest laws for domestic assault in New York⁵ and specifically, their perceptions of the police officer's demeanor as well as the officer's handling of the arrest event. Based on the victims' narratives, they identified four categories of police demeanor that were crucial to victims' perceptions of how they were treated by officers in cases where there was no arrest: minimizing the situation; disbelieving the victim; 'we don't care'; and macho cop. The study reported that these perceptions signaled a negative interaction between the victim and the officer as such attitudes left victims feeling demoralized and humiliated, while also diminishing their trust in the police (Stephens and Sniden, 2000, p.540). Accordingly, where arrests were made, victims' perceptions of police officers' demeanor suggested conflicting accounts; some officers were considered as being empathetic towards the victim while others appeared to be ignoring them, and so were deemed to be lacking compassion. When exploring domestic violence victims' interactions with police officers, Johnson (2007) also found this conflict in perceptions of the police officers' interactions. While some victims found officers to be helpful and somewhat interested in their welfare, others found them less than helpful. Victims reported that some of the officers were too impersonal or not sympathetic. The respondents also found that some officers were too concerned with what the abuser had to say. In a similar study about older women who were victims of domestic violence, victims and non-victim respondent expressed concerns that the system would be prejudiced in favour of the abuser and that the police may ridicule or otherwise mistreat domestic abuse victims (Beaulaurier et al. 2007, p.751). These perceptions of officers' attitudes discouraged victims from future contact with police officers. This was also found by Saxton et al. (2018) where a victim in their study of IPV victims experiences in Canada described how the police discouraged future engagement. In their study one victim stated 'attempted to get police assistance to end harassment via phone calls, texts, and constant drive-bys. I was told they couldn't do anything. I know that's wrong, but I gave up simply from sheer exhaustion with the situation' (Saxton et al. 2018, p.2036).

Further to this, the literature has suggested that prejudicial and victim-blaming attitudes demonstrated by police officers have affected victims' access to justice (Jordan, 2004); Kelly et al., 2005). However, this perspective has been met with some skepticism as there is the argument

⁵ New York Family Protection and Domestic Violence Intervention Act.

that police officers are rational and practical decision makers (LaFree, 1981). Brown et al., (2007) found that police officers investigating rape allegations display both attitudinal prejudices and a rational legal logic that affected rape attrition rates. They also found that the latter dominated and was an approach adopted and continued by prosecutors. Other studies have identified victim-blaming attitudes of personnel as a factor affecting victims' access. Meyer's (2011) account of victims' experiences when disclosing their victimisation to the police identified how victim-blaming attitudes of personnel can also serve as a barrier to victims' active participation in the legal system. Victims who sought help reported dissatisfying outcomes due to the perceived lack of interest and a lack of needs support and protection. Additionally, some found that they were not taken seriously due to their unwillingness to terminate their relationships with their abusive partners. Victims were also of the impression that officers' responses stemmed from the belief that the investigation of their victimisation was too much effort or a waste of time to file a report or complete the relevant paperwork and officers were reluctant to deal with their situation. Sentiments of unworthiness was also felt among victims of intimate partner violence in same-sex relationships; this stemmed from their interactions with officers. Many voiced hesitancy to engage with justice actors because of the prejudice they felt they would receive, based on some of their direct experiences as well as friends' stories (Alhusen, Lucea and Glass, 2010).

Hartman and Belknap (2003) argue that, like police officers, prosecutors also hold problematic attitudes regarding domestic violence. Court officials demonstrated perceptions that domestic violence is a victimless crime due to the victim's relationship with their abuser. Landau (2000) found that victim-blaming attitudes and behaviours of court professionals created 'an atmosphere of intolerance and paternalism towards women and as such can hinder them from cooperating and participating in the process. Additionally, the nature of the Court processes makes victims' recollections of their experiences traumatic and emotional, causing further mental distress (Orth, 2002). During legal proceedings victims' narratives are not shared in the supportive or safe environment of a therapy session, but the defence attorney questions their credibility, disputes their memory, or even challenges whether they are telling the truth' (Jordan 2004, p.135). Doak (2008) argues that this treatment of the victim by the defence attorney is due to the systematic structures and values of the system which is closely related to the victim's lack of agency and their simple 'ceremonial' or 'symbolic' presence within the system (Sanders et al, 2011; Clarke, 1986). Bell et al. (2011) found that for battered women where the court processes were supportive, or at least not

antagonistic or apathetic, environment helped many victims feel less alone and helpless. They found that victims valued being asked for their input and being included in the decision-making process, especially insofar as it contributed to feelings of being treated fairly.

The Nature and Characteristics of the Process

Despite the ability to mobilize the system, victims do not have a formally recognized role within it, especially in relation to the trial of their offender (Gilligan 2003, p.30). When the victim accesses the adversarial criminal justice system, their problem is defined by the police. The police decide whether a crime has occurred, the number of investigative resources allocated to the case and whether a referral is made to the prosecutor. Prosecuting authorities have a high level of discretion, which includes having the power to decide whether and how to proceed with cases (Iliadis and Flynn 2018). Once a decision is made to prosecute, the case is represented by the prosecution. Here, the prosecutor represents the victims and their interests and therefore they do not have the power to compel prosecution, the "standing" to contest decisions to dismiss or reduce charges, or to challenge the sentence imposed on the offender (Moynihan 2015). Once an outcome or judgement is delivered, the sentence or punishment decided by the judge is based on an official assessment of what the public interest demands (Dignan and Cavadino, 1996). Additionally, they are not always privy to mechanisms of justice that allows them to voice their concerns or feelings about the crime and its impact on them, nor do they necessarily have a right to review judicial decisions.

Although there has been a turn towards eliciting greater victim participation in the justice process, the giving and receiving of information lacks the essential characteristics of a participatory act. Therefore, victims' engagement usually remains non-participatory (Edwards 2004). Besides the provision of information, victims may be required to attend court and provide written or oral testimonies. Although the judicial process is reliant on the victim as a witness or to provide evidence, this process also operates in a manner that excludes them (Gilligan, 2003; Sanders, 2002; Haynes, 2011; Das, 1997). Such exclusion stems from how the system positions the victim in the process. For example, in the examination of bereaved victims' experiences with law enforcement workers, Goodrum (2007) found that both parties often defined the victim's role

differently. This difference in role definition (which related to participation) generated conflict between victims and law enforcement over the flow of information in the case. It was found that within the investigation of their family murders, the law enforcement authorities established themselves as an authority in the case and therefore began to erect the boundaries of the victim's role. This view of the victim's role meant excluding them from being given the opportunity to offer the law enforcement detective information about the case, or to obtain information about the case from the detectives.

Victims' inability to participate in the process is testament of the power held by police officers and others; furthermore, it can serve to hinder the victim's willingness to continue with the case or can result in them being revictimized. For example, in their examination of police reporting practices for sexual assault cases, Murphy et al., (2014) found that law enforcement officers' statements concerning the victim's credibility (or the lack of evidence) had the potential to prompt victims to drop their cases, even if such sentiments were indirectly communicated. Maier's (2008) research with rape victims indicated that interactions with the police and medical staff may result in victims being revictimized. Advocates for rape victims described the police and medical system as wielding substantial power that often served to revictimize rape victims in a way that necessitated advocates having to mitigate these additional harms. The substantial power of the system and its practitioners also places a bureaucratic burden on the victim. This was realized by Lovell et al. (2020), in their examination sexual assault victims who engage in the system. It is proposed that there should be a more comprehensive framework with increased trauma-informed victim support and protocols and increased use of forensic evidence.

In their accounts of victims' experiences with the system, Bennett, Goodman and Dutton, (1999) stated that some victims found the process confusing and experienced frustration when relying on the system to deal with their cases in a timely manner. Moreover, it is found that the system's inability to follow through often added to victims' feelings of frustration (Cerulli et al., 2014; Saxton et al., 2018). In a qualitative study by Bell et al. (2011) on helpfulness and harmfulness of courts among battered women in the US found that some women expressed frustration where they perceived that court dispositions provided few or no consequences for their partner's abusive behaviour. Additionally, the court's failure to adequately enforce dispositions

was problematic as it sent the message to offenders that court intervention did not prioritize the victimisation or safety of the victim.

In Nils Christie's (1977) 'Conflict as Property', he argues that victims are alienated from their conflict due to the nature of the criminal justice system. Christie (1977) describes criminal justice officials as 'professional thieves. He purports that justice actors steal people's conflicts and transform them into professionalized relations between state bureaucracies and offenders, undermining victims' participation in the solutions to their problems. According to Christie, court cases in modern societies are characterized by: (1) the conflicting parties being marginalized and replaced by officials in the roles of representatives; (2) families, friends, and (3) the general public not having any institutionally recognized roles to play; while (4) in contrast, professional judges are recognized as crucial role players and authorized as final decision-makers; and (5) citizens' knowledge of court cases and their outcomes is based on information provided by the media industry. The discussions on victim's participation often narrates the victims as the diminished agent par excellence and describes them as passive objects who have been acted upon by other forces, not as active agents. The criminal justice system—though mobilized by the victim—accommodates the state and the offender due to its retributive principles and focuses on the punishment of the offender. The victim's agency is therefore contrary to the objectives of the system.

The state's ownership of conflict and its exclusion of victims is also represented in the systems' inability to meet victims' needs. Despite providing some personnel to meet victims' needs, the system's configuration indicates that the victims' needs, or experiences are of lesser priority. This is notable in the court process where there is a failure to adequately allocate the resources needed. Cerulli et al., (2014) acknowledges that although there is often a requirement for the victim's participation, the lack of resources often prevents them from doing so. Victim participation requires a 'combination of capacity, energy, transportation, childcare, and support' (Cerulli et al. 2014, p 3). The criminal justice system, however, often fails to make these provisions available.

Victims' perceptions of the criminal justice system

Studies reveal that victim's interaction with the criminal justice system can go one of two ways. If a victim feels empowered by their interactions, they may experience positive effects in relation to their physical and mental health, as well as quality of life (Barkworth and Murphy 2016). Consequently, they may leave the system with a sense of safety, restitution, and validation in relation to the harm experienced from the offender. On the other hand, encounters that are re-victimizing can have a negative impact on their physical and psychological well-being (Orth, 2002) resulting in disengagement from the system. The practicalities of victims' access and the obstacles they encounter not only affects the victim – they also impact institutions of justice and (by extension) the state more broadly. While existing literature provides evidence that victims do not hold an integral role in justice systems, the working assumption is that victims will cooperate in the justice process. Haynes and Cares (2015) purport that for the system to work there must be buy-in from victims. Without their cooperation, though, cases may be vulnerable to collapse; if this happens too often then its legitimacy as a public entity may be called into question (Spohn and Tellis 2013). Consequently, victims' perceptions of the system affect their levels of cooperation, which plays a vital role in the system's ability to function and can inform efforts to reduce crime. It should be noted that victims as a unique subgroup evaluate the police and police legitimacy more harshly than those who had not been victimized (Aviv and Weisburd, 2016). Their evaluation of is based on 'the aggregation of their experiences or the experiences of those around them and the emotions they generate' (Fagan 2008 p.139). Therefore, their victimisation and their special needs forms their expectations of police and other authorities and influences their perceptions of the system.

The wide-ranging research on perceptions of legitimacy tend to reflect individuals' personal interactions with the police, courts, and other parts of the criminal justice system. Studies on victims' perceptions indicate that those who perceive the system as more legitimate are more likely to willingly participate, whereas if they do not deem the system as legitimate, they may not seek access to it in times of need (Tyler and Jackson, 2013; Haynes and Cares, 2015). In numerous studies, victims' perceptions of the system's legitimacy are based on the concept of procedural justice (Liang, Wu and Ma, 2019). According to Tyler (1997) there are four elements in direct

interaction that characterize procedural justice; voice (victims' ability to speak), neutrality (unbiased justice actors), respect (politeness and dignity of justice actors) and trustworthiness (achieving possible solutions) (Randall, 2010). Iliadis and Flynn (2018) drawing on the other studies identifies victims' procedural justice needs as including information, validation, voice, and control. In their estimation victims want to be kept informed at all stages of the case's progression before decisions are made. Additionally, there is a need for the validation of victimisation experiences, as many want to feel as though they are believed and being treated with respect and dignity. Alongside, information and validation victims should be provided the opportunity to narrate their story to a supportive and receptive audience, and to have this story acknowledged. Lastly, being given some sense of control in their case, particularly regarding the decisions made. In some studies, procedural justice is often divided into two components: the quality of decision-making (whether citizens are treated fairly when law enforcement authorities make decisions about them), and the quality of treatment (whether law enforcement officers treat citizens with proper respect as human beings, each with his or her own needs for dignity and privacy) (Tyler, 1994). As such, victims function as an identifiable group who bolster the state's legitimacy (Sunshine and Tyler, 2003), while allowing them to gain political mileage and enhance state control.

In their examination of two main antecedents of legitimacy- procedural justice, and police performance, Aviv and Weisburd (2016) found that procedural justice operates similarly for victims and non-victims (persons who have not been victims of crime). However, their findings suggest that police performance plays a much more important role as an antecedent for victims. Such findings concur with earlier research by Shapland (1983), who found police behaviour as crucial in determining levels of victim satisfaction. The major determinant of satisfaction for the crime victim in her study was the attitude of police officer(s). Similarly, Elliott, Thomas and Ogloff (2012) also examined crime victims' perceptions of procedural justice following contact with the police. Their findings indicated that victims placed value on procedural justice, suggesting that this fairness in process was at least as important to victims of crime as obtaining a desired outcome. Further, their results suggested that two main themes were important to victims: the police's willingness to do their best to achieve a desired outcome, and police relating to victims as persons.

Accordingly, some findings imply that police officers may play an important role in stimulating victims' willingness to cooperate by treating victims fairly in addition to taking

investigative actions to solve the crime. For example, Wemmers (1999) study found that victims in the Netherlands who received more notifications about developments in their case had higher levels of satisfaction and expressed more support for the police and the criminal justice system than those who were uninformed. Koster (2017) explored how crime victims' willingness to cooperate with the police was affected by their perceptions of police officers' behaviour and notions of legitimacy. The findings suggest that when evaluating the police response crime victims do not distinguish between fair treatment (i.e. procedural justice) and police officers' investigative actions (i.e. police performance). Boateng's (2018) study examining crime reporting behaviour in Ghana found that victims' levels of confidence in the police and their satisfaction with police work positively predicted their decisions to report sexual assault and robbery.

Crime victims' perceptions of procedural justice often refers to the victim's evaluation of how they are treated by the police (Elliott, Thomas and Ogloff, 2012). A victim's trust in the criminal justice system can be significantly influenced by their interactions with the police (Gillis *et al.* 2006). Fedina et al. (2019) explored the relationship among police legitimacy, trust, experiences of interpersonal violence, and victims' reporting behaviours. They found that higher levels of police legitimacy (e.g., perceived trust) were significantly associated with more positive police responses to IPV. This means that victims' perceptions play a role in the effective functioning of the system and more so its legal hegemony; if victims are unwilling to cooperate with the system, it loses its legal power and authority. Moreover, victims' experiences also highlight their needs. Listening to them and believing them are the first steps that the police can take to begin the process of helping victims while changing negative perceptions. Moreover, it means that officers are to be empathetic for them and their situations and they expect officers to act effectively on their behalf while treating them as worthy of concern and intervention (Stephens and Sinden, 2000).

While studies show the importance of procedural justice and police performance in relation to victims' satisfaction with the justice system, there is a lack of clarity on whether the importance of procedural justice supersedes other instrumental factor. Murphy and Barkworth (2014) in a representative sample of Australians explored the effect of procedural justice on victims' willingness to report crime to police. While having a favorable outcome was important to all crime victim types. Victims who believed the outcome of their most recent contact with police had been

more favorable were also more likely to say they would report future crimes to the police. However, in their analysis, they also found that victims appeared to be more concerned with police use of procedural justice and/or police effectiveness when deciding whether to report crime.

The argument has been forwarded that victims' perceptions of the system are affected by their opportunities to be heard just as much as their choice to participate or obtaining their preferred outcomes. Laxminarayan et al. (2013) conducted a systematic review of which aspects of the procedure and legal outcome are associated with victim satisfaction. In their review they found that interpersonal treatment works at attaining satisfaction with criminal justice, additionally, it appeared that for most victims (e.g., elderly, domestic violence, property crimes), accuracy and respect were important indicators of satisfaction. However, the review does note that there is no one approach that would cater to victims needs and recommends the need to make distinctions among victims. Tankebe (2013) revealed that victims of crime in London were more willing to cooperate with police when they viewed police as treating citizens in a procedurally fair way.

Despite, the existing literature on legitimacy, there is some question on whether the conceptualization of legitimacy as noted by Western societies is applicable to countries in the Global South. Tankebe (2008) purports that 'research in other postcolonial nations shows that police effectiveness in controlling crime can exert a strong influence on perceptions of legitimacy. Based on this assessment, Johnson, Maguire and Kuhns (2014) examine the perceived legitimacy of law and legal authorities in Trinidad and Tobago drawing on wave 3 of the IMPACT study⁶. They noted that there was a significant empirical overlap between the institutional trust component of legitimacy and both components of procedural justice. Additionally, their results note the ambiguous role of cynicism about the law as a component of legitimacy. Accordingly, they believed that the findings contribute to theoretical debates about the relationship between obligation to obey and legitimacy.

⁶ The IMPACT study is a multi-wave citizen survey designed to evaluate a pilot community-oriented policing project. Topics on the IMPACT survey included community cohesion, fear of crime and victimization, perceived crime and neighborhood problems, and attitudes toward the police and the law. The instrument was carefully constructed based on a review of the relevant literature and focus groups in the study communities (Johnson, Maguire and Kuhns, 2014, p.959).

Conclusion

The body of work explored in this review focused on the concepts ‘victim’ and ‘access to justice’, the established service and procedural rights, engagement, and perceptions of the justice system. Both concepts of ‘victim’ and ‘access to justice’ are subjective and often constructed by those who are not victims, but such constructions affect how victims relate to the justice system. Additionally, the subjective nature of these concepts has also contributed to the variability in approaches to providing victims with access. Such approaches have attempted to establish and improve service and procedural rights; however, these efforts have been met with some anxieties about the balance between the rights of the victim and those of the offender. Moreover, there is a lack of consensus on the benefits to the victim, and if these approaches are sufficient in providing access. Despite having these measured opportunities for engagement, victims experience barriers that are often systemic, interactional and institutional. These barriers had an impact on individuals and their construction as victims and their positions within the criminal justice process. The literature suggests that established policies of service and procedural rights as well as experiences of the system, affect how the system is perceived.

However, this review demonstrates the need to expand our knowledge and understanding of victims’ experiences of access to justice as such is based on experiences from the West. It should be acknowledged that some studies on criminal justice institutions in the Caribbean region do exist (Cain and Birju, 1993; Antoine, 2006; Pino, 2009; Kerrigan, 2020). However, such studies have not explored victims’ experience of service provision and participation. Nor have such studies situated how the concepts of the victim and access to justice are used in such a social, political, and cultural setting. The literature explored here suggests that it is worth exploring these concepts and experiences from the perspective of the Global South, and whether the results and responses are applicable to those outside of Western society. Societies in the Global South have a history of colonialism that has affected various features of the state and the operationalization of the law and justice institutions. (Sebba, 1991). Therefore, there needs to be some consideration of the post-colonial context of access an exploration of the practicalities of victims’ access in such societies and its impact on perceptions of justice. It is believed that by reviewing this work, the field might benefit from perspectives that are not Western in nature and provide a route toward appropriate responses.

Chapter Three: Exploring access to justice through the postcolonial lens.

The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) endorses victims' access to justice as a fundamental right that ensures their participation, voice, and agency in the criminal justice system (Mills, Bonner, and Francis 2006). While it is understood that victims' access to justice can be hindered due to a number of factors, related theoretical explanations are under-explored and under theorized. Theoretical perspectives which have focused on victims' participation in the criminal justice process have concentrated on victims' psychological reasoning and decision-making responses. Such theoretical underpinnings serve to solely explore individual and situational factors and neglect the interplay of systemic and structural factors on victims' access to justice. Moreover, such theoretical frames are unable to explain experiences of access to justice in the postcolonial setting.

This chapter presents postcolonial theory as a theoretical framework to explore victims' access to justice in the postcolonial setting. It begins by exploring the range of existing, Western centric, theoretical frameworks, highlighting the paucity of reliable theorising, and its inadequacy in providing a clear understanding of factors within the system that affect access. Given its questionable applicability to the postcolonial setting, the chapter then looks at the usefulness of the postcolonial lens in offering insights and tools for the analysis of the criminal justice system and victims' access to its actors and institutions. Postcolonial criticism, as a theoretical framework, seeks to understand the operations – politically, socially, culturally, and psychologically – of colonialist and anti-colonialist ideologies, recognising the importance of history and the long-term impact of colonisation and imperialism. Moreover, postcolonial theory focuses on power imbalances derived from post-colonial conditions, practices and structures which are perpetuated in contemporary societies (Young 2001). It places postcolonial power relations at the centre of enquiry and seeks to expose oppression and power inequalities. Therefore, it is a useful theory of meaning that can examine discourses produced in postcolonial settings. As such, this section explores the key concepts that may be useful in the analysis of the participant narratives presented later in the study.

Theoretical Underpinnings on Victims Access to Justice

There is truly little theorisation on victims' access to justice (Ribot, 2003); that which exists tends to focus on victim's decision-making to seek help. This limited theorising has concentrated on the role of situational and individual factors prompting a victim's willingness to access justice. These approaches have mostly focused on the rationales and experiences of domestic violence victims to provide some understanding of the barriers they encounter. For example, Gondolf and Fisher (1988) and Burgess-Proctor (2011), examined victims' willingness to seek justice based on the severity of the abuse. While they disagree on the role played by the severity of abuse (as a push and pull factor to seek help), this attempt at theorising victims' decision-making processes neglects to address the structural factors that affect these choices. Grigsby and Hartman (1997) barrier model which examined help-seeking within the broader social system, also aimed to provide a theoretical explanation for victims' help-seeking behaviours. Their non-linear, four-layer model focused on: barriers related to the environment; family and socialization; the psychological trauma of victimisation; and histories of abuse and neglect. The authors suggested that victims experienced barriers in all four layers or in some combination of them. While some (Anderson et al., 2003) support that such barriers as presented in this model impact help-seeking, this model does not explore the nature of the criminal justice system and its processes in creating barriers to access. Moreover, it does not acknowledge the meanings victims may assign to their interactions with justice actors and the system and how these may shape their experiences.

Along this line of theorisation around victim decision-making behaviours, some authors have explored rational choice theory (RCT) and cognitive process models. Kingsnorth and Macintosh (2006) used RCT to explain domestic violence victims' help-seeking actions. In their estimation, victims' decisions access the criminal justice system is based on a cost-benefit analysis which is shaped by individual and situational factors. Similarly, Laing (2017) proposed a three-stage cognitive process model that includes problem recognition and definition, deciding to seek help, and selecting a help provider. Each stage of the process is influenced by individual, interpersonal, and sociocultural factors, which are subject to change, therefore the cognitive process involved in decision making is also subject to change. While such theorising provides a useful understanding of decision making, the theoretical focus is not grounded in understanding the system of justice its associated interactions or processes.

Burgess-Proctor (2011) evaluation of the applicability of a feminist pathways approach in explaining victims' help-seeking behaviours places human agency in a historical and structural context. This approach while allows for a view of help-seeking that identifies how women's 'rational choices' are frequently constrained by barriers and/or severely limited options (Burgess-Proctor 2011, p.316) . While the feminist pathways approach provided an explanation for gender discrimination in the criminal justice system—particularly the attitudes of patriarchy and chivalry exhibited by justice professionals—it neglects the intersections of race, class, and social capital. Mosher (2015) when conceptualizing access to justice amongst battered women elucidates that there are three inter-related phenomena that should be considered in its failure. Firstly, the enduring hold of an incident-based understanding of domestic violence; secondly, the failure of legal actors to curb men's strategic use of legal systems to further their power; and lastly, the host of complications such as contradictory expectations, inconsistent orders, repetitious proceedings, and sweeping surveillance (Mosher 2015). However, what is not discussed by Mosher (2015) or others who have focused on the decision making of victims and their access to justice, are the interactional and institutional factors within criminal justice system.

While there has been very little theoretical focus on the legal system's role in access to justice, Macdowell (2018) builds on theories of the fragmented state⁷ and vulnerability⁸ (human and institutional vulnerability) to create a new structural theory of 'functional fragmentation' and its role in access to justice work. Fragmentation is conceived as a complex structural feature within state institutions, which relate to ideologies, roles, and other organizational characteristics. Both theories aim to explore the coercive power of the state over poor people, as it is purported that the coercive power of the state is increased by the vulnerability of institutions and human subjects. Through this new structural theory of 'functional fragmentation', Macdowell (2018) attempts to

⁷ The concept of the fragment state as proffered by John Hagan, views the state apparatuses as consisting of macro and micro-level subsystems that are loosely coordinated, often in conflict and highly responsive to political forces. The system has a tendency to remain loosely coupled unless or until political goals results in the tightening linkages among or between its parts to achieve desired ends. This tightening can result in a shift from unpredictability to certainty of outcomes. (Macdowell, 2018).

⁸ Vulnerability theory derived from Martha Fineman, explores human and institutional vulnerability. Vulnerability is posited as the characteristic that positions us in relation to each other as human beings and also suggests a relationship of responsibility between state and individual. The nature of human vulnerability forms the basis for a claim that the state must be more responsive to that vulnerability. Institutional vulnerability refers to a variety of internal and external corruptions and disruptions. For MacDowell (2018) helps in analysing how linked institutions and organizations are susceptible to policies and practices that reduce functional fragmentation.

lay a theoretical framework which creates an access to justice project that exposes and transforms existing power relationships that are unequal and subordinating, including those between individuals, and between individuals and institutions. In this view, fragmentation in state operations creates not only challenges for access, but also opportunities for resistance, resilience, and justice. Here, the opinion is that access to justice interventions can recognize and utilize the state's capacity for greater and lesser degrees of fragmentation in ways that are positive for poor people.

While such theories provide a useful means for understanding varying aspects of victims' access to justice, the borrowing of this type of understanding can become problematic. As noted by Pino (2009) the reform of systems of justice within the postcolonial setting have often been influenced by the Western 'one-size-fits-all' approaches. Such a use of Western approaches and ways of knowing perpetuate the idea that borrowing such is a requirement to advance developmental status of the subordinate developing societies (the Global South) (Watson and Kerrigan 2018). As such, crime and criminal justice are subject to significant foreign epistemological and theoretical colonizing, which at times fails to acknowledge the distinctiveness of space, the territories' diversity as well as the historical, social, and cultural context of the setting. Pryce (1967) warns that one 'should be wary of the wholesale importation of the metropolitan models of explanation based, sometimes, on outdated research conducted in the USA and Britain where conditions are dissimilar to our own'. It should be recognised that the historical, cumulative, and entrenched inequalities produced by slavery, indentureship, colonialism and postcolonialism in the expansion of global capitalism, provide a backdrop that is unfamiliar to the 'developed' North. It is for this reason, there is a need to move beyond the current theorising and explore other frames of understanding that reflect a Caribbean perspective.

The Postcolonial Lens: An overview

During the colonial era, the Caribbean experienced the mass dislocation of persons, the eradication of the indigenous Amerindians and a massive influx of Europeans, Africans, Indians, and Chinese in the establishment of plantation societies. Such a history has created a contemporary Caribbean population that is testament to this forced meeting of disparate cultures, producing what E'douard

Glissant (1999) refers to as a 'composite culture'. Postcolonial theory as a body of thought is concerned with the political, aesthetic, economic, historical, and social impact of European colonial rule around the world (Elam, 2019) and provides a unique approach to understand this 'composite culture'. The term was first used in the aftermath of the Second World War, in the era of decolonisation. The emergence of newly independent nation-states has resulted in an expansion of the term in contemporary discourse, going beyond its original meaning to include all aspects of the colonial process: from colonial contact to present day. As such, this theoretical perspective encompasses a complex field of views that examines the continuing processes of resistance and reconstruction; critical thinking and questioning issues related to identity; forms of oppression and exploitation; and knowledge and ways of knowing (Lunga, 2008). While postcolonial theory explores experiences within specific geographical spaces and periods, it often includes issues⁹ that may not 'essentially' be postcolonial but form the complex fabric of the field.

Additionally, postcolonialism acknowledges the historical perspective, embracing the problematic past, and recognising the weaknesses of the inherited legacies of colonialism. These include the historical tendencies towards oppression, subordination, and exclusiveness. It provides critical insight into the realities of oppression and subjugation and offers a framework for examining the similarities among all critical theories that deal with human oppression, such as Marxism; feminism; gay, lesbian, and queer theories; and African American theory (Tyson, 2014).

The primary objective of postcolonial theory is the acknowledgement of the historical perspective (Dirlik 2011). This acknowledgement has led to writings and ideologies that deconstruct Western epistemologies and reconstruct new meanings in discourse and dialogue based on the main aspects of colonialism and its pervasive effects (Young 2001). Through its critique, postcolonial theory seeks to understand the operations—politically, socially, culturally, and psychologically—of colonialist and anti-colonialist ideologies (Cunneen, 2011). As an approach, it also considers issues of state power (such as taxonomic structures), nationalism and belonging, and the perspective of the other. In sum, postcolonial theory, in its aim to understand the process of decolonisation, examines the power structures established by colonial powers and

⁹ Literature on postcolonial theory often includes the examination and exploration of issues such as slavery, dispossession, settlement, migration, multiculturalism, suppression, resistance, representation, difference, race, gender, sexuality, class, otherness, place, diaspora, nomadism, hybridity, indigeneity, ethnicity and identity (Roy, 2008, p.317)

problems of state power concerning hegemony, identity and the distribution of knowledge within the postcolonial society (Ahmad1980; Dalleo 2006; Burns 2009). Therefore, in the following section there will be a close examination and exploration of how postcolonial theory can contribute as a theoretical lens.

Postcolonial theory and understanding the postcolonial state

Works on the postcolonial state are purported to address one or more four central aspects (Alatas 1997). These are: the rise of democratic and authoritarian postcolonial states; attempts to decipher the nature and characteristics of the postcolonial state; the role of the state in the process of economic development; and statements of democratization (Alatas 1997). Understanding the nature of the postcolonial state provides insight into how the state relates to individuals and how its institutions function. The reality is the postcolonial state-form includes both continuity with and a distinction from the colonial state-form. In Alavi's (1972) examination of the impact of colonial power structures, he highlights the nature of structural alignments created by colonial experiences and their effect on the power structures in the postcolonial state. Informed by classical Marxist theory of the State, he examined the historical specificity of postcolonial societies. This is a specificity which arises from structural changes stemming from the colonial experience and alignments of class and the established superstructures of political and administrative institutions as well as the radical realignments of class forces (Alavi 1972). Accordingly, Alavi (1972) estimated that the legacy of colonialism and the foreign imperialist bourgeoisie allowed for the creation of an 'overdeveloped' nation-state in the postcolonial society. Drawing on Rothman (1971), Alavi (1972) purports that social institutions are relative to the social context of the time and place in which they originated. During colonialism, there was a replication of the superstructure of the state as established in the metropolitan country, which served as an apparatus through which it could exercise dominion. Alavi (1972) argues that this 'superstructure state' continues to exist in the postcolonial period and is 'overdeveloped' in proportion to the 'structure' in the colony. The postcolonial society, therefore, inherits an overdeveloped apparatus of the state that is equipped with bureaucratic controls, institutionalised practices, and mechanisms of government that through routine operations enables subordination, regulation, and control of social

classes. Here, there is the active appropriation of European (Anglophone) legal systems in the construction of new legal systems (Merry 2003). Moreover, the apparatus of the state, assume(s) a new and relatively autonomous economic role, playing a central role in the contemporary production process. The state in the postcolonial society appropriates a considerable part of the economic surplus and deploys it in bureaucratically directed economic activity in the name of promoting economic development (Saul, 1974; Alavi, 1972).

Further to the creation of the overdeveloped state structure, there is a realignment of the class structure in the state apparatus, with neo-colonialist bourgeoisie joining imperialist (metropolitan) bourgeoisie. As such, the state in the postcolonial society is considered not as a single class instrument but as relatively autonomous and mediating between the interests of the three propertied classes (the metropolitan bourgeoisie, the indigenous bourgeoisie, and the landed classes) - acting on their behalf, to preserve the social order in which their interests are embedded. According to Alavi, (1972), where democratic forms of government operate within the post-colonial society, politicians and political parties also form part of the apparatus of the State. Political leaders occupy the highest offices in the state, formally invested with authority over the bureaucracy – and stand at the centre of a complex set of relationships. They are expected to articulate the demands of those from whom they seek to support, and to attempt to realise those demands through their participation in the working government. They further play a crucial role in manipulating public relations on behalf of those who do make public policy, to make it acceptable to the community at large. The critical lens of postcolonialism theorises that in the postcolonial society the state defines itself as equivalent to the nation, playing a central role (Rajan, 1993) and making the relationship between the nation (the state) and the ‘imagined community’ quite complex (Anderson, 1996). Moreover ‘the technologies of power used in the control of populations are not manifest in direct rule but rather through complex forms of government the agents of which might be states, international institutions, or non-governmental organisations, all engaged in practices that have the global as the purview of their operations’ (Jabari 2013, p.8). These technologies of power can range from the use of force to the provision of welfare, to pedagogical exercises the aim of which is the transformation of societies into governable entities (Jabari 2013).

These assessments suggest that the development of the postcolonial state is a product of a hybridization process. In Homi Bhabha's seminal work (1984, 1994, 1996), the term 'hybridity' is indicated as a key concept in postcolonial discourse which examines the effect that the colonial encounter has on the transformation of practices in developing countries (Yousfi 2014). It commonly refers to the creation of new transcultural forms within the contact zone produced by colonization. Authors in the Anglophone and Francophone Caribbean have referred to the hybridization process as 'creolization'. Creolization is the forced transculturation under the circumstances unique to slavery, and colonization. It describes the process of "fusion" in circumstances of massive disparities of power and the exercise of a brutal cultural dominance and incorporation between the different cultural elements (Hall 2003, p. 186). Hall (2003) states that creolization always entails inequality, hierarchization, issues of domination and subalternity, mastery and servitude, control, and resistance. In moving towards the development of frames of understanding and theoretical concepts that reflect a Caribbean perspective, Birbeck (2007) suggests a creolising of theory and methodology in the understanding of the criminal justice system.

Postcolonial theory and the postcolonial citizen

The sense of nation adopted by the state in the postcolonial society is described by Fanon (1963) as one that takes on a distinctively bourgeois character. According to Fanon (; 1967) after political independence, the power struggle between the Coloniser and the native would re-emerge in the form of that between the native elite and the rest of the postcolonial society, and that the oppression, exploitation and corruption continues as a result. The native elite's rhetoric of nationalism, which is part of the postcolonial discourse, constructs 'the people' through a process of exclusion. Therefore, it is perceived by many to reproduce the social and political inequalities that were prominent under colonial rule. Such a dynamic makes the state both the guarantor of rights and quite often a significant perpetrator of injustice (Rajan, 1993). Postcolonial approaches, from this perspective, investigate the structural relations of domination and discrimination that are expressed, manifested, constituted, and legitimised along with the hegemony perpetuated by ideological state apparatuses, such as the law and the criminal justice system.

The presence of anticolonialism, or more so anti-colonial nationalism was fuelled in part by imperialism's graded, racialised, and hierarchical citizenship practices, which excluded many imperial subjects from equal membership. The transition from imperial 'subject' to 'citizen' in a newly established nation-state was plagued by various group controversies. This was aided by the newly formulated State, through nationalism and structural relations, having the power to define citizenship and belonging, leading to questions around the content of such citizenship (Sadiq 2017).

An often-neglected area of analysis is the vital role of state power in defining citizenship and belonging (Cunneen, 2011). Mahmood Mamdani asserts that the ability to define citizenship and belonging stems from the restrictive long-term colonial law that exists in postcolonial states. In other words, the content of postcolonial citizenship is based on a hierarchical membership. In his estimation, this type of membership was inevitable as colonial rules and regulations and structure promoted hierarchy and heterogeneity, fragmenting communities, and leaving imperialist hegemony unchallenged. The institutional colonial legacy of divide and rule and the postcolonial attempts to create rights-bearing autonomous individuals produces contested citizenship within the postcolonial society, making the state's institutional accommodation of differing citizens' identities contested (Sadiq, 2017).

One such contestation is where the needs of the nation and the understanding of citizenship are typically identified and often associated with the frustrations and aspirations of men. In post-colonial societies, the processes of redefining nationalism and citizenship is used to 're-masculinise' men, since colonialism was considered to have subordinated and effeminized men within such societies. With the processes of decolonisation being masculinised, women appear in a metaphoric or symbolic role, being (McClintock 1997 p.90). This construction of citizenship conceptualised women in terms of their relationship to men (as dependents) rather than as autonomous individuals. This 'masculine' reformulation of citizenship means legitimised access to the resources of the nation-state differs between women and men (McClintock 1997). Moreover, women's legal representation, rights, and access to nation-state resources were inextricably tied to men. It has been argued, however, that no nation in the world grants women and men the same access to the rights and resources (McClintock, 1993). Garcia and McManimon (2011), maintain that the historical characterisation and social construction of women's place in society, as

extensions of their fathers and husbands, influence how society thinks of and labels them as victims, and negatively influences women's treatment in the justice system. In this way, their access to criminal justice and engagement in help-seeking is affected by the views of those operating within the patriarchal system.

Postcolonial theory, belonging and the other

One of the significant aspects of postcolonial theory is its illumination of dominated people's perspectives and experiences of colonialism; a standpoint often ignored by dominant accounts (Young 2001). Colonialism as a mechanism of oppression constructed the colonised through racialising and dehumanising, disallowing individuals their voice and agency. As such, the colonial subject was denied a host of civil and political rights because he or she was conceived of to be backward and uncivilised (Kapur 2007; Cunneen 2011).

Postcolonial critics informed by post-structuralist ideas often tend to express sentiments, subjectivities, knowledge, and experiences of these peripheral populations whose voices had been suppressed or silenced. In this quest to unearth the subjective experiences of the oppressed (Young, 2001), arose the postcolonial concept of the 'other'. The 'other' has invariably been used to create categories and images of non-European populations as appropriate to the political, legal, economic, and social state of Western civilisation at a given epoch. The dichotomy of European and other have seen non-European peoples relegated to inferior status; therefore, postcolonial theory challenges the view of otherness proffered by Western culture and focuses on identities which have been constructed independently from the dominant native (Cunneen, 2011).

In '*Can the Subaltern Speak?*' Spivak (1988), challenged the theoretical understandings of class politics in culture through Subaltern Studies,¹⁰ attempting to uncover the hidden realities of dominated people's experience and agency. Spivak (1988) questioned the ability of 'subaltern'

¹⁰ Subaltern studies analyses the "binary relationship" of the subaltern and ruling classes, and thus studies the interplay of dominance and subordination in colonial systems. As such, it explores the hegemony of elite culture created under colonial conditions and to understand the social experience, collectivities and initiatives of 'subaltern' groups.

people to shape their society and culture, and consequently their relationship with power. Firstly, does the ‘subaltern’ have the ability to possess any real power to represent themselves, or alternatively, is the inability to have power the characteristic that constitute them as a subaltern. Such has led to further questions of subaltern political agency and its intersection with class and ethnic structures within anti-colonial movements and postcolonial governments. Subsequently, postcolonial research questions whether postcolonial governments are especially likely to be bound to the interests of urban, elite, and ethnically marked subpopulations. Additionally, it queries whether ‘subaltern groups’ in such societies are less likely to exercise routine rights as citizens, and more likely to sustain whole institutional apparatuses of avoidance and resistance.

The construction of the ‘other’ as a distinct group and the public identification of ways to exclude them from the community mark the normative boundaries of society and appropriate methods of inclusion. Studies that deal with othering share two main concepts. First, the identification of certain people as others derives from social processes embedded within social imperatives. Second, these social categories play an important social role, marking the normative boundaries of the community (Ajzenstadt and Shapira 2012). The process of othering occurs in various social institutions through many practices of its social agents and the institutions processes. In his discussion on the construction of the ‘other’, Goffman (1956) claims that various social and legal practices are involved in the process of producing the notion of ‘otherness’ and its cultural and social meanings. Therefore, in postcolonial theory, identity plays an essential role. Within the discourse, identity is fundamental, as the historically marginalised insist upon the recognition of their own construction in this postcolonial world. Postcolonial theory is critical of the continuing hegemonic position of western economies and cultures and the residual effect of colonial domination on their cultures (Williams, 1993; Elam, 2019). This deeply embedded *cultural colonisation* has been argued to have left ex-colonials with a psychological “inheritance” of a negative self-image and alienation.

For some postcolonial theorists such as Fanon (1963) or sociologists like W.E.B. DuBois (1950), it is this ‘social psychology of colonialism’ that is integral in understanding the post-colonial identity. DuBois (1950) examined the subjectivity of the colonised subjects and the

experiences of internal colonialism¹¹ in the United States. In his estimation, the colonised subject was a problem to be governed, not being granted a ‘true self-consciousness’ but visualised through the revelation of the other world. Fanon saw such as the creation of ‘third-person consciousness’: a form of racial alienation where the racialised and dehumanised subject is forced to see himself as ‘him’ or ‘her’ but not ‘I’, inculcating an inferiority complex. For Fanon (1963), this alienation and inferiority is reiterated and projected into modernity.

Within the postcolonial literature, ‘othering’ is the means where members of one social group or institution distance themselves from, or assert themselves over, another by construing the latter as being fundamentally different (the ‘other’). As such the concept of othering is used to describe processes of distancing, stereotyping, alienation, and dehumanization (secondary victimisation) in social relations. It offers a frame that explores common processes and conditions that promote forms of inequality and marginality. According to Stewart and Logan (1993) the objectified ‘other’ are treated as if they: (a) are interchangeable parts (rather than unique human beings); (b) have no feelings or emotions; (c) are incapable of reflective thought; and (d) are passive and unable to make choices.

Postcolonial theory and its application to law and criminology

The application of postcolonial theory to the law has mostly examined the role played by law during the colonial process. Legal theorists engaging with the postcolonial perspective examine how colonial laws as the products of the colonising power, were imposed upon territories. They also consider the ongoing ideological effects of colonial laws and their continued contemporary relevance as instruments of control in the postcolonial world (Roy 2008; Fitzpatrick and Darian-Smith 1999). Sebba (1999) provided four possible explanations for the continued reliance on colonial legislation in post-colonial societies. Firstly, the universality of legal norms and the adoption of such is natural. Secondly, the imported law and its institutions becomes autonomous and indigenous. Thirdly, the imposition of new codes or law will have an impetus of its own and will give rise to an internalisation of the values underlying that code. Lastly, the gap between

¹¹ Pinderhughes (2011, p236) defines internal colonialism as a geographically assessed pattern of subordination of a differentiated population, located within the dominant power or country.

official legal norms and popular norms created by imperial bureaucracy was maintained following independence by a 'new class' unwilling to alter the system with which they are familiar. While all these explanations are plausible, the last refers to the pervasiveness of 'postcolonial anxieties', where there are concerns that a departure from imperial metropolis implies a dismissal of the guarantees of a disinterested due process of law that has been an integral part of the fabric of social and political life since British conquest (Caserta and Madsen, 2016). Such anxieties can also be examined through Fanon's 'social psychology of colonialism'.

From the postcolonial perspective, the law has been used not only as a means of empowerment, but also as a tool for excluding the 'other', or including them on terms that are quite problematic, both historically as well as in the contemporary context (Kapur, 2005). Mc Cree (1996) explores the Chinese game of *whe-whe* and the use of exclusion via the implementation of legislation. Such legislative efforts allowed the government to assume direct entrepreneurial role in the game as owner and manager, where the state version of the game (Mc Cree, 1996, p.1). These inclusions and exclusions produced in and through the law, either emphasise the difference of the subaltern subject as one to be governed (due to being perceived as incapable of choice or consent and thus incapable of exercising rights) or as backward and uncivilised (therefore to be redeemed and incorporated into the liberal project through the process of assimilation) (Kapur, 2005)

Therefore, at the heart of these contemporary debates, the postcolonial perspective focuses on the role of the law as an integral component of the colonial, imperial, and now postcolonial projects. The exportation of colonial law to the territories of the *other* (regardless of whether the *other* recognised the legitimacy of those laws) governed and continues to govern legal relations. For some this examination of the past enables us to understand the operation of power through knowledge and how it regulates the bases of inclusion and exclusion in the postcolonial present, though this understanding is not confined to postcolonial states (Kapur, 2007; Cunneen, 2011). The role of voice also seems to be of seminal importance, in so far as it invokes the significance of authorial subjectivity in the construction of meaning. As such postcolonial theory offers a different way of reading the law and the world. Therefore, it provides a different forum in which the law's taxonomic structures and ontological foundations may be understood from the other's perspective.

Another underserved area by the postcolonial perspective is Criminology. The rarity of postcolonial thought in Criminology led Cunneen (2011) to ask the question ‘What would a postcolonial perspective on Criminology look like?’ For him, a postcolonial perspective for criminology would provide both theoretical insights and grounded policy analysis, which should proceed from a critical and reflexive framework that questions the centrality of a western understanding of crime and control. As such the post-colonial perspective for criminology would engage in policy from a perspective which recognises the importance of history through the understanding of the impact of the colonial project, and through an analysis of the structures and ideologies that determine the intersections of race, crime, and punishment.

Thus far, criminology’s interaction with the postcolonial perspective has taken two main directions: through the decolonisation project and in the examination of the criminalisation of the ‘other’. Early statements within the ‘decolonisation project’ by Cohen (1982) commented on Western criminologists’ neglect of the crimes committed by colonial powers, and its failure to examine the importation of institutions and methods to developing countries. Examining the classical tradition to post-structuralism, Agozino (2003; 2004) argues that Western criminology is thoroughly implicated with colonialism and as such the development of modern criminology is concerned with disciplining and controlling the other (Agozino, 2004, p.350). Further arguments relate to the failure to question the claims to universality proffered by western-based law and jurisprudence (Cunneen, 2011; Agozino, 2003), often taking the American and European criminological tradition as our point of departure (Aas 2007).

Aas (2012) argues ‘Criminology’s theoretical roots in the West make it ill-equipped to provide meaningful perspectives on...southern realities. As such, the decolonisation project stems from this failure. Aas (2012) further highlights that the challenge for criminological theory is to be aware of the geopolitical divisions which exist and to engage in ‘critical self-reflection about the potential universality of its own knowledge production’ (Aas, 2012, p.17). Under the banner of Southern Criminology, Carrington et al (2016) incorporate and build on these ideas. They attempt to use postcolonial approaches to understand the role of law in the colonial process, and the contemporary relevance of ideological effects of colonial laws. They also examine the effects of transplanting western laws onto colonial peoples as part of the process of empire-building. This version of postcolonial theory retains an interest in power relations and injustice while attempting

to avoid reductionism; it attempts 'to more usefully decolonise and democratise the toolbox of available criminological concepts, theories and methods' (Carrington et al, 2016, pp.3).

Postcolonial theory has also been infused into the work of those examining race and the process of criminalisation, linking racialised crime constructs to colonialism (Hall et al.1998; Keith, 1993) and offering an analysis demonstrating that the criminal justice system is one of the fundamental mechanisms through which ideas about race are constructed (Bowling and Phillips, 2002).

According to Cunneen (2011), processes of criminalisation which undermine citizenship rights legitimates excessive use of force by police, the loss of rights, and diminished social and economic participation. Criminalisation based on race and the racialising of groups transforms them into a 'law and order' threat to national unity. Therefore, they are subject to economic and social dislocation. The racialised construction of the offender creates questions about the citizenship of these racialised or marginalised groups, as it constructs a non-racialised vision of the standard, respectable and responsible citizen. As a result, 'that which does not fall within the boundaries of citizenship is regarded as an outcast, an "other," and subject to restraint, persecution, censorship, social stigma, incarceration, and even annihilation' (Kapur, 2007).

Using a Postcolonial lens to understand victims' access to justice.

As previously stated, our limited knowledge and experience of victims' access to justice stems from countries and scholars situated in the West, and rarely includes the experiences and perspectives of the Global South. To develop an understanding of the phenomena, and ways of knowing, it is important to examine such through a lens or framework that fits the social, structural, and situational context and features that are unique to postcolonial societies. According to Blagg and Anthony (2019 p.10) the postcolonial critique 'offers a necessary counterweight to the dominant Euro-north American paradigm of comparative criminology by focusing attention on social forces operating above, below and outside the Westphalian nation state'.

When investigating criminal justice in the Caribbean, some authors have suggested that it is essential to understand the enduring consequences of colonialism in the shaping of every aspect

of Caribbean society, including the state's coercive apparatus (Cain 1996; Pryce 1976; Mars 2007). In the explanation of policing behaviour in the region, such an approach has been adopted (Mars 2007; Pino, 2020, 2009). Such studies have assessed the passive role of politics in policing of plantation societies, differentiated along both class and racial lines. Of special significance is the reflection of the colonial legacy in explaining not only the tactical decisions made by police in the daily performance of their duties, but also the enduring characteristics of police culture and behaviour that continue to generate recurring crises in police-community relations (Watson and Kerrigan, 2018).

A feature of postcolonial criticism includes understanding the developing nation-state (Alavi, 1972), viewing the nation state as 'imagined communities' (Anderson 1983); something constantly be articulated through various strategies of power. Additionally, it is concerned with the reproduction of hierarchal relations (internal colonialism) (Pinderhughes, 2011) and the politics of inclusion and exclusion (Kapur, 2007). Such concepts can provide insight into victims' experiences of access and their perceptions of the justice system. Additionally, the postcolonial perspectives can assist in the examination of questions of sovereignty and citizenship and the analysis of criminal justice as a set of marginalising practices (Cunneen 2011).

Although postcolonial theory mainly contextualises the relationships between the coloniser and the colonised, as a theoretical framework it provides a useful approach to understanding data produced in postcolonial regions. It considers issues related to partnership and voice in the research process as well as the position of the researcher to both the research and their participants (Browne et al., 2005). More importantly, it is deemed useful in understanding the connections among all the domains of our experience—including the psychological, ideological, social, political, intellectual, and aesthetic—in ways that show us just how inseparable these categories are in our lived experience of ourselves and our world (Tyson, 2015). As such, this perspective makes it possible to appreciate cultural difference and diversity among the Global South that is overlooked by conventional theories (Travers 2019) and recognises that though people could surpass the colonial rule, they are not free from its influences and power structures.

Conclusion

The colonial Caribbean was forged from a philosophy of white supremacy, which championed imperialist processes of ‘accumulation by dispossession’ and was supported (upheld) by the violence of that logic (Watson and Kerrigan, 2018). In the creation of the postcolonial Caribbean the ‘creolising’ process reproduced and replicated some of the social, structural, and economic divisions entrenched during colonialism, with legacies of inequality and inequity as well as practices of domination and subjugation. According to Probyn (1990 p.176 as cited in Kapur 2005) in creating our own centers and our own locals, we tend to forget that our centers displace others into the peripheries of our making’. The postcolonial lens provides a basis to explore the ‘creolised’ criminal justice system and processes created by post-independence governments in Trinidad and Tobago, as well as contextualises relationships of power that exist in the system. Moreover, as a framework of understanding, postcolonial theory and its associated concepts provides a non-Western exploration of the justice systems replication of society’s inequities stemming from the unequal distribution of power, privilege and resources (Burnett et al. 2019). Therefore, it will provide the necessary context and an appropriate ideological alignment in understanding issues related to exclusion and inclusion, interactions, identity and relationships with the state.

Chapter Four: Methodology

There is scope for greater knowledge and understanding around victims' experiences of access to justice in Trinidad and Tobago and the issues they encounter. Moreover, perceptions of the criminal justice system also remain under-investigated. To address this gap, the present study examines victims' experiences with justice systems in Trinidad and Tobago, using this insight to explore the main question guiding the research: *'How do victims' experiences of access to justice in a post-colonial society affect their identities as citizens and perceptions of the criminal justice system and its legitimacy?'* The research approach taken was informed by the historical and cultural context of criminal justice in post-colonial Trinidad and Tobago, the lack of research on the administration of justice and victimisation in Trinidad and Tobago, and the preliminary review of the literature identifying the gaps in knowledge about victims' experiences in the post-colonial setting.

This chapter provides an overview of the methodological approaches employed. It begins by outlining the use of qualitative methods, indicating the groundwork for framing the research in this way. This section also provides an essential overview of grounded theory methodology with an examination of the use of constructivist grounded theory within the research. Here, a discussion is provided on the appropriateness of constructivist grounded theory within this study and its implications. The chapter continues with a description of the methods used to capture the data pertaining to victims' experiences of access to justice. The chapter also provides information on the sampling approach used, and the issues encountered during data collection. The latter sections describe the analytical phases used in the study and the ethical issues considered throughout the project.

Using a Qualitative Approach for the Research Problem

The nature of the research problem identified in this study necessitated a qualitative approach. A qualitative approach is one concerned with answering questions about a given experience and the meaning people give to dimensions of their lives and social worlds (Fossey et al., 2002).

Additionally, it allows for an understanding of the meaning individuals or groups assign to social phenomena, experiences, behaviours, interactions, and social contexts without the use of statistical procedures or quantification (Cresswell, 2013). Previous studies on victims' engagement and participation in the criminal justice system have used both quantitative and qualitative approaches, as well as mixed methods, to investigate the area. To best explore and describe the phenomena related to the subject area, a focus on qualitative methods was adopted (Morse, 1994).

The research questions were open and focused on victims' interactions with the process and the meanings they ascribed to this experience. These questions sought to explore victims' interactions within the context of justice in post-colonial Trinidad and Tobago. The following questions were devised to guide the study:

- *How do victims describe their experience of accessing criminal justice in Trinidad and Tobago?*
- *How do experiences of access to the criminal justice system shape victims' identities as citizens?*
- *How do victims' experiences of access to criminal justice impact their perceptions of the legitimacy of the criminal justice system?*

The research needed to elicit victims' perspectives of their experiences, and to understand these in relation to the function and functionality of institutions (and agents) within the criminal justice system. Five qualitative approaches were considered: narrative research, phenomenology, ethnography, grounded theory, and case studies. Each approach differs in its philosophical worldview and manner of investigating the social phenomena. A grounded theory methodology was determined to be the most suitable approach, as it provided an appropriate framework within which to examine victims' experiences of accessing justice and their wider interactions with the criminal justice system (Creswell, 2006).

According to Glaser (1992, p.16), grounded theory is 'a general methodology of analysis linked with data collection that uses a systematically applied set of methods to generate an inductive theory about a substantive area'. As a flexible methodology, it is designed towards data-driven theorizing, as it seeks to construct a theory about issues of importance in people's lives through data collection methods that are inductive in nature and the researcher having no preconceived ideas (Glaser, 1978; Glaser and Strauss, 1967; Strauss and Corbin, 1998). It can

conceptualise real-world problems and help generate theory that explains patterns in behaviour, and other relevant research issues. Additionally, it enables the explanation of behaviour and provides a perspective on this while offering clear enough categories and hypotheses for verification in further research (Goulding, 2002). It also offers a ‘foundation for rendering the processes and procedures of qualitative investigation visible, comprehensible and replicable’ (Bryant and Charmaz 2007, p.31). Grounded theory is useful in the study of human action and interaction, social processes, social structures, and interactions (Annells, 1996, 1997), as well as when investigating social problems or situations (Benoliel, 1996). Therefore, ‘it has been applied to generate new and exciting theories and alternative lenses for viewing social phenomena’ (Goulding 2017, p.61). Additionally, instead of pure induction, grounded theory moves between induction and abduction, allowing for the construction and analysis of theoretical concepts.

Grounded theory studies begin with open questions, where the researchers start from the perspective of presuming that they know little about their participants’ meanings or experiences. In the analysis of data, the underlying principles of this approach are the use of open coding, constant comparative analysis, memo-writing, theoretical coding, and theoretical saturation (Ralph, Birks and Chapman, 2015; Charmaz, 2014). Through the systematic gathering and analysis of data based on the constant comparison, that is, the working back-and-forth between data and theory (the process of iterative conceptualisation), issues that are of importance to participants emerge from the data (Johnson, McGowan and Turner 2010, p.70). This constant comparison starts initially of data with data, progressing to comparisons between their interpretations translated into codes and categories and more data. This constant comparison of analysis to the field grounds the researcher’s final theorizing in the participants’ experiences.

As a tool of qualitative inquiry, several permutations (iterations) of grounded theory have evolved in accordance with different researchers’ ontological and epistemological beliefs. There are currently between three to five versions of grounded theory, each with distinct ontological foundations. The three main variants most adopted within research are: classic grounded theory, evolved grounded theory (Strauss and Corbin 1998) and Charmaz’s (2006) constructivist grounded theory. However, engagement in any form of grounded theory study involves the researcher

addressing common characteristics, such as theoretical sensitivity¹², theoretical sampling¹³, treatment of the literature, constant comparative methods, coding, the meaning of verification, identifying the core category, memoing and the measure of rigour (Mills, Bonner, and Francis 2006a; Birks, Hoare, and Mills 2019). After careful examination of the three major approaches to grounded theory, constructivist grounded theory as proposed by (Charmaz, 2014, 2016) was purposely chosen for this research. The primary focus of this study was to gain an understanding of victims' experiences of access to criminal justice in the post-colonial context and to understand how these experiences relate to identity and legitimacy. The choice of method is in line with the adoption of an interpretivist paradigm, where the researcher and the participant co-construct meaning (Charmaz, 2006).

Using Constructivist Grounded Theory in this Study: Methodological Justification

Constructivist grounded theory is a complementary version of Glaser and Strauss' (1967) grounded theory (GT). Through asking probing questions about the data and scrutinising the researcher and the research process, it is unlike earlier variants as it locates the research process and product in historical, social, and situational conditions (Charmaz, 2016). While adopting earlier methodological strategies, such as coding, memo-writing and theoretical sampling, constructivist GT shifts the epistemological foundations of earlier variants and integrates a methodology befitting critical qualitative inquiry. Constructivist grounded theory focuses on the data and the possibilities for meaning constructed from the data (Charmaz, 1995). Additionally, this approach to GT helps identify differences, locate our generalisations, and recognise the conditions of their production.

¹² Theoretical sensitivity is a multidimensional concept that includes the researcher's level of insight into the research area, how attuned they are to the nuances and complexity of the participant's words and actions, their ability to reconstruct meaning from the data generated with the participant, and a capacity to "separate the pertinent from that which isn't" (Strauss and Corbin, 1990, p.44).

¹³ Theoretical sampling is a well-known method in grounded theory studies to seek additional data based on concepts developed from initial data analysis. This method involves following where the data have led to expand and refine the evolving theory during the analytical process. However, there is a dearth of information detailing the practical steps needed to undertake theoretical sampling.

The methodology within constructivist GT emphasises openness to the empirical world. It begins its inquiry with a broad research topic and follow specific research questions arising from issues in the field. Through this approach, more critical questions emanate from the researcher's interrogation of the data (Charmaz, 2016). Glaser (1992, p.31) argues that within GT, 'there is no need to review any of the literature in the area under study'. The use of literature within a GT study is another source of conflict between classic GT and other variants. Glaser does not entirely reject the use of literature but suggests that: 'when the grounded theory is nearly completed during sorting and writing up, then the literature search in the substantive area can be accomplished and woven into the theory as more data for constant comparison' (Glaser, 1998, p.67). However, to embark on a review of the literature before the emergence of a core category infringes the basic premise of GT; the theory emerges from the data not from existing theory. Constructivist GT counters classic GT's original conception of the literature review, arguing that as researchers are already exposed to the extant theories, concepts, and hypotheses, and as such it is impractical that staying away from doing a literature review helps with being clear of preconceptions. Like Strassian GT, it allows for a preliminary literature review to identify research problems and the areas in which to look for data' (Thai, Chong and Agrawal, 2012). As such, it takes a more flexible approach to literature usage when compared to classic GT. Here, the use of 'technical literature' before the collection of data, allows the researcher a better understanding of the phenomenon and provides a means to formulate questions during initial observations and interviews ((McCallin 2003). In this study, a review of literature was essential for exploring possible knowledge gaps and mapping the exploration of information on the subject matter.

According to Glaser and Holton (2004), the researcher needs two essential characteristics to achieve theoretical sensitivity: analytical distance and the ability to develop theoretical insight. They suggest that the researcher:

must have the personal and temperamental bent to maintain analytic distance, tolerate confusion and regression while remaining open, trusting to preconscious processing and to conceptual emergence. Second, he/she must have the ability to develop theoretical insight into the area of research combined with the ability to make something of these insights. He/she must have the ability to conceptualise and organise, make abstract connections, visualise, and think multivariately (Glaser and Holton, 2004, p.8).

However, Charmaz (2017) highlights that this constructivist form of grounded theory departs from earlier variants as it rejects value-free enquiry and its positivist focus on ‘what is happening’ in the research setting (Glaser, 1978). Constructivist GT adheres to a constructivist philosophical approach wherein both the researcher and participants equally co-construct meaning during data collection and analysis. During the process of data collection, there is active engagement, where ideas are raised, discussed, and knowledge is mutually constructed (Mills, Bonner, and Francis, 2006).

Within this approach, the use of analytical tools to probe the construction of events, processes and outcomes brings about questions concerning social justice and provides a means of studying power, inequality, and marginality (Charmaz, 2017). Also, the method integrates critical analysis into people’s lives, bringing people and their perspectives into the foreground. It was hoped that in the context of this study, conceptualisation, as guided by constructivist GT, would inductively generate concepts, categories, and principles, assisting in the development of a theoretical framework.

Positionality of the Researcher

To understand the construction and interpretation of reality in qualitative research, the researcher’s inherent subjectivities (values, beliefs, and emotions) should be accepted as centrally involved in the research process (Campbell and Wasco 2000). These values and beliefs influence the construction of the research questions, data collection, and analysis of the data (Campbell and Wasco, 2000). Additionally, to ensure a strong research design, the researcher must select a research paradigm that is congruent with their beliefs about the nature of reality (Mills, Bonner and Francis 2006, p.2). Therefore, when conducting research, consideration should be given to the researcher’s world view, the position they adopt about the research tasks and the social and political context (Savin-Baden and Major, 2013).

In GT, positionality is important to theoretical sensitivity. While some permutations of GT believe that the researcher must enter the research setting with as few logically deduced predetermined ideas as possible (Glaser and Holton, 2004) and must have the personal and

temperamental bent to maintain analytic distance, in constructivist GT the researcher and the participant co-construct meaning. As such, the world view or ‘where the researcher is coming from’, their ontological assumptions (beliefs about the nature of social reality and what is knowable about the world), epistemological assumptions (beliefs about the nature of knowledge) and assumptions about human nature and agency assumptions about the way we interact with our environment and relate to it are integral. Unlike other forms of grounded theory, constructivist grounded theory actively repositions the researcher as the author of a reconstruction of experience and meaning (Mills, Bonner, and Francis 2006a; Mills, Bonner and Francis 2006b).

The constructivist version of GT is rooted in pragmatism and relativist epistemology (Charmaz 2009; Bryant 2002; Mills et al 2006). Therefore, the researcher discovers and constructs theory because of their interactions with participants and the emerging analysis (Thornberg and Charmaz, 2014). Such an approach affords the researcher flexibility and rigour to gather views and opinions, through interactive and iterative in-depth interviews. Charmaz (2006) advocates that this approach also allows for reflexivity, where other variants of GT promote neutrality. Reflexivity refers to the researcher’s critical examination of their own prior assumptions and actions through being self-conscious and self-aware. Therefore, there needs to be an examination of the personal qualities that researchers bring to interviews, and the researcher-researched relationships. The quality of the relationship between researchers and participants might depend on the level of formality or informality generated by perceptions of professional boundaries, the capacity for intimacy and the personal qualities projected by the researcher (Baxter and Eyles 1997). Moreover, factors such as age, appearance, social class, culture, inequalities of knowledge and power, environment, and gender may also influence the researcher-researched relationship (Baxter and Eyles 1997; Richards and Emslie 2000).

In this research, interviews allowed for the development of meaning victims attached to their experiences of access to justice. Moreover, there was the assumption that every participant had varied and multiple meanings. These experiences were then interpreted through my own understanding and a postcolonial lens/ perspective. Important to this theoretical perspective, was my own background (personal, cultural, and historical experiences) which would shape my interpretation of victims’ experiences and the meanings they attached to them. As a researcher, native to Trinidad and Tobago I shared the cultural and historical background of the participants

as well as some of their lived experiences (and assign similar meanings to those lived experiences). While having a keen understanding of my position as an insider, I also held the position as an outsider, not having experienced crime or been a victim of crime. Therefore, while I believe the participants saw me as an insider, they also viewed me as an inquiring stranger as I had never been a victim of crime. However, I believe this outsider perception may have changed once they knew that I was employed in the Criminology Department at the national university. Prior to this research there were very little assumptions about the research problem as there was very little research on the topic in Trinidad and Tobago. However, my lived experience of being a citizen and a member of the society meant I held preconceived assumptions about the relationship between citizens and the State, prior to entering the field.

Sampling and Recruitment

In most studies, researchers are not able to study all the members of the population they are interested in, so, they draw a sample which reflects the population of interest. As such sampling affects all aspects of the research process. However, what constitutes an adequate sample depends on the research objectives, understanding of the phenomenon and the practical limitations. According to Onwuegbuzie and Collins (2007) sampling designs comprise of two major components. The first is the sampling scheme which denotes the explicit strategies used to select units, (how to choose the sample members, for example, people, groups, settings, and events) and the second is the sample size which indicates the number of units chosen (number of participants to choose) for the study.

This study's sampling began purposively. A purposive sampling strategy allows for the careful selection of settings, persons, or events for the vital information they can provide that cannot be obtained from other choices (Maxwell, 1997, p. 87). Razavi and Iverson (2006, p.461) explain that in grounded theory. 'Informants chosen for interviewing must be expert participants, with rich, extensive prior experience with the phenomenon, in order to be able to provide the researcher with a valid account of their experience'. The sampling frame consisted of the researcher listing all the officially known agencies and organisations that interact with victims of crime in Trinidad and Tobago, either by providing counselling or assistance to victims. The

agencies and organisations contacted included the Victim Support Foundation; Rape Crisis; Coalition against Domestic Violence; and the Victim and Witness Support Unit of Trinidad and Tobago. Additionally, personal contacts within religious outreach groups were contacted to gain access to victims who were not in contact with formal agencies. Here, it was important to obtain the support of the organisational and agency gatekeepers as they were essential in providing access to participants (Berg 2006). Additionally, the involvement of gatekeepers is beneficial to the research as they can add credibility and validity to research by their acceptance of it (Seidman, 2013).

Due to the nature of the study, and to maximise the understanding of the subject matter, a sample of both direct and indirect victims as well as victim advocates were chosen to provide a variety of experiences. Direct victims were those who had suffered criminal offences to their person or property (i.e., victims of assault or harm), while indirect victims were those affected by the criminal act towards a direct victim (i.e., the bereaved family members of a deceased crime victim). Additionally, the inclusion of victim advocates (i.e., counsellors, support workers etc.) provided an informative and more objective approach to explaining victims' experiences with accessing justice, especially where such victims proved difficult to reach. In this study, the inclusion of the victim advocates increased the quality of the data, as such persons were aware of the process and had a broader range of understanding of victims' experiences.

At the start of this project, the sample was intended to be limited to participants who had experienced the entirety of the justice process - that is, from reporting to trial and sentencing. However, upon speaking to victim advocates, it appeared that this would significantly limit the sample pool, while also omitting the important experiences of those victims who had not experienced access to the whole justice process. Therefore, the target population was revised accordingly.

Using a purposive sampling strategy, the criteria for selecting participants were persons over the age of eighteen years who had had contact with one or more organisations within the criminal justice system. While there are children who are victims of crime, children are considered as members of a specific vulnerable group. Such persons are characterized as being partially or entirely unable to make autonomous decisions. Therefore, there was concern about children's inability to understand the process of justice as well as their ability to comprehend information

and/or make such choices as well as their capacity to give consent. Moreover, the process of children's access to justice is quite different from that of adults. Section 88, subsection 5 of the Children's Act states that the Court will assign a Children's Attorney to represent and safeguard the interest of a child and perform such other functions as the Court may think necessary. Moreover, where there is the provision of evidence or Court attendance and it is believed such would place the child at risk of harm, the Court may take in writing the deposition of the child, though videoconferencing or in some instances the use of an intermediary. Based on the legislation, children gain access through designated authorities and may not have a first-hand experience of the criminal justice system and its processes. Therefore, based on the aims of this research and the research question the use of adults was more appropriate.

According to Mason (2002), purposive sampling frames, 'are typically informal and based on the expert judgement of the researcher or some available resource identified by the researcher' (p.140). The selection and communication with participants were based on consultations with the victim advocates and gatekeepers (managers and counsellors) of the selected agencies identified in the sampling frame. With the approval of the University of Kent's ethics committee, letters were sent via email and a duplicate via post to the organisations identified in the sampling frame. This communication was sent to either organisation's manager, or department head. These letters invited the organisations (the gatekeepers) and by extension their clients to participate in the study (See Appendix 1). Once the organisation responded to the email, verbal communication was made via a telephone meeting or a physical face to face meeting. During this period, through the use of emails, telephone conversations and physical meetings, there was an attempt to build a rapport with these gatekeepers. It was agreed that the organisation's manager or submanagers (and, in some cases, the organisation's counsellors) would contact potential participants informing them about the study using the information sheet provided by the researcher and gain their consent prior to forwarding their contact information to the researcher for follow up. Once this consent was gained the contact information was forwarded to the researcher.

The sampling process (which began in June 2017 – June 2019) encountered some difficulties getting these organisations to suggest participants. While some organisations willingly co-operated and forwarded the names and contact details of suitable candidates, other organisations had reneged on their earlier agreements to provide potential candidates or

participants. The renegeing and non-responses occurred as some organisational experienced changes to management as well as other internal management changes. As such, the recruitment of participants for the research was at times difficult and time-consuming. Another issue encountered in the sampling process was the delayed responses by some organisations in sharing potential participant information. Although these organisations were willing to cooperate, the sharing of information was often slow due to the organisations' workloads hindering their ability to contact their client base. Therefore, to supplement the sample base, other sources were sought as a means of locating participants. These included church counselling services, advertising the research in police stations via posters, domestic violence support groups as well as advertising the research among personal contacts (i.e., family, friends, and associates). Additionally, amongst those sampled were drop-in clients visiting the VSWU office located at the police station. After making their inquiries with the victim support officer, potential participants were informed about the research and automatically referred if they indicated their interest. Once these potential participants were provided with the information about the study, some persons opted to participate while others declined. Persons who opted to participate were taken to a separate room where the interview was conducted, or an alternative date was scheduled for the interview. Although the process was slow, the sampling of victims outside of the listed public organisations provided a variation in voice and perspectives about the process, and while the sampling procedure remained purposive, victims were selected more conveniently.

The other sampling issue considered was the sample size, as this determines the extent of analytical generalisations emanating from the study. According to Sandelowski (1995) there is a common misconception about sampling in qualitative research that sample size is unimportant. However, for some methodologists, the sample size should be informed not only by the research design, sampling design and data collection but more importantly, by the research objective and research question. One of the features of grounded theory is that the number of participants (sample size) cannot be predetermined in advance, as theoretical sampling is used. The total sample consisted of thirty-one participants; five were victim advocates, ten were indirect victims and sixteen were victims of various crimes. Seven participants were male and twenty-four were female. The table below (Table 1) provides information on the participants, their gender, age group, category, and victimisation types.

Each interview allowed for the creation of robust categories; therefore, as the interviewing process continued and more data was gathered, there was a focus on these developing categories and their properties. In short, theoretical sampling is not about representing a population or the statistical generalisability of the results, but the conceptual and theoretical development of the research (Charmaz, 2006), until such a time that theoretical saturation is reached.

Theoretical saturation is where the ‘researcher continues to sample and code data until no new identifiable categories, and until instances of variation for existing categories have ceased to emerge’ (Willig, 2013, p.71). According to most sources, (Kenny and Fourie 2015; Charmaz 2006) when using grounded theory, the research sample cannot be predetermined, but it must be a theoretical sample, led by the emergent theory until the point of saturation. Although some have described theoretical saturation as a goal rather than a reality (Glaser and Strauss, 1967), the aim is to generate enough data so that the patterns, concepts, categories, properties, and dimension of the studied phenomena can emerge. Theoretical saturation occurs when no new or relevant data emerge regarding a category; the category is well developed in terms of its properties and scope demonstrating variation and the relationships among categories are well established and validated (Strauss and Corbin, 1998, p. 212). As such, the sample size increased until the interviews conducted supplied no new categories. The determinant of when to stop interviewing persons seemed challenging as failure to ensure theoretical saturation meant that any framework or conceptual schema based on the data would be inadequate.

Thomson (2011) advises that the point of theoretical saturation is dependent on the broadness of the research question, the nature of sensitivity of the topic studied, and the experience and skill of the researcher. In this study, the research question provided some insight into the point of theoretical saturation. The research question though broad focus on two main issues: identity and legitimacy. After thirty-one interviews, theoretical saturation was achieved on these two issues. Also, the study’s focus on victims’ experiences meant there was a need for access to a small subset of the population as many persons may be victims of crime, but those crimes go unreported. After the analysis of thirty-one interview transcripts, no new codes emerged but small variations of the same codes and categories. Table 1 provides a description of the sample and include (gender, age range and crime type)

	Pseudonym	Gender	Age Range	Category	Victim Type
1	Hannah	Female	40-50	Victim	Sexual assault and Robbery
2	Kara	Female	40-50	Victim	Grievous Bodily Harm
3	Harvey	Male	40-50	Victim	Grievous Bodily Harm and Attempted Murder
4	Amanda	Female	40-50	Victim	Indecent assault and robbery with the intent to cause grievous bodily harm
5	Margaret	Female	20-30	Indirect Victim	Common-law wife of murder victim
6	Patrick	Male	30-40	Victim Advocate	
7	Vishnu	Male	40-50	Victim Advocate	
8	Jason	Male	40-50	Victim	Domestic Violence
9	Frank	Male	40-50	Victim Advocate	
10	Mary	Female	60-70	Indirect Victim	Mother of victim - murder
11	Martha	Female	40-50	Victim	Domestic Violence
12	Patricia	Female	30-40	Victim Advocate	
13	Jennifer	Female	40-50	Indirect Victim	Mother of Victim - domestic violence and murder
14	Auderey	Female	50-60	Indirect Victim	Mother of victim - murder
15	Rachel	Female	30-40	Victim	Domestic Violence
16	Heidi	Female	30-40	Victim	Domestic Violence
17	Irma	Female	40-50	Victim Advocate	
18	Keisha	Female	40-50	Victim	Domestic Violence
19	Anna	Female	30-40	Victim	Domestic Violence
20	Mark	Male	20-30	Victim	Assault
21	Victor	Male	40-50	Indirect Victim	Father of murder victim
22	Sita	Female	50-60	Indirect Victim	Mother of murder victim
23	Grace	Female	50-60	Indirect Victim	Mother of murder victim
24	Ameena	Female	40-50	Victim	Domestic Violence
25	Elizabeth	Female	30-40	Victim	Domestic Violence
26	Jemma	Female	40-50	Victim	Domestic Violence
27	Sunita	Female	40-50	Victim	Domestic Violence
28	Celia	Female	30-40	Victim	Robbery (victim has visual impairment)

29	Shauna	Female	30-40	Indirect Victim	Wife of murder victim
30	Marla	Female	50-60	Indirect Victim	Mother of murder victim
31	Venessa	Female	30-40	Indirect Victim	Wife of Murder Victim

TABLE 1. Information on Participants in the study

Data Collection through Intensive Interviewing

When considering the collection of information, there is a need to consider the types of data that are possible to gather – and to examine and weigh each option to determine the sources that will best help answer the research questions. In this study, the research problem required methods that could produce in-depth data for answering the research question (and subsequent questions). Studies on victims’ engagement in systems, programs, and services (Patterson and Tringali 2014), and also studies that are grounded in the interactionist perspectives, tend to use qualitative methods to collect data. These include focus groups, observations, interviews, documents, and audio-visual materials. The methodology in previous studies involving victims have often used a focus group methodology, as well as interviews, to solicit victims’ perspectives (Dichter et al. 2011). Based on the research methods discussed in earlier studies on victims, qualitative interviews were judged to be the most appropriate method for the collection of data in this project, as they provide opportunities to collect rich and meaning-making data (Frels and Onwuegbuzie, 2013, p.188). Here, focus groups were not used as they can inhibit some participants from expressing their views, beliefs, and experiences – especially concerning sensitive topics. In addition, there can be a disproportionate spread of speaking time, as well as a lower average speaking time, in focus group settings (Smithson 2000). Intensive interviewing was used as it allowed for in-depth analysis of individual experiences which had a higher potential for insight as compared to focus groups. Moreover, it is advocated that interviewing as a data collection method is well suited to the collection of data on sensitive topics.

As a mode of data collection, qualitative interviews can be either structured, semi-structured or unstructured; conducted via face-to-face interviews with participants, by telephone or engaging in focus group interviews, with six to eight interviewees in each group (Creswell 2009,

p.181). In constructive grounded theory, Charmaz (2014), discusses the use of intensive interviewing as a method of data collection. Intensive interviewing refers to ‘a gently guided, one-sided conversation that explores a person’s substantial experience with the research topic’ (Charmaz 2014, p. 56). According to Charmaz (2014, p. 26) for a grounded theory study, there is a need to devise a few broad, open-ended question that invites detailed discussion of the topic, whose structure may range from a loosely guided exploration of topics to semi-structured focused questions. Knowing that the process of data collection would assist in the creation of emerging frameworks or conceptual schema, semi-structured face-to-face interviews were used with participants. With two participants, these interviews were via telephone as they lived on the island of Tobago and due to the short notice flights or ferry tickets were unavailable to meet and conduct the interview face to face.

To guide the interview, an interview protocol (see Appendix II) consisting of some predefined open-ended questions was created. The interview protocol is an important aspect when considering the use of interviews as a data collection tool. The protocol acts as an interview guide which lists the questions or issues that are explored during the interview. It also provides procedures such as an instructional script before and at the conclusion of the interview, which includes prompts for the interviewer to collect informed consent and prompts concerning the information that should be collected (Patton 2015). The interview protocol also ensured that there was the best use of the limited time available in the interview sessions, as such critical questions were asked, covering key issues throughout the interview, making interviewing several different people more systematic and comprehensive. When creating the interview protocol, the following characteristics of intensive interviewing (Charmaz, 2014 p.56), were considered:

- an in-depth exploration of participants’ experiences and situations
- reliance on open-ended questions
- the objective of obtaining detailed responses
- emphasis on understanding the research participants perspective, meanings, and experience
- the practice of following up on unanticipated areas of inquiry, hints and implicit views and accounts of actions

As such, the in-depth nature of intensive interviewing using semi-structured questions allowed for an open and interactional space where participants were able to relay their experiences,

ensuring consistency and comparability across interviews (Creswell 2009). Moreover, it allowed for an understanding of people's lives, generating contextual accounts of participants' experiences and their interpretations of them. It was intended that the interview process focused on the experiential expertise of the participants and creating a space where their stories were heard and facilitate the free flow of conversation.

The semi-structured interview questions stemmed from some unanswered questions from within the literature review. The numerous methodologies for measuring access to justice were consulted in the process of developing the interview protocol. The contents of these methodologies for measuring access to justice focused on individuals' experience of dealing with legal issues addressable through the criminal justice system, examining the accessibility of the 'path to justice' (i.e. the standard processes for resolving their legal problems and needs). As such, the developed protocol included questions related to the participants' perspectives as users of the criminal justice system; elicited their views on their experiences; explored their knowledge on policy and service; gained their feedback on procedures and personnel; and examined the ability of the system to solve legal problems in a practical, fair, and adequate manner. Interview questions focused on victims' experiences with the three major stakeholders in the criminal justice system: the police, the courts, and the prosecutorial team. It also examined how victims perceived treatment and the processes of investigation, (i.e., the identification of the suspect and ensuing prosecution) by focusing on their ability or inability to access rights and services within the criminal justice system. Participants were asked about their experiences accessing and participating in the criminal justice process and interacting with its officers.

Once ethical approval was received for data collection methods and the conditions under which this data would be analysed and used, the data collection process began with a pilot study using the approved interview protocol. In some grounded theory studies, researchers often conduct pilot studies and analyse the information and then change and improve their questions over time based on the codes and categories developed from previous interviews. The initial protocol was piloted using four participants. These participants were victims involved in victim advocacy and their responses formed part of the thirty-one interviews. Participants explained how they accessed the criminal justice system and the issues they encountered as well as their desires and expectations regarding criminal legal response, and their likelihood or intentions to reuse or recommend access

or participation to others. Once the transcription and examination of the pilot interviews were completed, some amendments to questions were made. These amendments included aspects of criminal justice not considered earlier such as notifications of apprehension and the understanding of justice and rights. Additionally, the theoretical literature on access to justice and postcolonialism was reviewed, and this gave rise to other questions that allowed the study to be more comprehensive in its scope. Also, questions that seemed to only allow limited answers were reviewed, making them more open-ended to ensure that responses and explanations from participants would be more extensive and encourage further discourse.

The main aim when interviewing participants was not only to yield rich and meaningful data, but to allow participants to feel safe and at ease discussing difficult or sensitive experiences with a stranger (Knox and Burkard, 2009). Although the initial interview protocol was semi-structured, depending on how participants responded a less rigid approach was taken. As such, in the subsequent interviews, participants were asked to tell their stories of the criminal justice process, making them purposefully conversational to encourage participation on the part of the interviewees and adding to the existing data set about a particular concept or category. Also, participants were asked targeted questions about their experiences based on the previous data gathered. Interviews were one-on-one except for two participants, whose experience of victimisation were connected as their daughters were both murdered by the same person as they were both in the same place when the attack occurred. On the day of the interview, they were at the office of the Victim Support and Witness Unit for a joint counselling session. Interviews were held face-to-face, however two interviews were held via telephone as these participants were located in Tobago (the sister island), and were unable to facilitate a face-to-face interview.

Interviews were recorded with the consent of participants. Before starting the interview, participants were informed that the interview would be recorded for the purposes of accuracy when transcribing. The recording of the interview minimised the possibility of misinterpretation of participant's experiences and narratives (Richards and Schwartz, 2002). Once completed, the interview recording was loaded onto a computer and placed in a password-protected file. The transcripts for each interview were also kept here. It should be noted that there were no changes in the grammar and punctuation of the transcribed interviews. Also, there was an attempt to represent the tone of the interview, such as the use suspension to represent pauses in the conversation. Two

participants (one victim and one victim advocate) stated they preferred to not be recorded and therefore copious notes were taken during these interviews and descriptive memos were also written afterwards. Once these notes were adequately formatted, participants were asked to review and reflect on the notes to ensure all the information was accurate and a clear depiction of their experience and narratives. Additionally, during all the interviews, descriptive memos were written which often highlighted interesting thoughts raised by the participants to include in my analysis or to return to when framing follow-up questions. Charmaz (2006, p. 72) purports that ‘memo-writing is the pivotal intermediate step between data collection and writing drafts of papers. It constitutes a crucial method in grounded theory because it prompts you to analyse your data and codes early in the research process’.

During the period of June 2017 to December 2018 interviews were conducted at the offices of the Victim Support Foundation and Victim Support and Witness Unit. The use of a familiar space with victims seemed to make them feel comfortable when discussing their experiences with the criminal justice process. Other venues used was a private office at the University of Trinidad and Tobago as well as counselling spaces closest to the residence of the victims. The spaces used were private, offering confidentiality and anonymity. These interviews ranged between one to two hours depending on the participant’s experiences. Prior to starting the interviews, participants were asked to sign the consent form in duplicate and were given a copy of this and information sheet for their safe keeping (See Appendix III). During the interview, only two participants expressed distress, however, these situations were treated according to the protocol set out in the ethics application.

The Analysis of Data

Approaches to qualitative analytic methods can be classified as either (1) methods that are tied to, or stem from, a particular theoretical or epistemological position (e.g., conversation analysis, interpretative phenomenological analysis, grounded theory, discourse analysis or narrative analysis) or (2) methods that are independent of theory and epistemology and can be applied across a range of theoretical and epistemological approaches (Braun and Clarke, 2006). Grounded theory (GT) is an approach where analysis takes place simultaneously with data collection as well as after

the data collection process. According to Charmaz (2009, p.137-138) ‘grounded theory begins with inductive analyses of data but moves beyond induction to create an imaginative interpretation of studied life’. The researcher adopts an abductive logic when engaging in thinking about the findings through searching out concepts behind the narratives, categorising them, and then linking the categories to develop a theory.

NVivo software was used to analyse interview transcripts. This software is often used to organise interview data and facilitate the various stages of coding, memo writing and integration of the emergent concepts and categories. The software also provided a means for the efficient handling of data as well as provided an audit trail of the data analysis process. In the context of constructivist GT data analysis, the nVivo software facilitated the organisation of the data, as it allowed for the coding of segments of interview data with labels, which were crucial in the identification of emergent themes for further analysis and the development of theory (Charmaz, 2007).

According to Böhm (2004), ‘code is a technical term from the analytical procedure and signifies a named concept’. In grounded theory, coding gives the researcher a condensed, abstract view with scope and dimension that encompasses otherwise seemingly disparate phenomena (Holton, 2010). In GT coding begins directly as researchers first gather data for the study (Thornberg and Charmaz, 2014). After conducting a detailed analysis of the data, the codes are expressed in the form of short phrases called concepts. As such, the assignment of codes (labels/terms) should adequately describe the data and evoke meaning.

The analytic approach in constructivist GT is like the original approach formulated and adopted by Glaser and Strauss (1976), where the coding process takes many stages. However, these earlier variants differ as they build on positivist assumptions, whereas constructivist GT stresses that knowledge is contextually created together by the researcher and the participants. As such, the end-product of constructivist GT is the revelation of pattern and connections rather than linear reasoning and an emphasis on understanding rather than explanation.

In the first stage of coding known as open coding, the data is ‘broken down’ analytically for the development of concepts to be used as the building blocks for the emerging theoretical model. Through this expansive process, emerging concepts are identified from the data, and often helps develop the researchers' future rounds of interview questions (Merriam 2009). Charmaz

(2006) refers to this stage as initial coding; however, the characteristics of initial coding are like open coding, where the identified concepts are grounded on the data collected, and the researcher remains open to new concepts as well as in-vivo codes. Selective coding (Glaser 1967) or axial coding (Strauss and Corbin 1997) refers to the second step used in the middle stages of analysis. This stage serves to refine and differentiate concepts that are already available and lends then the status of categories. Therefore, during this stage of the process, the researcher identifies sub-concepts, properties, and dimensions to explain concepts as well as the relationships between concepts. The final stage of the coding, referred to as theoretical coding (Glaser, 1967) or selective coding (Strauss and Corbin), is where the researcher develops the narrative of the grounded theory. In this stage, concepts and connections proposed during axial coding / selective coding are integrated.

In constructivist GT, Charmaz (2000; 2003; 2006) prescribes two phases of coding, which was adopted in this study, firstly, initial coding, followed by focused coding which can be considered inductive processes. In the analysis theoretical coding was also used part of the abductive process.

Initial Coding

The first stage of coding is initial coding (also known as open coding). When conducting initial coding, the researcher compares data with data, remaining open to explore what they interpret is happening in the data; construct and keep their codes short, simple precise and active; and move quickly but carefully through the data (Charmaz, 2006). During this coding process, there is a need to scrutinize the data and ask questions of the data. According to Glaser (1978; 1999) the questions to be asked: “what is this data a study of?”, ‘What concept or category does this incident indicate?’ ‘What is happening within the data?’, ‘What is the participant’s main concern?’. Charmaz (2006) also adds to this ‘what process(es) is at issue here? How can I define it?’, ‘How does this process develop?’, ‘How does research participant(s) act and profess to think and feel while involved in the process?’, ‘What might his or her observed behaviour indicate?’, ‘When, why, and how does the process change and what are its consequences?’ (Charmaz 2005, p51). These analytical

questions when used in the initial coding phase provided a flexible approach to scrutinizing the data, enabling the creation of codes.

It is advised that in the initial coding phase analyses can be carried out word by word, line-by-line, paragraph-by-paragraph, page-by-page, section-by-section, incident-by-incident and so on. The analysis can also use one or more than one these strategies. The analysis in this study engaged mostly line-by-line as well as incident-by-incident coding to identify phenomena and produce a list of themes of importance. This coding assisted with later interviews as well as create numerous descriptive categories emerging from the data. Themes/ labels were attached to various lines and sections in the interview transcript capturing what was said. Additionally, gerund (noun forms of verbs) was utilised for labels (codes), for example, ‘being aware of the process’, ‘associating rights with fairness’, ‘compartmentalising interactions with justice actors’. Charmaz (2006) and Allan (2007) recommend the use of gerunds as they help researchers to detect and remain focused on process and action as well as identify dimensions and provide richness for analysis. Additionally, initial codes were kept close to the relevant data and focused on processes and actions that were emerging from the data. As this phase of coding progressed, the same labels (codes) were re-used to code similar responses in interviews, where deemed appropriate. A total of 243 codes were established within this coding stage, which then enabled progress to the second phase, focused coding.

Focused (Selective) Coding – the Identification of categories

The initial coding phase allowed for the uncovering of the most significant and frequent codes. Upon completion of the initial (open) coding stage, focused coding (also known as selective coding) was employed. In focused coding the researcher uses the initial codes, identified, or constructed as focused codes, to sift through large amounts of data (Charmaz 2000; 2003; 2006). Focused codes are more directed, selective, and conceptual than, those derived from the initial coding phase (Thornberg and Charmaz 2011, p.158). Focused codes were applied to lines or paragraphs in the transcript, with the most appropriate codes being used to represent interviewees’ responses. During this phase, more significant and frequently used codes (those found within the

initial coding) to sift through the interview data, deciding which initial codes make more analytic sense to categorise the interview data as well as verify the adequacy of the initial codes created.

When conducting focused coding, codes are explored and it is decided which codes best capture what is happening in the data, creating tentative conceptual categories. Charmaz (2003) purports that within this phase there needs to be the constant comparison of the data being coded. Constant comparative analysis ‘ensures that the coding process maintains its momentum by moving back and forth between the identification of similarities among and differences between emerging categories.’ (Charmaz 2006, p. 54) Constructivist, as well as other variations of grounded theory, suggest that a necessary method in grounded theory is the analysis of the data by constant comparison. This constant comparison of analysis of the data grounds the researcher’s final theorising in the participant’s experiences. During the analysis, the process of constant comparison involved the comparison and grouping of codes, the comparison of codes with emerging categories, comparison different incidents, processes, and interactions, comparison of different experiences and the comparison of categories in the analysis with other categories (Charmaz 2003; Thornberg and Charmaz 2012). From this phase focused codes were conceptualized such as ‘depersonalisation’ ‘marginalisation’ and ‘legal cynicism. These codes were used as categories to define the processes that were being observed in the data.

Theoretical Coding

In other variants of GT (Strauss and Corbin), after focused coding, axial coding, should occur. Axial coding is defined as ‘the act of relating categories to subcategories along the lines of their properties and dimensions’ (Strauss and Corbin, 1998 p.123). Charmaz (2006), however, argues that axial coding as a means of analysis is too rigid and recommends theoretical coding. Although focused coding facilitates the organisation of the codes and concepts established during initial coding, theoretical coding, allows for the analysis of categories and codes constructed from the data relates to each other and can be integrated into theory. Holton (2007, p. 283) defines theoretical coding as ‘the identification and use of appropriate theoretical codes to achieve an integrated theoretical framework for the overall grounded theory’. Theoretical codes consist of ideas and perspectives that researchers import to the research process as analytic tools and lenses

from outside, from a range of theories (pre-existing theories) (Thornberg and Charmaz, 2011). They include ideas, terms of abstract models that specify possible relationships between categories developed in focused coding (Charmaz, 2006). During the analysis, postcolonial theory was used to identify possible theoretical codes embedded within the theory. Although Glaser (1978) warns when theoretical coding researchers should not get blinded by one theoretical code or forcing a personally preferred theoretical code into the analysis. Theoretical codes must work, have relevance, and fit the data and generated codes, categories and memos. While postcolonial theory was mostly examined and used to provide theoretical codes as it fit with the codes generated, sociolegal theories related to citizenship, legal consciousness and rights consciousness was also used during coding. The use of theoretical codes also facilitated the abductive process involved in constructivist GT. Thornberg and Charmaz (2014, p.161) elucidates that ‘abduction supplies the main underlying logic in theoretical coding’. As such this abductive process allowed the use of the post-colonial lens to explore the interview data and create codes and categories, while the data allowed for the same.

Memo Writing

In grounded theory, memo-writing is an essential step in the conceptualisation of data. Memos as an analytical tool, manage the process of grounded theory, keeping track of theoretical development and the analysis of the data. It allows the researcher to pause and reflect on the data while providing insight into participants point of view. Charmaz (2006) states that memos should be informal and can be written at the early stage of data collection or the later stages of data analysis. To allow concepts to fully emerge, memos were written at the later stages of data analysis. During the phases of focused and theoretical coding, memos were written to help process links and connections in the interview data and explore the issues around the categories that were identified and integrated. Two distinct memos were employed during this process, descriptive and analytical memos. Although descriptive memos were used, throughout the process mostly analytical memos were used. The analytical memos assisted in my reflection on the interview data, and as such, was compared and used in the compilation of the following analysis chapters. The

nVivo program helped in maintaining memos and allowed for organised links between the memos and codes as well as particular lines of interview data.

A main theme of Charmaz (2000) constructivist GT is the treatment of the data and their analytical outcomes. The researcher needs to immerse themselves in the data in a way that embeds the narrative of the participants in the final research outcome. Therefore, there is a need to use coding language that is ‘active in its intent’ and that “helps to keep that life in the foreground” (p. 526). Consequently, the researcher when authoring must include raw data in their theoretical memos and keep the participant's voice and meaning present in the theoretical outcome (Charmaz 1995b, 2001). Charmaz, also advocates that the theme of writing is more literary in intent. As such while the writing should be analytical the style of writing should also be reminiscent of the experiences of the participants (Charmaz, 2001). The researcher's voice should not “transcend experience but re-envis[age] it ... bring[ing] fragments of fieldwork time, context, and mood together in a colloquy of the author's several selves—reflecting, witnessing, wondering, accepting—all at once” (Charmaz and Mitchell, 1996, p. 299). When conducting the write up of the analysis victims’ narratives of their experiences played a major role in the formulation of the analyses. It enabled participants' narratives to retain a degree of visibility in the text allowing clear connections between the analytical findings and the data from which they were derived (Fossey, Harvey, McDermott, and Davidson, 2002; Jones, 2002). Such an approach reinforces the role of the participant as a contributor to the analytical findings and meets the researcher's ethical obligation to “describe the experiences of others in the most faithful way possible” (Munhall, 2001, p. 540).

Ethical Consideration within the Study

While all research topics have the potential to be sensitive, some studies elicit more distress than others, and as such reasonable and appropriate safety measures are needed to reduce the risk associated with the research (Mealer and Jones, 2014). Here, the term sensitive refers to where the research may pose a substantial threat to those who are or have been involved in it (Dickson-Swift et al. 2008). Therefore, the researcher needs to acknowledge that all who participate can be affected, but also there is also no way to predict how participants may be affected as some issues

are not always apparent at the outset of the research. As such, researchers are obliged to conduct ethically should research which upholds beneficence and non-maleficence and protection from discomfort and harm, and self-determination (Dempsey et al. 2016). In this study ethical guidelines were followed to ensure there was no breaches of confidentiality or the invasion of participant's privacy.

Ethics is described as the systematic study of moral choices; it concerns the values that lie behind them, the reasons people give for them, and the language used to describe them (Israel and Hay, 2006). Every methodology has its unique ethical considerations, which raises potential problems for the researcher concerning the various roles she or he must often play. In social research, ethical frameworks are based on the consequences or outcomes of research participation and the rights of individuals (participants). Ethical considerations can be based on moral principles such as autonomy, non-maleficence, beneficence and justice, and rights-based approaches which involve respecting individuals, protection from harm and participation in research. For researchers in the field of criminology, the British Society of Criminology outlines the researcher's responsibilities towards research participants. For this research project the most important responsibilities are the researcher's responsibility to ensure the psychological well-being of individuals participating in research is not adversely affected by participation in the research; basing research on the freely given informed consent of those being studied.

In this study the ethical considerations were related to the impact of the interview process on participants, informed consent, anonymity, and confidentiality. As such the major ethical considerations was gaining consent from the interview participants, ensuring participants anonymity, and that their narratives are kept in a confidential manner.

Sensitivity, the Participant and Potential Harm

Dury et al (2007) purports that any interview is sensitive as the disclosure of information about the self makes the respondent vulnerable to emotional turmoil. As a rule, researchers should not conduct studies that may be harmful to subjects, particularly if the potential harm has not been explained to the subjects and their informed consent elicited. It is the researcher's duty to assume

personal responsibility for all phases of the project as it may potentially impinge on the well-being of subjects. Due to the nature and topics within the research study, interviews had the potential to trigger painful experiences for victims. Therefore, there was need to consider issues of sensitivity and potential harm.

After the development of the interview schedule and prior to the data collection, there was a review of the questions and the consideration of questions that may cause emotional responses. While Hewitt (2015) purports that it is difficult to define ethical conduct in the context of qualitative interviewing in advance, as harmful questions can arise at any time during the research process, there was a need to consider the effect some questions may have on participants and develop a way to prepare for them. This gave rise to the creation of a protocol which was included in the information sheet (see Appendix III) which was explained at the start of all interviews. The information sheet indicated to participants of their options of terminating the interview or taking a break when they feel a sense of discomfort. Participants were also informed that where questions were difficult, too intrusive or they were unwilling to answer, such questions would be exempted. During the process, participants answered all questions where necessary and none raised any issues related to intrusiveness of the questions.

Prior to call the for participants and to minimise the potential harm that could be caused by questions, the interview protocols were sent to the gatekeepers identified. This was done to build trust and rapport with gatekeepers as well as to provide gatekeepers the opportunity to indicate if any of the questions posed can cause emotional distress. The gatekeeper had no objection to any of the questions being asked nor did they indicate that they believed any of the questions would be harmful to the participants.

Prior to the interview, when preparing ways to treat with possible emotional responses during the interview, it was decided that where participants began to show signs of distress, discomfort or anxiety, there should be some intervention. This took the form of asking the participant if they needed to take a break, would like the interview to end or whether to call someone such as family member or friend. It was decided that the protocol would be to remain with the participant until they become calm and composed regardless of their decision to either end the interview or continue. During the interviews two participants displayed distress.

The first participant, Hannah, became emotional when discussing her attendance at the court. Once she became emotional, the interview was paused, and a recess taken. Once she became calm, the option was given to end the interview, delay the interview for another time or continue. Hannah decided to continue the interview. The participant, Mary, became upset when discussing the aftermath of her son's body being discovered and the investigation into his death. On this occasion, the same protocol was observed. After a short respite, and some conversation about her current counselling and support, Mary decided that she wanted to continue the interview. She stated that she found the interview process cathartic as she was never given an opportunity to discuss her experience or asked her opinions about her experience. Other participants noted that they also found the interview process to be reflective and therapeutic and have never discussed their experiences prior to the interview.

Anonymity and confidentiality

Central to persons' participation in research is the guarantee provided to them of their anonymity and confidentiality. The British Society of Criminology establishes that researchers should not breach the 'duty of confidentiality' and not pass on identifiable data to third parties without the participant's consent. Confidentiality relates to the protection of the data collected, whereas anonymity relates to the protection of the participant. Gillon (1986) defined autonomy as the capacity to think, decide and act based on such thought and decision freely. As such for the participant there should be two conditions present, firstly liberty (independence from controlling influences) and, secondly agency (the capacity for intentional action) (Beauchamp and Childress 2001). It is essential to inform participants about how far they will be afforded anonymity and confidentiality, working within the confines of current legislation over such matters as privacy and confidentiality, data protection and human rights. In some instances, confidentiality is overridden by law, however in this research project there was no need to divulge information to legal or other authorities

At the start of each interview, participants were given guidance on the confidentiality and anonymity of the process. Participants were made aware of how the transcribed interviews would be stored and how the information would be treated. In this study anonymity was most relevant to

the identity of participants. As a rule of thumb, interview transcripts should not provide information that could lead to the identification of participants. Therefore, when transcribing the interview data, there needs to be a considerable effort to make the data anonymous. As such the names of participants, reference to locations and individuals were replaced with pseudonyms. The use of pseudonyms (as can be seen in Table 1, above) helped to differentiate between interview participants. Additionally, the anonymizing of places (geographical information) and reference to families and friends also assisted in the further protection of the participants.

Informed Consent

The Nuremberg Code (1946), states that

‘the voluntary consent of the human subject is absolutely essential. This means that the person involved should have the legal capacity to give consent, should be so situated as to be able to exercise free power of choice, without the intervention of force, fraud, deceit, duress, over-reaching or any other ulterior form of constraint or coercion’.

Within this project, informed consent was an essential component in the interaction between the researcher and researched. Tee and Lathlean (2004) defined informed consent as an explicit agreement by participants to participate in the research process after receiving comprehensive information regarding the nature of the research. Moreover, consent is given by participants voluntarily; they should not have been threatened, induced or deemed to be mentally incompetent. The British Society of Criminology purports that ‘informed consent implies a responsibility on the part of the researchers to explain as fully as possible, and in terms meaningful to participant, what the research is about, who is undertaking and financing it, why it is being undertaken, and how any research findings are to be disseminated’ (British Society of Criminology). Therefore, participants must be informed of their rights to refuse permission or withdraw their involvement in research at any time. There must be the provision of appropriate information to enable people to make an informed decision about their participation in the research. In this research project consent was requested and a consent form was signed at the start of each interview. Where the interviews were via telephone, verbal consent was recorded.

Chapter Five: Victims' Access to Justice and their Struggle for Ownership of Conflict

'You lose control the minute you give that report, because as a witness [victim], I can see how intimidating the process can be and I can see why victims would recall their statements or pull back. Because if I [the victim] don't have that support system to carry me through this... many people don't think that they will survive. The mental and emotional torture that exists not everybody could survive this...' (Hannah, victim of sexual assault and robbery)

This quote, and the many other narratives that will follow in this chapter, represent victims' experiences of accessing justice in Trinidad and Tobago. Victims' access to justice refers to the availability and accessibility to mechanisms of justice (personnel, institutions, and services), as well as the ability to participate, have agency and voice within the criminal justice process. While these procedural aspects in some form exist in Trinidad and Tobago, little is known about the practical implementation and implications on victims' experiences of accessing the criminal justice system.

This chapter analyses the nuance and variance of these access experiences. A multi-layered analytical approach is used to focus on the micro, meso and macro levels, exploring the nature and impact of these experiences on victims and their quests for access. The chapter explores victims' negotiations of access in their interactions with criminal justice actors and highlights the interpersonal and informational issues experienced. Furthermore, it examines the barriers encountered at the institutional level and how these reinforce feelings of inaccessibility. In the concluding segment, the chapter invokes Christie's (1977) notion of 'conflict as property' to reflect on how this correlates with victims' experiences of stolen ownership, conflict appropriation, case mismanagement, and conflict dismissal and stagnation.

Accessing Justice as negotiating justice: A micro-level analysis of victims' access to justice

All the interviewees in this study had experienced some level of interaction with criminal justice actors (police officers, attorneys, and judges) resulting from their victimisation, though these interactions varied considerably. Of note to many were the attitudes and behaviours of the criminal justice personnel they encountered – primarily in relation to how information about the crime was collected – and the resultant impact these attitudes had on victims' journeys through the justice system. The following section examines two major dimensions of victims' interactions with justice actors: interpersonal justice and informational justice (Laxminarayan 2013). According to Colquitt et al. (2001, p.427) interpersonal justice 'reflects the degree to which people are treated with politeness, dignity and respect by authorities and third parties involved in executing procedures or determining outcomes.' Informational justice refers to the 'explanations provided to people that convey information about why procedures were used in a certain way or why outcomes were distributed in a certain fashion' (Colquitt et al. 2001, p. 427). Victims' descriptions of their interactions with personnel reflected the discrepancies between what they had hoped or expected to achieve from engaging with the process, and what had emerged. The analysis of victims' narratives highlights the nature of interpersonal interactions with justice actors, which resulted in experiences of secondary victimisation, and neglect. Additionally, it uncovers the marginalization of some victims within this system, through case mismanagement and communication errors. Therefore, for many victims, accessing justice required careful and considered negotiation in their interactions with statutory personnel. As this section will demonstrate, victims' navigation of the criminal justice system involves many barriers and obstacles in terms of the people, processes and presumptions encountered.

Interpersonal justice: Victims' interactions with criminal justice actors

The interviewees described a range of experiences relating to their interactions with criminal justice personnel; some familiar, others less so. All victims in this study began with an initial engagement with police officers. However, few made it past this point to engage with more senior personnel such as judges, lawyers, and court workers. The inability for some matters to proceed

beyond reporting may be due to the low criminal detection rates in Trinidad and Tobago (Overseas Security Advisory Council 2019; Bridglal 2020). Therefore, the majority of interactions with police officers related to the reporting victimisation, as well as the giving and receiving of information if the case progressed. This dynamic strongly highlighted the interdependency that exists between victims, the police, and other personnel.

When questioned about their reasoning for reporting their victimisation, victims recognised that notifying police officers was the first step to gaining any (potential) justice in a society where the primary mechanism for resolving conflict was the criminal justice system:

...it is the only avenue that you have to go for and hope that you get justice. Or not only justice but hope that you get at the end of it your life is being saved. (Nadia, victim of domestic violence)

This was a popular perception, mirrored by other participants who also believed that the criminal justice system was the only authority and means by which to obtain redress for harm. This system is considered to provide hope for justice and safety. Therefore, it is unsurprising that several of the interviewees described having faith in it when recounting the start of their journey. However, such systems are inherently offender focused. While police officers and other statutory personnel are reliant on the victim's information to proceed with a criminal investigation or offer support, their perspectives on how to effect justice may differ considerably from those held by victims. For some statutory personnel, the criminal justice system serves to objectively measure actions as justifiable or unjustifiable, often with little regard for what the victim wants or needs. In the below excerpt, Irma (a victim support officer in the Police Service) highlights how these discrepancies in what counts as 'justice' differ vastly among those involved in a case:

The whole motive for the criminal justice where it is said to bring to justice to people. It is really not justice to the people, but justifying the criminal action. It's just not the criminal action but justifying his action if it is a good action or an action where he or she is responsible and have to be held responsible. Because at the end of the day if that individual be it, he commits a murder or mayhem or whatever he does if his lawyer is good enough, he can win that matter. And the pain of the victims has nothing to do with justice at the end of the process. (Irma, victim support officer)

This conceptualization of the system's motive places the defendant at the center of the process and the victims outside of it. The system's main goal is validating the guilt (or innocence) of the accused and the allocation of resources to this specific purpose. These motives shapes victims' expectations and subsequent experiences. Moreover, the responses to victims and their victimisation sets the tone for the interactions between victims and criminal justice personnel.

The analysis highlighted aspects of shared and distinct interpersonal experiences among direct and indirect victims, based on crime types, the nature of harm incurred and victims' differing needs. Interviewees highlighted a range of different positive and negative interactions. Some intimated scenarios where some justice actors were respectful and polite, and there was a sense that some police officers saw the need to protect victims. For example, Hannah, a victim of a violent sexual assault and robbery and the wife of a police officer stated:

...you could say and even there I saw that they [the police officers] were protecting me from that kind of thing [media attention], I wasn't allowed to walk outside, I would have to stay in the vehicle and things like that... And it was just really not having too much media invasion. I can't say that my personal interaction with them was anything but as pleasant as it could be under the circumstances. (Hannah, victim of sexual assault and robbery)

In Hannah's description of events, her matter had attracted the attention of local/national news reporters as her husband was a law enforcement officer. During this period, there was some debate about law enforcement officers being in possession of their service weapons outside of their working hours and at home. The victimisation experienced by the family provided an ample site for the lobby of officers being in possession of their service weapons outside of their working hours. While her status as the wife of an officer possibly contributed to her positive interactions, she was not the only victim to consider her interactions with officers as positive.

Shauna, the wife of a murder victim, also indicated that she had positive interactions with the police. In her interview, when discussing her interactions with the police she stated:

Well, the person who was in charge handling his case [her murdered husband], she [the corporal] was a very nice woman. She would contact me, well that was before... I haven't heard from her in a very long while. She would contact me to find out how I am doing and how I am coping and Mr X the person who is in-charge of homicide, he's no longer down

in south anymore. So I've lost base touch-in with him because we would talk and I would go and check in with him and he would talk to me and give me advice, try to encourage me on how to deal with the situation and he informed me that the case will always be open until they get some sort of justice. (Shauna, the spouse of a murder victim)

Other victims, like Shauna and Hannah, shared comfortable interactions with the police officers and justice agents involved in their cases. Such interactions were characterized by feeling protected as well as receiving communication and support. These descriptions of their interactions demonstrate that feeling a sense of safety and support are important to victims and how they feel about the system. Additionally, in both instances police officers had not yet found suspects, the communication and respect they received made the interaction positive.

Yet, while some victims had positive encounters, others described their interactions as being disrespectful. Such participants found that police officers had spoken to them in a hostile manner, or the judges at the Magistrate Court were sometimes hostile, strict, and seemingly lacking empathy. The analysis found that such narratives of negative interactions indicated the prevalence of secondary victimization—institutional secondary victimization. The UNODC (1997) notes that institutionalized secondary victimisation is apparent within the criminal justice system and may amount to the denial of human rights to victims from particular cultural groups, classes or a particular gender. Such a form of secondary victimisation may occur through the lack of recognition of experiences of criminal victimisation, intrusive or inappropriate conduct by police or other justice actors, or more subtly through the criminal justice process. In victims' narratives there were numerous experiences that are indicative of institutionalized secondary victimisation, as those responsible for ordering the process and its procedures did so without considering the victim.

Research has found that many victims experiences of secondary victimisation from the criminal justice system is often related to victim-blaming attitudes (Campbell, 1998; Campbell et al., 2001; Madigan and Gamble, 1991), as well as insensitive or unresponsive treatment from justice actors (Martin and Powell, 1994). This was also found in the present study. Moreover, the literature also notes that secondary victimisation can lead to detrimental outcomes for the victim, including anxiety, fear and feeling ostracized (Barkworth and Murphy 2016). In this current study, negative responses by justice actors to victims resulted in their violation of legitimate rights and

entitlements, such as poor and limited communication, neglect, and impediments to due process practices. Such experiences resulted in victims often attempting to navigate their way to justice by negotiating, managing, and maneuvering where possible throughout the process.

These experiences were prevalent amongst victims of domestic violence and women. The victims described the treatment they received as being unhelpful and disrespectful. For some interviewees, police officers, through their responses to reports and queries, were considered dismissive and contemptuous. One victim who had suffered years of domestic abuse from her partner approached the police for assistance on more than one occasion. When recounting her interaction with police officers she stated:

The one or two times I come to the station it was always the same thing. Especially with male police officers. They would be like 'allyuh women does thing [nag]...why don't you go back and if you give the man some sex he would behave'. (Keisha, victim of domestic violence)

On another occasion when Keisha made a report to the police station:

He said, 'you came to make a report on your husband?' I said 'yes, please'. He steups [sucks his teeth] saying 'you women are not easy'...he said 'all you have to do is go and give him some sex and he will shut up and behave himself. That's my boy I know him' and then the other officers started to laugh (Keisha, victim of domestic violence)

The mocking and contemptuous responses suggest a culture of victim-blaming may exist among some officers within the police service that leaves some victims feeling responsible for the harm they experienced.

In the first incident Keisha identifies the police officer(s) as being male, which suggests that in her estimation the resultant disrespect and disdainful attitude is related to gender. Her specificity of stating that such behaviour stems from male officers suggests that the fact that her gender may play a role in these dismissive interactions. The response of the police officer stating 'you women are not easy' represents a gender bias. While such a bias may not be embedded within the entire police service, the bias of individual officers has an impact on officers' interactions with victims, in particular their responses to women. Such attitudes can be attributed to sexism, as they legitimize violence against women due to the woman's perceived inability to fulfill traditional

gender role expectations (Abrams, et al.,2003). The officer's inference that her victimisation (which is linked to patriarchy, power, and control) is intermingled with her sexual performance, makes light of the nature of domestic violence. Moreover, his comments implies that Keisha is a sexual object and possibly deserving of the abuse due to a possible lack of a sexual relationship with her partner. This encounter indicates that the officer's biases minimized the victim's account and blamed her for the circumstances in which the abuse occurred. Moreover, he suggests that the source of her abuse stems from her creating a situation in which she has angered her male partner, therefore she can resolve the issue and make reparations through having sex with him. Such responses serve to exonerate the abuser from his abusive behaviour and seemingly justifies the abuser's actions when legally the abusive behavior is a criminal offence.

Keisha's account of her experience also highlights that there may exist some value system or prejudice within the police service. She notes that the officer made derogatory comments in front of other officers, and they all laughed. The failure of other officers to mediate or intervene when hearing such comments, suggests that there may be some gender bias or prejudice amongst the police. This is indicative of the discourse on the 'cult of masculinity' that exists within police occupational culture (Smith and Gray 1985; Brown 2007; Silvestri 2017). It demonstrates that the gendered cultural practices of the police are replicated in officers' responses to domestic violence, affecting how they intervene and possible outcomes (Yalley and Olutayo 2020). It also implies that criminal justice agents support and reinforce gender hierarchies and relations of domination and subordination that prevail in the wider society and hinder victims' attempts to gain redress (Lazarus-Black, 2007).

Moreover, her account of the officer's reference to her abusive partner as being '*my boy*' highlights two barriers that some victims face when accessing justice. It reaffirms the implication that there is canteen culture based on biases that go beyond the police service. Such comment suggests that there exists a gendered network where men may look out for each other, even where there is evidence of abusive offending behavior. Secondly, it reinforces a fear that in such a small island officers may know their abusers, making victims unwilling to report. In a comparative study on the availability of legal aid and assistance for women victims of gender-based violence in the Caribbean (Hurwitz 2014), it was noted that in Trinidad and Tobago, besides dismissive and sometimes inappropriate attitudes of police officers in receiving the report, the police officer

knowing the perpetrator, may hinder the victim's filing a report or their report being taken. For example, Jemma, a victim of domestic violence, refrained from reporting her abuse, because of her partners relationship with officers. She stated:

For me it was just getting away from him and I did not think that the criminal justice system would have helped me. Knowing I was afraid and knowing his connections, I knew his weight and I knew what he could have done. So, it was just about me protecting myself and getting away from him ...I did not think that going to get police involved, who he knows in this district...it would not have helped me because it would get back to him and it would be a battle (Jemma)

Another account of police responses to a report of domestic violence also insinuated the belief that some women liked the nature of their abusive relationships:

Some of them [police officers] would say 'Don't worry she will go back that's love... that's how their love is'. And I would be like this is a police station why would you be like that and say something like that because it's not one or two times I have been here. Ten...Fifteen times I have been to this station making the same reports. (Ameena, Victim of Domestic Violence)

Here, the victim's possible unwillingness to leave their abusive relationship is being highlighted and it is being suggested that for this reason the report should not be taken seriously. The officer's comment that the victim will return to her abuser and that this is the nature of relationship suggests that such women are not genuine/deserving victims. Moreover, the abusive cycle within the relationship is being trivialized and dismissed. Such dismissive attitudes also imply that when victims of domestic violence report, and their accounts are powerless and negligible. Conley and O'Barr (1998) refers to this as powerless speech, that is, speech that the system devalues and finds lacking in credibility. When victims' reports and accounts were dismissed by police officers, they became disempowered and powerless.

The presence of these problematic attitudes was also outlined by one of the victim advocates interviewed. When questioned about the respect officers and personnel have for victims, there was some acknowledgement that police officers were respectful but there exists a culture of victim-blaming:

Some officers treat victims with respect. It depends on the officer. Officers who are dedicated to their job may be more respectful. But there are others who may have some victim-blaming attitudes. (Frank, victim support officer)

In addition to officers' contemptuous and disrespectful statements or biased insinuations, victim-blaming was also evident in officers questioning victims' decisions to report the incident at all. As Elizabeth's experience indicates, the officer appeared more concerned with the potential impact of the report on her abusive husband than addressing the offence she was disclosing:

'What you doing this for? Because when your husband get charge it going to remain in his records'. And then I start thinking about my son and people will know his father have a bad record. And my husband is a Guyanese national, when it's time to get his visa, he can't get his visa and this time I am getting blame so I worried about that. (Elizabeth, victim of domestic violence)

The officer's questions about her actions in reporting the abuse created self-doubt. It made her think about the repercussions for her child and the abuser. She also considered that she would be blamed if the report hindered her husband's residential status. Therefore, the victim-blaming in this example went beyond the initial incident to incur future blaming for any potential negative ramifications arising from her report. Such an interaction serves to both disempower the victim and while contributing to feelings of secondary victimization.

Domestic violence victims also narrated experiences where their interactions with officers seemed suggestive of sexual undertones. Female victims recounted male police officers asking for their phone numbers, which often made them feel uncomfortable. One victim described how an officer had asked her daughter for her number after she reported her abusive father, just as she and her mother were being removed from the family home to prevent further abuse. Another domestic violence victim, Elizabeth, detailed an interaction with an officer where he spoke openly about this type of unethical behaviour among his peers:

This particular officer was telling me that some of the police, they would want your number to make a fling one time. It's like get your number to be friendly. Maybe they [police officers] felt like they have this young woman who is in problems and they feeling that some of them weak and that they will run [have a relationship] with them. So, they may catch

girls like that and some police officers move like that, some women do go with them
(Elizabeth, victim of domestic violence)

Later in the interview she recounts her own experience:

Another time I went to make a report and a next one gave me his cell number to call him anytime anything happen and he would personally come down. But I know is small talk [conversation that can lead to a relationship] those guys want. Maybe the guy was being genuine, but I didn't take the number or anything I just left that as is. (Elizabeth)

These inappropriate interactions between male officers and female victims evidences the lack of professionalism and the exploitative nature and culture of those operating within the system. Such behaviours and responses contributed to victims' feelings of secondary victimisation and potentially affected their psychological recovery from their experiences. Moreover, such accounts are indicative of the minimalizing and dismissing of domestic violence by some justice actors. This can result in the marginalization of already vulnerable individuals. Despite being confronted with these attitudes, some victims described their persistence in trying to report domestic violence to the authorities, often with little success. The repeated (and often escalating) nature of domestic violence means that each time victims sought to access police assistance, their needs (and risk level) may have been greater or more pressing. Yet, despite encountering such dismissive and humiliating responses from officers, they still tried to elicit engagement. Despite these victims recognizing that their risk of harm had escalated to the point where they needed the police to intervene, it appears as though the police often thought otherwise.

Accounts suggest that feelings of secondary victimisation were also the result of police officers and other justice actors doubting women's victimisation. For example, Ameena interpreted the officer's querying of her attempts to report as indicative of him doubting her account of the abuse. This ultimately resulted in her giving up on the process. Ameena recounts the abuse and harassment after her relationship ended and her experience of reporting such an incident:

and they [the police officer] would ask if I have a man in my life...and I would ask 'why you ask that?' And he would say 'no... because I find it strange that all of a sudden you would want to report etc'. And I would be like 'me and him are separated for your information. And although it is none of your business, I don't have anybody. I have to

take care of me and my three children'. And he was like 'ok darling', and he would walk out and someone else would come talk to me. So, in that case not everybody is likely to believe me, and they will believe him, and it was like, the two stories were always a talk in the station. That's why I kind of give up on everything. (Ameena, domestic violence victim)

The officer's intrusive questions into her personal life, coupled with their dismissive responses and inactivity, made her question whether they believed her. Interestingly, she went on to rationalize that perhaps the officer's response was the result of previously having encountered false reporting from others:

Some people would go and make reports and make up stuff about people and they there with the police and the system has a two-mind when someone makes a report. But I believe that once you make a report sincerely, they should take it seriously. (Ameena)

Ameena seems to imply that she believes police officers should be able to tell a genuine report from a false one. Therefore, she expected the system to provide her with the necessary and desired assistance. In suggesting that there are people who make false allegations of domestic violence, and that the police are aware of this, she also acknowledged that the system must engage in a process whereby it discerns between the parties along the lines of a 'he said/ she said' culture of criminal justice.

Other domestic violence victims shared feelings of being regarded with suspicion in their interactions with more senior criminal justice personnel. The fear of not being believed, or it being their word against that of their abuser, meant that in some cases victims often felt the need to justify their claims in court, as their abusers gave conflicting stories and events to the judge. One domestic violence victim, Jemma, felt embarrassed at court after a judge described her matter as '*man and woman business*' before dismissing her request for a protection order¹⁴ against her partner, who had gone before the court to make numerous false claims about her and the nature of their relationship. This reference to her abusive relationship, is demonstrative of an attitude where there

¹⁴ A Protection or Restraining Order is a court document which restrains a person from engaging in abusive behaviour of any type. The Domestic Violence Act in Trinidad and Tobago specifically states under Section 3 and Section 4 that a person's Protection Orders are granted to persons who are members of a household or was in a relationship.

is some cultural sanction against interfering with a person's relationships. Jemma felt victimized, firstly by her partner and then before the courts as the judge did not believe her. Furthermore, Jemma was employed in the criminal justice system at the time, therefore her private matters became public knowledge, so her colleagues were made aware of her 'embarrassing' circumstances. By making such a reference to her relationship and the environment of the court, it also indicates a culture of silencing. As Jemma while given the opportunity to speak, the content of her message is not only ignored but ridiculed.

These interactions caused additional harm to victims as the responses from such formal support systems were not only inappropriate but seemingly failed to recognize who were the real victims in such situations – and to identify truthful accounts of events. For example, Heidi questioned the judge's ability to differentiate her truth from her partner's falsehoods and theatrics:

Judges should be able to see victims of abuse and see that they are being abused and that is there is a difference between persons who are abused and those who are not. They should be able to see the truth. My ex went to court crying saying he wants the family back together, using emotions to sway the court. I was in shock over his behaviour and his ability to sway them. (Heidi, domestic violence victim)

Heidi's shock about her abuser's behaviour and his ability to sway the court also suggests a possible sense of betrayal by the judge. This is due to her expectation that she would be believed, validated, and protected from her abuser. It is also representative of a common fear of victims that the law will take the side of their abuser. The literature on victim's engagement in the criminal justice system often highlights that one of the barriers experienced is the victims fear that they will not be believed by justice actors (Sable *et al.* 2006). Heidi's description of the incident calls into question how justice actors judge the credibility of persons that are before them. Also, it can be indicative of the nature of the criminal justice system which may seem as contesting of her credibility as a victim versus the credibility of her abusive husband. Prior to entering a courtroom, the victims' credibility is questioned and contested as an actual victim to the crime, with a case that is worthy of processing. This scrutiny is particularly exacerbated when the victim is female, or the allegations are of a domestic or sexual nature (Randall 2010). Therefore, to Heidi the judge's inability to see through her husband's behaviour and question his credibility of being a remorseful offender, also places a question on her credibility as a victim.

Other direct and indirect victims (such as relatives of murder victims) also experienced secondary victimisation because of attitudes during their interactions. Celia, a visually impaired victim recalls her call to the police to report suspicious activity around her home after experiencing a robbery earlier that year:

I called, I said 'Hi, I am visually impaired, and I was a victim of crime and I home alone and I heard...I am hearing noises can somebody please come and check on it' and the operator was insensitive...they asked me 'oh you visually impaired...do you live alone?' and I said 'yes'. They asked me 'why you are living alone'...

For Celia, questions concerning her living conditions and her impairment were considered condescending and disrespectful. For her the operator's focus on her visual impairment and questioning why she lived alone was insensitive and diminished her capacity to act independently despite her disability.

For some victims, officers displayed a lack of empathy and sympathy. Additionally, they found officers to be impersonal and hostile at times. Jennifer, the mother of a murder victim, spoke about such attitudes:

It was kind of disheartening; I was being asked like if I was a suspect...not a victim but a suspect. And...certain questions were asked, and it made me feel like they were treating me like I didn't really care much about my daughter. Like I didn't really care much about her... (Jennifer, Mother of a murdered domestic violence victim)

Such interactions left victims jaded, and skeptical about the investigations and the future success in their matters if they went forward. Another victim who felt that the officer's questioning was a cause for concern was Hannah, victim of sexual assault and home invasion. According to Hannah, due to her husband's profession in law enforcement, there was an internal investigation which she found to be probing and discomforting because of the line of questioning and her lack of awareness of this process when it occurred. She says:

You hear about being revictimized and the closest I can identify that term, was the police themselves their internal investigation. So as an officer this is part of their internal investigation. There were officers that had to question me as well being the spouse of a

police officer, almost like they were investigating him as well, which I was not aware of.
(Hannah, victim of sexual assault and robbery).

Prior to this recollection (as observed earlier) Hannah describes her experience with justice actors as being positive in nature, being shielded from media invasion and other actions. She acknowledges that her experiences were possibly the result of her husband's relationship with the police and investigative officers. However, here she discusses her experiences and feelings of revictimisation where she was subject to an internal investigation due to her husband's status as a member of law enforcement. A comparison of these two experiences demonstrates the variability in interactions with different personnel at different stages yielding different experiences. However, this specific experience can also prompt questions about how police officers in their internal investigations view their own when they are victims of crime.

However, not all opinions were so polarized: those who detailed more neutral interactions indicated an understanding that these people were just doing their jobs. For example, Martha, a victim of domestic violence, stated that in her experience some police officers treated her with respect and compassion, but for the most part they were neutral. Similarly, another indirect victim, Victor, stated that:

...it's like the police just want to go and do their job...they working there and making their time. They're getting paid from point A to point B and that's it. (Victor, father of murder victim).

Information justice: Poor Communication and Deficits of Information

The importance victims attach to being kept informed has been well documented (Irazola et al.2015). In this present study, for most participants, communication with officers and other personnel was extremely important. Here, communication was related to police-initiated contact after an initial report and explaining the justice process and its affiliated options where applicable. Some victims believed that communication granted them an awareness of criminal matters while making them feel assured that the system is working to ensure that they receive closure. Harvey, an ex-worker in the criminal justice system, noted that:

Communication...I think is the key. All a victim wants to know is what's happening and if anything is happening, positive or negative just tell me something that's happening. Because my life is now changed... everything... (Harvey, victim of attempted murder and robbery)

Williams and Rheingold (2014) found that one of the frequently endorsed barriers to care for homicide survivors, besides financial barriers and health-related problems, was inadequate information. Moreover, Mulvihill et al. (2018) found that how information is used and delivered can be as important as the content and timeliness of communication. In this present study both direct and indirect victims regardless of crime type, age or gender desired communication and sought to receive information from officers and personnel about their cases. Some believed that communication would have allayed their fears and anxieties associated with being victims. Additionally, participants believed that communication also provided them with a sense of closure where no suspect was apprehended:

there are other victims who have no suspect or perpetrator, and they are...living in limbo. If there is no communication or evidence to bring before the court, something should be communicated. At least a letter, mailed to the victim stating that to date if two years passed there is no new evidence on the matter but rest assured, we are continuing to investigate if anything does come up we will inform you. Something like that. So, there is closure in the victims' mind that the police still doing something or there is hope, someone still has my back. (Harvey, victim of attempted murder and robbery).

While persons were desirous of communication and information, victims' experiences differed due to factors such as the nature of their victimisation, their relationship with personnel or who had been assigned as the corresponding officer. Both direct and indirect victims expressed breakdowns in communication between themselves and justice personnel, especially when evidence or information about the matter was lacking. Additionally, it was stated that there was a lack of communication about the services and the actual process. However, indirect victims were more likely to be subject to poor communication from police officers. When asked about the nature of the investigation and obtaining relevant information, there was consensus among interviewees around the absence of information or communication from investigating officers. For example, when asked about receiving information and updates on her son's case, Grace stated:

I never heard from them [the police] and my other son said that they never contact him. The phone remain with the police because we never made contact with the officers. You know they have to go through phone and what not...they never contact to say well listen we finish all the investigation come and take up this phone no they didn't (Grace, mother of murder victim)

Some indirect victims were persistent in obtaining information and they recounted experiences of making calls and visiting the police station but failing to get any relevant information:

I kept calling to find out as well...I think that happen before or after I'm not sure but I had to keep calling this is in the final when they would release his belongings ...his personal belongings on him and in the vehicle and also the vehicle as well. So I had to be calling...calling and calling. to get to speak the officer that was in charge every time I call he was not there or I have to call back. I would leave messages. (Venessa, Wife of murder victim)

In some instances, where information was given, some victims felt that they were being placated and there was no real investigative action going on behind the scenes. Victor, the father of a murdered teenager, had a number of experiences with poor communication and deficits in information during the investigation of his son's murder. When describing the investigative phase, Victor stated:

they tell you certain things that you want to hear. That's all. They tell you what you want to hear meaning that...yeah, they working on the case ...they doing this ...they doing that. Only, when I start to contact certain seniors then something positive went on but at the end of it up to now it ain't resolve. But they just string you along. (Victor, father of murdered teenager)

In Victor's estimation the police provided false information about their activities in relation to the investigation. Such experiences and scenarios of miscommunication of information, created some frustration for Victor. He further described these experiences where there is a failure of officers to provide clear and accurate updates on the matter. He explained:

They just give me misleading information as usual[...] They saying that my son was sent abroad for testing only to realise that 2 years now that his DNA was sent to Trinidad

Forensic Lab and do you know the lab is not functioning. Since last year March, so in other words, they fooling [not telling the truth] the public and I had to speak to the officers about it. At the end of the day, they give you misleading information but personally I feel they get directive not to give the public true information. (Victor, father of murdered teenager).

This recollection of missteps and miscommunication between himself and officers, seems to not only perpetuate feelings of frustration but also mistrust. Victor statements implied that he believed miscommunication is a common issue with the system and its justice actors. His specific meetings and interactions with justice actors, continuously revealed that he was fed misinformation by justice actors, and this fosters mistrust. His statements further implied that justice actors are attempting to hoodwink the population (public) and the provision of misleading information stems from higher than level of the individual police officer. He is implying that such a directive came from seniors and executives.

These narratives suggested that the lack of communication between the victim and personnel affected a victim's sense of inclusiveness in the process:

I mean just follow up don't leave us out here wondering what going on...what happening, and we don't have a clue as to what. And up till now I don't have any closure...about why it happen, or who responsible I have nothing, I know nothing. You just hear little rumors and thing on the outside and you know that's it. But the police ain't come to you directly and tell you xyz or so by so ... (Shauna, Wife of Murder Victim)

This failure to communicate gave Shauna and other victims with similar experiences the impression that the police are not interested, and that there is a lack of recognition of the harm. Additionally, these experiences also seemed to cause victim's further distress. Not only are they not kept fully informed of what is happening and why, but there is also a lack of closure. It is noteworthy that the failure to communicate with victims also implies that individuals are limited in the provision of information beyond reporting. Further, it can affect their willingness to provide information without the prompting of justice actors.

Some direct victims did not raise issues concerning a lack of information in relation to their matters when interviewed as they were given information (for example, details about court appearances and other processes that required their physical presence). For some victims while

their experiences of communication were more positive in the earlier stages of their case, this began to wane when there were no longer investigative leads. Kara, a victim of grievous bodily harm (GBH) by an unknown assailant, expressed contentment when in the early phase of the investigation officers visited her home to make inquiries and investigate the matter:

I was very happy that the police were actually making a trip to my home. I thought that that 'ok, this is a good sign, that things were happening and perhaps we might be able to get to the bottom of it and find whoever it is did it'

However, after this initial positive level of engagement, she received no further communication from the officers regarding the case:

...in retrospect and I'm not talking about today but over the years I always often wondered, because I never heard anything after that; that was the first time they visited my home and that was the last I heard from them since and I always wondered if there was some other reason why they were so insistent on coming home. (Kara, grievous bodily harm)

Kara acknowledged that she may not have been helpful as she was not aware of the perpetrators, and she held very little memory of the incident. As such, there was some speculation by Kara and other victims that the lack of information prompted a complete disconnect in communication between herself and justice actors.

Nevertheless, the importance of communication as a form of access was influenced by the victim's understanding of the police's role. Where victims believed that the police were responsible only for the investigation of matters and the apprehension of criminals, they paid little attention to the level of communication or information they received. When asked about issues around communication and information, one victim noted that she often went to legal persons outside of her case that were aware of the system to provide information about the various aspects of the process. She recalls calling her friend (a lawyer) on numerous occasions to explain and clarify information she heard or something she read in the newspaper as it related to her case and the criminal justice process. She stated:

I had a friend who was working in the DPP's [Director of Public Prosecution]¹⁵ office at the point in time, so I remember she was the one who came and visit, cause everyone had to visit as I had no more cellphone or anything like that. So she came to visit and then I was able to find how does this work? What is happening? And well she was the one who actually explained it to me. (Hannah, victim of home invasion and sexual assault)

While Hannah received information from someone working in the system, this person was unrelated to her matter and provided the information in the capacity of a friend. Hannah like other victims in this study were often unaware of the overall justice process as police prosecutors, judges and other personnel never took the time to adequately explain it. Some victims noted that they received information from persons outside the criminal justice system. When asked about receiving social support or referrals for support or compensation, some victims stated that they gained this information from external sources (friends and family) or through their own research. However, some persons failed to consider it may have been the job of the police or other justice actors they were interacting with to provide them with the necessary information. For example, in retrospect, Hannah states:

It was one of those types of moments and even then, I didn't realise or think it was the police responsibility to give me this information, I just felt that it was their responsibility to apprehend the guys. Even though they weren't giving me the information I did not feel indifferent to them I simply felt that they were supposed to be focusing on that and that was what they were doing I just need to find out what's happening. (Hannah, victim of robbery and sexual assault).

¹⁵ The Director of Public Prosecutions (DPP) is a position created by the Constitution of Trinidad and Tobago, is the head of the Criminal Law Department. The establishment of this position stemmed from the need for a constitutional post that would always be independent of political and stakeholder involvement in the prosecution of criminal matters. In this circumstance, the independence of this post is constitutionally guaranteed.

Institutional access and mechanisms of silencing: A meso-level analysis of victims' experiences of access

Besides interactions with criminal justice actors, victims spoke about their experiences with other supporting institutions such as criminal injuries board, social services, and health and medical services. Their narratives highlighted experiences of institutional barriers that hindered their access to the system and its mechanisms of justice. Their experiences demonstrated the inability of institutional resources to meet their needs, the ambiguity of policies, and the institutional cultures that perpetuate cultural distance between themselves and the criminal justice institutions. From the analysis, it was found that the institutional barriers encountered often served to silence victims and to appropriate their conflicts. Silencing refers to a form of attitudinal and behavioral acquiescence, where the institutions deny victims an available outlet for voice and agency.

Institutions' lack of capacity to provide access to justice.

Participants' accounts suggested that criminal justice institutions often lacked the capacity to provide victims with access to justice and were therefore not fit for purpose. Victims recalled experiences of physical barriers as well as the inaccessibility of institutional, technical, and human resources. Access to justice, as previously stated, denotes a wide variety of activities that require victims to engage with criminal justice institutions and support services. However, the experience of many victims was that the system and support services were too inefficiently resourced to deliver effective results.

Victims acknowledged the importance and use of technology, technical capacities, and physical resources in the police's ability to investigate criminal matters and solve crime. Hannah noted that the officers investigating her case were able to use technology to locate stolen property as well as assist in the apprehension of suspects. However, she recognized that technology and the technical capacities that were available in the investigation are not always available for other victims:

[The police] *should get access to all the resources that they need when they need it for any case. Those types of things are...understanding as well that their hands can be tied*

As such, she implied that the lack of technical capacity and technology is beyond individual officers; it was an institutional failing. This fits the experiences of other victims where technology and technical capacities were at times not available or non-functional in some scenarios. When recounting their experiences, victims recalled having issues with police investigations due to the questionable information they received about the use of technology and the technical capacities of criminal justice institutions. Victims expected institutions to be equipped with the necessary resources to assist and provide support when necessary. For example, Mary questioned the investigator's capability to assist in locating her missing son. In her experience, while officers (investigators) had the available technical resources, they failed to use them properly. Other victims also found that that criminal justice institutions lacked technical capacity to perform their duties. Victor's experience of inquiring into the investigation of his son's murder and discovering that institutions did not initially follow protocol in a timely fashion, and once these processes were implemented, their functionality was compromised, is an example of the justice institutions lack capacity. Although Victor met with the necessary authority, the PCA (Police Complaints Authority), this was met with very little result in relation to his son's case being properly processed. Victor's experience also highlights the role of accountability for criminal justice institutions. The Police Complaints Authority (PCA)¹⁶ is an independent oversight body staffed with civilians and set up by Parliament to investigate criminal offences involving police officers, police corruption and serious police misconduct and for other related matters. Due to this meeting with the PCA, it seems Victor was provided with further information about his son's matter and the lack of resources influencing the current outcome.

However, one victim indicated that a lack of institutional resources (such as vehicles to attend to an event) could have significantly impacted on the outcome of their crisis:

he [her abusive partner] called the police station and he told the officers 'I am going to her apartment now tell me what you all can do' and the officer told me that...and we know he was calling the station and all they could have told us was 'Ma'am we are so sorry we have no vehicles [lack of cars]'. From where I was renting if they ran up or walked up the road they would have met him and they were like 'Ma'am we really don't know...we have

¹⁶ See Footnote 5

no vehicle here and we really can't come...if he do enter just give us a call'. (Ameena, domestic violence victim)

The issue of limited police resources was common among some victims' narratives. For Ameena, this lack of capacity was based on her experience of failing to gain assistance upon reporting as officers stated that there were no vehicles at the station to come to her home. As, such, she was unable to access the services and protection of the police. Although other victims did not mention the lack of police vehicles as an obstacle to police support, it is a common issue. Wilson (2019), in a local newspaper, reported that police officers assigned to the Southwestern Division (specifically Trinidad) were literally grounded due to a critical shortage of vehicles. This situation is problematic for victims as they are left stranded and without assistance for a lengthy period. The article provided insight into an incident where a 21-year-old man reported that he was robbed by four men around eleven o'clock at night while he was standing along a major carriageway awaiting transportation. He [the victim] stated that the men stole his wallet with money and jewelry, however, when he contacted the police station, he was told there was no vehicle to respond. Mastrofski and Lum (2008) in their study found that newspapers frequently described instances when citizens report a serious crime to the police, but the police respond hours later, if at all. This lack of resources indicates that officers may not have the capacity to respond to reports in a timely manner and there will be delays between the time the call was made and the police arrival. Here, the lack of available vehicles denies the victim immediate support and safety.

Victims' experiences were also influenced by institutions' human resource (staffing) capacities. Reasons for delays in the process, including the failure to keep victims updated or breakdowns in information and communication, often stemmed from the lack of supportive services and adequate staffing within the various criminal justice institutions. Victims recognized that institutions such as the police often lacked the required personnel to adequately address their reports and information queries. Domestic violence victims, in particular recounted their experiences of waiting in the police station as there were no officers available to process their reports:

It was the 3rd September 2018. At [REDACTED] Police Station at 8 o'clock in the night there were only 2 police officers in the station at that point in time (Anna, victim of domestic violence).

The police station Anna refers to is located in the central business district of one of the major boroughs. Therefore, the officers at this specific police station serve a large number of urban, suburban and rural communities. The lack of manpower at an urban centre has some effect on the distribution of police services, the standards for equity in resource distribution and the possibility of this configuration being influenced by biases (Mladenka and Hill 1978).

For some participants the lack of human resources and the subsequent consequences were related to the absenteeism of officials within criminal justice institutions. Victims recounted how absent police officers, police prosecutors, lawyers and attorneys caused delays. Some participants described investigating officers being removed or placed in other departments and stations, creating problems for the sharing of information and the investigation more generally:

And then when we realised that nothing was happening. We went back a couple of times and every time we're seeing like a different person. The first couple times it was the first policeman that we saw but after that it was different persons. Because they moved the guy and sent him somewhere [REDACTED], because he did not even tell us that, it is when I called to find out what's happening, if there is any update it is then I realized (Mary, mother of murder victim)

Victims very rarely received spontaneous updates on their cases, however their situations often worsened once the investigating officer was transferred or went on leave. Victims only became aware of an investigating officer's absence when they took it upon themselves to inquire. This signals that the police as an institution lacks the enforcement of policy as they fail to provide victims with the necessary information that affects their access to justice.

Additionally, the absence of police prosecutors, legal aid attorneys and even magistrates at the courts also created barriers for some victims. Some of the victim support officers highlighted that the reason victims were unable to access justice was periodically related to officials not being present. While the victims and victim support officers understood that police officers may have other ongoing matters, they stated that some police officers failed to attend necessary court hearings which made the proceedings difficult for victims. As one victim support officer stated, an officer's failure to attend court could result in some victims' cases being thrown out. Furthermore, in instances where there is a lack of communication between the victim and the officer, victims may remain unaware of the outcome of their case:

The biggest problem that we have though is in relation to that issue of intervention. Sometimes you have a rape victim where the person might have been charged with the crime but the complainant who is the officer may not attend court and therefore the persons case goes for years as they may not have attended court and the matter is thrown out and the individual have no idea what happened to the matter (Frank, victim support officer).

The failure of officers and other key personnel to be present was a source of dissatisfaction to victims. The lack of continuity among personnel dealing with matters often led to a paucity of information among victims or caused confusion about the process. This ultimately led to victims failing to gain access to both procedural and distributive aspects of justice. Sunita recalled the frustration she felt when dealing with the court. She stated:

It was very frustrating. The process in the court was very frustrating the officer never used to show up for court. So, he was incarcerated for 21 days and then he was released on bail and that's where I was fearful for my life that I had to hide....So the case took about four years because the police officer wasn't there, or it just keep putting off...If the officer is not there... which was most times the officer was not there, the Magistrate would just tell his [her abuser] attorney whatever is going on. (Sunita, victim of domestic violence).

When I asked the officer 'why you didn't come out?' he said, 'well I know the Magistrate would have just put off that case'. (Sunita, victim of domestic violence)

In Sunita's account the police prosecutor's absence from the court resulted in her abuser being released on bail and a delay in court proceedings. This in turn led to her living in a state of fear. Absenteeism of justice actors from legal proceedings therefore heightened the trauma experienced by victims. For Sunita, such trauma resulted in her fear of her husband having access to her and ability to abuse her. Moreover, her account also indicated that when there was an absentee officer, the Magistrate would inform her abuser's lawyer, however she did not indicate that she would be informed. This scenario also implies that some victims are omitted from the process. Such omissions also represent the silencing nature of the criminal justice system, where victims are uninformed. The officer's explanation for his absence at court also demonstrates a disregard for the victim and their victimisation. Also, his knowledge that the Magistrate would delay the matter signifies that the victim and other court users operate on the margins of such institutions. In this

study, victims stated that very rarely did they receive information on the operations of the process or what delays should be expected. The lack of disseminated knowledge about the process and the workings of institutions also allows the mechanisms (processes) of the institutions to silence the victim.

This theme was also visible in Sita's account of her nephew's frustration at the absenteeism of officials at the court:

Like my nephew was a witness and he's the owner of a company and he used to get so angry because he was like 'I come here, and I just have to go back because a judge ain't here or a policeman ain't here... because of something.' (Sita, mother of murder victim)

This account highlights the frustration of victims and witnesses face when accessing the criminal justice system. Moreover, the absence of both the police and judge also means that victims waste time and other resources when attending court. Such frustration was also indicated by other victims when the defendant's lawyer was absent:

The first time, a lawyer came and gallivant himself. The second time... he didn't come back. The third time he wasn't there when the Magistrate told him try to get a legal aid lawyer if you cannot pay for a lawyer. The third time he didn't come back he beg him again to get... This is the 5th hearing (Auderey, mother of murder victim)

However, when recounting their experiences, it was noteworthy that where there was continuity in personnel, for example the investigating officer or attorney, victims described being better informed and expressed some satisfaction with the overall process.

While not considered a criminal justice institution, social workers provide support services to victims depending on the type of crime or victimisation. Victims recalled having had contact with social workers and family services following an incident of domestic violence where children were involved. However, the victim support officers interviewed recognized that these supporting institutions periodically lacked the services and resources essential to victims, particularly those seeking justice, as they were unable to provide appropriate interventions. As one victim support officer notes:

The social work in the country is minimized because we have 15 to 16 workers to handle all 9 divisions in this country and every fortnight, we have 2 days to go across to Tobago and handle Tobago's issues. So...you won't really meet and treat with all issues of the victim. (Patrick, victim support officer.)

The lack of institutional capacity to provide victims with support and services seems to be a pervasive issue throughout the criminal justice system as well as in institutions that provide some form of auxiliary function. Michael's mention of the minimized nature of social work in Trinidad and Tobago, suggests that issues related to capacity are related to the functioning of State systems and not simply the criminal justice system.

Implementing institutional policies and miscommunication of the process

Victims' awareness of available services and support was related to the implementation of policies, and the failure to adequately communicate policies and processes. Victims' narratives identified that on many occasions they were confused about how matters would progress, or left uninformed about the resources available to them, especially in terms of referrals to victim support and compensation services. Such narratives indicated that there was a lack of information being communicated, or the information victims received was unclear. For example, one victim support officer commented on the ambiguity of policy within and among criminal justice institutions. He stated:

There are a lot of issues that they face during the court process. In my experience, I have had a number of clients have a lot of issues, in treating with that because there are certain aspects of the law that require certain intervention from the prosecutor as well as the defendant lawyer or representative that ...when those things are not where it's supposed to be or how it's supposed to be dealt with then you find yourself with the victims having problems with the court. But there is nothing that our office can do with respect to those issues that would be coming out of the court. (Frank, victim support officer)

Victim advocates discussed the process of victims' access to support services within the criminal justice system. Some indicated that the institutional policy within the police service dictates that

all crime victims should be referred to the Victim and Witness Support Unit (VSWU) of the Trinidad and Tobago Police Service. While they stated that this was policy, there was no document or regulation that clearly outlined the referral process. One victim support officer provided some information on this referral process:

After the offence is done and report is taken the referral will be made one time....so we have a referral form and they fill out and we make contact within 24-72 hours. It is rather quick in relation to the response time and the help time. (Patrick, victim support officer).

However, some victims indicated that they were never referred to these services or their access to such services was based on information they received externally. When asked about the lack of consistency in the referral of victims, victim support officers interviewed admitted that due to officers' laissez- affaire attitude and approach to victims' reports, some victims would need to make self-referrals to the VSWU where there was knowledge of this support mechanism. For example, Irma stated:

This is why you will sometimes have persons walking in and making their own referrals or other agencies making referrals, such as the court and the hospital and so on. (Irma, victim support officer).

While there was no clear indication of why officers failed to follow the policy, there was the implication that officers used their own judgement in deciding who should and should not be referred. For example, Keisha, a victim of domestic violence, recalled that after being mocked and ignored by male officers (following her attempt to report her abusive partner), she was eventually referred to the VSWU by a female officer. She stated that this officer observed her interaction with the other officers and decided to introduce her to the support officer at the VSWU to assist her in getting the report filed and accessing the necessary support. This instance illustrates that there was an improper implementation of policy when the original officers failed to take her report seriously or refer her to the VSWU.

Institutional policy issues were also related to the lack of clear guidance on the overall process. One victim support officer indicated that there were some grey areas in relation to this, particularly the assistance given to victims where there is the apprehension of a suspect:

We [VSWU] don't have any process by which the victim is informed of the apprehension of a suspect...or any policy on that and therefore the individual would be appraised of that situation by the investigating officer at his convenience. I think that's only through the investigating officer that the victims are appraised of that information (Irma, victim support officer).

While she made it clear that the VSWU did not have a defined process (therefore was left to the discretion of the officer), during the interviews two victims gave differing accounts of their experiences. Hannah was notified of a suspect's apprehension via her husband, and she was given time to prepare before a car was sent to her home to take her to the station for an identification parade. However, Amanda, a victim of assault and grievous bodily harm, had a very different experience akin to being ambushed with an image of the suspect:

The following day they [the police officers] came home, they came to the road, two officers were in a car and they rudely opened a picture and said 'This looking like the person?' and I was...emotionally I was in a hot mess to say the least.

I think the following day or days after because they caught the person because of my sketch. In a short space of time, I believe it was 3 to 4 days after the incident. I was on my way out, walking out my street and they [the police officers] were coming in asked me my name are you XXX. I said yes and they said we would like you to accompany us to the station to do an ID Parade.

While both Hannah and Amanda described the experience of notification as being somewhat emotional, these narratives demonstrate that there is no standardized approach or clear institutional policies for this aspect of the process.

Another area of concern pertained to the ambiguity faced by domestic violence victims when seeking to obtain their medical reports as proof of their need for legislative protections, as per the court's protocol. One victim recounted her experience of acquiring a medical report in support of her application for a protection order. She outlined the ambiguity of the process involved in accessing evidence to support her application. She had requested the medical report from the police as the courts needed it to process her application for a protection order; however, the officers stated that they had not received a medical report, yet it would be sent to the court. When the victim

went to the court there was no medical report filed by the police. Furthermore, the police stated that without the medical report they could not arrest her husband. Although the victim explained about the abuse and violent incidents at the Magistrate Court, due to the lack of the medical report, the matter was postponed, and she was told she would need to reappear on another allocated date. After court, the victim once again went to the police station, where she asked about the medical report, and they stated that they did not have it and her husband would only be arrested once they had been in possession of it. At the point of her interview, there had been no submission of the medical report, nor an investigation of the incident. This demonstrates how there was no clear process outlining how victims were to receive evidence to support their claims in court, nor was it communicated to victims what the processes were in such circumstances. In this instance, even the process of going to the Medical Centre was the victim's responsibility, rather than the police's (who had been at the scene). The victim was also responsible for her own transport to and from the hospital. Contrastingly, another victim stated that the police provided her with transport to the Health Centre to obtain her medical report and ensured that this was done in duplicate for her records. While both were victims of domestic violence, their narratives of access to the same process differed considerably. This implies some form of ambiguity about the policy relating to such circumstances.

Another domestic violence victim, Martha, also received conflicting and ambiguous information upon reporting her abuse. Having called the police after one particularly abusive incident, the officers advised her to leave the family home. However, when later applying for a protection order at the Magistrate Court, she was instructed by the Magistrate to return to the house. This was because leaving the family home meant she would be unable to present any future claim on the property. Such conflicting advice from the various institutions indicates there exists some ambiguity in policy when dealing with certain matters, particularly with respect to domestic violence. Moreover, such ambiguity can cause victims to feel confused and further traumatized by the system.

The court as an inaccessible institution: delays, legal language, and discretion of the courts

While some interviewees had experience with the court, many other victims were unfamiliar with the court and its processes. Participants accounts suggested that many of their cases did not make it to court due their cases going cold and there were no persons charged to bring before the court. For these victims, the court was an institution that was out of their reach, and an aspect of justice that they were unable to access. For victims of domestic violence whose cases went to court, they experienced lengthy delays, where court matters would take the day or several days. This made the court feel inaccessible and inconvenient. When asked about the court process, these victims noted that there were significant delays before their case was even heard:

It long. Sometimes you have to wait there because remember its different people cases being tried and it's what time your case get call. The last time, my case was the last case and we reached there for like 8 o'clock. We spend the whole day there (Rachel, victim of domestic violence)

For others, there were major delays between the arrest of suspects and court appearances. For example, Hannah commented that since the preliminary inquiry at the Magistrate Court, approximately twelve years had passed, yet her matter had not progressed to the High Court. While not many of the victims in this study had their matters presented at court, these delays between the arresting and charging of suspects and the trial has been captured in media reports about on-going matters. One such example is the trial for the murder of a six-year-old boy, Sean Luke. It was reported that Sean Luke was murdered sometime between March 25 and 29, 2006 as he was reported missing on March 26, 2006, after going on a 'fishing trip' with the accused and others. The accused suspects were apprehended within months of the murder. In 2020, there was the announcement that the trial at the High Court would begin in 2021, approximately fifteen years between his murder and the case going to trial (Mohammend 2019; Loutoo 2021).

Some victims who experienced the court process found the institution confusing and impersonal, therefore expressed feeling anxiety when going to court. For victims of domestic violence, this anxiety was heightened by the formal court environment. Their accounts illustrate how such places were considered intimidating, particularly as they were often unaware of what the process entailed and their roles within it:

the court is very fearful...you're very fearful in the court. When you don't know the rules and procedures makes you fearful. (Sunita, victim of domestic violence)

Besides their fears of the court and the anxieties related to attendance, further confusion was created by the use of legal language that served to exclude victims.

Their descriptions of the specificity of the language used within the courts, as well as issues around discretion highlighted their peripheral positioning within this environment. One such example is the use of the term of ‘virtual complainant’ at the Magistrate Court:

Anytime you go to court they not calling my name they would call the gentleman name which is my ex-husband name and the officer’s name. So, I would just go to court. The Magistrate would ask if the VC was here that is the virtual complainant was here which was me (Sunita, victim of domestic violence (Sunita, victim of domestic violence)

The use of the term ‘virtual complainant’ signaled to Sunita and other victims that they are nameless parties in their own interventions. This term gives the victim a designation that for them seems far removed from their identities as victims or survivors of crime. The assignment of the title ‘virtual complainant’ depersonalizes the victim, providing them with an identity which the victim interprets as being not a real victim but a tool in process. Additionally, the use of such terms also assumes a level of understanding of the legal language that some victims do not have and serves as a disadvantage for the victim.

The court atmosphere and use of specialist dialogue did little to accommodate victims. Many described the experience of attending court as one which made them feel overlooked or heightened their feelings of passivity as a result of rarely being acknowledged in the process. In some cases, they were unable to communicate their feelings, their needs or make an application for their point of view to be considered. In others, victims recalled being prohibited from speaking or asking questions to the Magistrate or police prosecutors:

I was not allowed to speak. I wasn’t allowed to ask any questions. If I asked the Magistrate would say talk to the prosecuting officer (a police officer). (Sunita)

Sunita also noted that while at Court she was also unaware of the proceedings taking place as was never briefed on the process:

Mind you I am sitting close in the court, but I can't hear what is being said, what is being transpired. And then the Magistrate would just call my name and I would stand up and would tell me to come back at a certain date.

Such an experience was also observed by Kerrigan (2020) when interviewing court users in Tobago. According to Kerrigan (2020, p.451) 'one respondent spoke of not feeling included because the magistrate was not welcoming to her side of events'. Additionally, another court user in Trinidad suggested not being able to participate due to his finances and therefore being made to feel peripheral and lost in his matter (Kerrigan 2020).

Further to this, victims' experiences painted a picture that the discretionary power rested with the courts. Victims were often unable to provide any insight or influence in many of the decisions made on their behalf. They were often subject to the rationale and discretion of the judges (magistrates), and, on more than one occasion, these decisions were never clearly explained to victims. This implies that the courts are not structured to be informative to the victim. It seems that there is a practice of distancing which is rooted in the courts and enforces an environment that is counterintuitive to the victim's needs. The values and communication style of the courts seemingly differs from that of the victim who wants to have voice and agency, which is commonly associated with access to justice. Based on these narratives, the court excludes victims and delegates the process of seeking resolution to others. Therefore, the victim's space for participation is dismantled by institutions and personnel in the process.

Inequality and inequity in accessing the Criminal Justice System

When discussing their experiences of the criminal justice system at the macro-level, victims' narratives were centered around equality and equity. The shared discourse among many interviewees related to the inequality that they experienced in the system and its processes as a mechanism of the State. Based on their interactions with personnel and the institutional barriers faced, victims questioned the justice system's ability and willingness to give them a 'just' outcome (or, indeed, any outcome). Moreover, their narratives related to the fairness of the process and the fairness within the process suggested that the system creates an imbalance regarding gender, socio-

economic status, geographic positioning as well as being a victim and/ or offender. However, based on their experiences the inequality was based on the gender and socio-economic status of both the victim and offender. The analysis of victims' narratives of the criminal justice system depicts it as a legal entity which distances itself from the plights of victims as well as silences victims through institutional barriers. Such accounts infer that the criminal justice system engages in a process that creates inequality in the accessibility of justice and the ability to gain justice.

Some victims discussed interactions with officers and personnel with whom they were already familiar, prior to needing their professional assistance as a result of being a victim. These interactions were usually described as positive, as decisions were taken that often advanced their access to services and resources. Victims noted that their prior relationships with such persons, regardless of whether they were of a professional or personal nature, were at times the sole reason for their accessibility of resources. One victim, a retired law enforcement officer, when asked about the possible preferential treatment in his case, stated:

I would say yes it had perks in it, being the fact that... that I was part of the police service. You are attacking police, an organization, and not an individual. Because of that I was afforded preferential treatment as it relates to technology being used. (Harvey, victim of attempted murder and robbery)

Hannah notes that her husband's status as a police officer and his professional and personal relationship with colleagues within the area allowed them to be allocated resources that may not otherwise be used for 'ordinary' victims:

The accessibility to these resources are not the same for everyone, and I am very much aware of that. I am aware of victims who never get their case resolved, I am aware of that.

As such, social capital played a role in victims' access to justice. The term social capital refers to 'resources embedded in a social structure; accessibility to resources by individuals; and the use or mobilization of such resources by individuals in purposive action' (Lin 1995, p.35). For some victims, resources that are embedded in the social structure are their social ties. By social ties, reference is made to their occupation or occupation of their families, their socioeconomic status or other factors that may influence their position in the social hierarchy. As such the 'who-knows-

who' culture allowed the system to move smoother and faster for some victims. This sentiment was reaffirmed by Mary, she stated:

For instance, when police have problems, how fast their batch will come to help and be supportive and they're going to the ends of the earth to find things about what happen to their family and what happen to them. How come it doesn't happen where everybody has been victim to crime? I understand that is your batch and you need to support the person... (Mary, mother of murder victim)

While social ties enabled some victims to benefit from preferential treatment from statutory personnel, others actively capitalized on whatever links were available to them. Victims who encountered barriers indicated how they sought out persons with whom they were familiar to assist them in overcoming these obstacles:

I went and made a next report on Monday night after I went looking for my son...I had to make a report to Freeport Station and then after on Tuesday morning no police contacted me and I called certain senior people and then they called anti-kidnapping, (Victor, father of murdered teenager)

Another victim described her experiences of overcoming barriers using her father's resources, his previous employment, relationship with personnel and knowledge of the system:

Because my father was a senior retired fire officer, he knew a lot of people in the police station. So when it came to dealing with a normal police my father don't make joke. My father deal right up to the superintendent level. When a normal police [referring to police constable] write up a report we follow it up, we don't leave it just so (Elizabeth, domestic violence victim)

Victims at times used these relationships as a form of accountability to ensure they were able to access resources. Such actions imply that they were aware of the barriers they may encounter and understood that to remove such barriers, these relationships were essential. Such actions caused concern about the equitable distribution of resources among victims. Many who spoke about the use of connections were aware that the lack of connections may mean a lack of meaningful access. This suggests that there exists inequality and inefficiency within the system and victims without the necessary social capital are required to negotiate their access.

However, for other victims, social capital worked conversely as they were not acquainted to anyone in the criminal justice system. In these instances, the offenders were acquainted and associated with justice actors. For some victims of domestic violence, it was their abusers who were able to use such resources to escape responsibility and liability. For these victims, their lack of connections and financial resources hindered their engagement and access to information and services. Victims described scenarios where their abusers would flaunt these connections to prevent them obtaining access or hinder their willingness to access justice. Keisha, a victim of domestic violence discussed how the officer recording her report claimed to know her abuser, referring to him as ‘my boy’ and was fully aware of his activities. This resulted in her partner flaunting the connection:

Because he [her partner] says ‘I will listen to my boy [the police officer]. He done tell me to behave myself...don’t hit the woman...I wouldn’t hit you’ and repeating whatever the officer tell him. In other words, you telling me the police helping you... but the police not helping you. (Keisha, victim of domestic violence)

Martha, a domestic violence victim, recalled a time where a call to the police was made to attend to a violent altercation between, she and her husband taking place at her home due to her husbands’ drunkenness. When the police arrived, she stated that her husband was taken by the officers to the station and allowed to ‘sleep it off’. The officers told the husband that ‘*he is lucky he had friends.*’ Here the reference made to friends was the suggestion that he had friendships with senior officers as well as political persons who had some influence. While Martha’s abuser may have been absolved of accountability for his actions, it should be noted that in this instance, it worked in her favour as the police officers responded to her incident and he was removed from the home preventing the escalation of harm. Some victims believed that their abuser’s influence over justice personnel created barriers to reporting and gaining assistance/ support:

My ex has links to some of these officers and after making a report they either don’t file the report or there is no report filed or I am not allowed to give information. Sometimes they ask for his details to a give a warning, but nothing really happens. (Heidi, domestic violence victim)

For some victims, the access their abusers had to financial resources and connections with influential persons ensured that they escaped liability for their actions:

I have evidence...voice messages, medical reports, pictures of messages and to this day and no help. My ex has plenty money, so he pays his way out. I don't have money...

(Martha, domestic violence victim)

Domestic violence victims' lack of personal financial standing often played a role, as many were financially dependent on their abusers but aware that their abusers could also buy their way out of the justice system. Several domestic violence victims recounted the threats of their abusers stating that they held relationships with personnel in the system and had the finances to ensure they were not apprehended. Abusers who implied that they could use financial incentives to make legal matters disappear illustrated that they both acknowledged and leveraged their economic advantage. Victims asserted that they may not pursue matters as they believed their socio-economic status may not have permitted them to obtain legal counsel or advice:

Yes... I thought about it. But the thought means that I am not a wealthy person, it will be a costly thing, so I stand down. (Jason, victim of assault)

Additionally, the economic situation of these victims was also noted by victim advocates. They believed that the financial standing of such victims served as a disadvantage as many did not have the finances to obtain private legal advice:

In addition, victims are often at an unfair disadvantage as some may seek legal advice but the lawyers' fees are often exorbitant and the lawyers fail to adequately represent the victims interest. (Vishnu, victim support officer)

While victims do not ordinarily need to seek legal advice, victims of domestic violence may have to seek such advice. According to Vishnu, for some victims' advice may be hard to come by as they (the victim) may not have the resources to fund such advice. While there exists legal aid, it is usually provided to the defendant rather than the victim. In cases of domestic violence, the Magistrate will approve or deny aid at the first hearing of the case. For these victims where the matters become civil matters in the High Court eligibility for legal aid is based on the applicant's means (disposable income and capital) as well as the merits of the matter, as laid out by the provisions of the Legal Aid and Advice Act. However, in a United Nations Development Programme (UNDP) comparative study on the availability of legal aid and assistance services for victims of gender violence in the Caribbean (Hurwitz 2014), stakeholders in Trinidad and Tobago

identified a number of issues. These issues being the victims lack of awareness on legal aid availability, concerns on the length of time of the referral, but more so, the 'lack of trust that women have in legal professionals, whose integrity is not held in high regard, and they view legal aid as second-class representation' (Hurwitz 2014, p.135)

Accessing Justice and the Appropriation of Conflict

Victims' experiences of access to justice demonstrated that the system hinders them from seeking and obtaining redress. Through exclusionary practices, victims often lost control over their conflicts from the first interaction with justice actors. When a report was made victims had very little sense of agency and authority in their interactions or within the process. While they gained access to justice, based on their narrative they did not gain justice. For many victims, accessing and achieving justice meant more than being able to report or attend court, but rather encompassed some form of resolution to their conflict. However, the system's inability to provide resolutions and its failure to do so demonstrates that victims are ultimately unable to access 'justice'. As such their experiences created a very narrow definition of access to justice, being limited to reporting their victimisation, providing information, and attending court where possible. Their narratives indicate that the state appropriates their conflicts but often failed to provide an adequate resolution to them as progress often stagnates and there is little victims can do about it. More importantly, this appropriation and stagnation of conflict is predicated on a system of inequality and inequity.

Nils Christie's (1977) article, "Conflicts as Property", described the struggle between justice actors and victims over the ownership of conflicts. He purports that a person's victimisation constitutes a form of conflict which can be seen as property. Christie (1977) suggests that crime victims can become 'double losers' due to their initial victimisation by the offender and then by their lack of inclusion within the process. He claims victims' conflict being appropriated by the legal system, by legal professionals, referred to as "professional thieves", results in changes in the social structure and manipulates conflict. He notes that the system replaces the victims with officials who play intermediaries, judges as decision-makers and other justice actors as the loci of knowledge of such proceedings. Through the due process of justice conflicts are stolen from the parties directly involved and thereby are excluded. Christie believed that while conflict is essential

component of society, the State's complete involvement in the resolution of conflict is averse to the growth of the society as individuals lose their rights to contribute to their own verdicts. Christie's thesis focuses on the role of the courts and their attendants as the main and sometimes only 'thieves' of conflict, the narratives examined suggested differently. The narratives presented in victims experiences demonstrated the various ways conflict was appropriated from victims by justice actors and institutions. As it relates to the appropriation of conflict victims' experiences demonstrated the usurpation of the victim, the mismanagement of ownership and the dismissal and stagnation of the conflict.

The usurping of the victim began when reports were made to police officers. After reporting there was a continued loss of agency and control as they proceeded further in the process. While Christie (1977) acknowledged that that when conflict arises, victims are less capable to handle the situation and are more likely to hand it off to authorities. In the narratives it was observed that victims handed over their incidents to authorities, as they realized that the justice actors were representatives of the state and can seek justice on their behalf. This sentiment was recounted above by Aameena, a victim of domestic violence. Victims acknowledged that their only option for redress was through the criminal justice system as there were no alternatives. However, the infringement on the victim was concretized, in the interpersonal and informational aspects of their interactions with justice actors. Both positive and negative experiences related by victims served to distance the victims from their conflict. For example, Hannah, her positive interactions with justice actors allowed for the appropriation of ownership by justice actors as she was willing to have these individuals take the lead. On the other hand, where victims experienced negative interactions, such allowed for the appropriation of conflict and usurping of the victim. Experiences of institutionalized secondary victimisation, failures in due process and informational deficits demonstrated the power and control (authority) justice actors had over victim's involvement in the process. Through these discrete and indiscrete (also coercive and noncoercive) practices of power they were able to usurp the victim as a stakeholder in their conflicts. For example, domestic violence victims' experiences of victim-blaming prompted the dismissal claims, but also appropriated their narratives as victims. Responses of police officers changed their experiences of victimisation to them being accomplices in their own harm. Moreover, the informational deficits experienced by many victims, also caused a further infringement. The failure to communicate case updates, feedback from their investigations or provide information served to cut the victim off

from their conflict. Experiences at the court also contributed to this usurpation. Here, judge's decision-making on the behalf of the victim and the legal language used (using the term virtual complainant) was also a means of justice actors' infringement on the victim. In these scenarios justice actors and the process operated as mechanisms of silencing. The decision-making power of the courts and justice actors also demonstrated their power to silence and exclude the victim. As one victim support officer stated '*...in the courts Magistrates hold the power...*', implying that justice actors possess the agency and the authority to dictate how the victims operate within the system. Such is reflective of the agency of non-state actors in their interactions with state institutions, where agency and power are reproduced by the state and for the state, disempowering victims. While there was infringement on the victim's ownership, some victims did attempt to resist their loss of ownership, through prompting communication with justice actors and making inquiries about their cases and the process. Such activities represented their desire to retain some level ownership and resist the infringement they were experiencing.

Criminal justice institutions through their allocated resources and institutional policies are empowered to manage the ownership of conflict. Victims' experiences suggested that there was a mismanagement of ownership by justice actors and institutions. The lack of capacity in some justice institutions via lack of human resources meant that justice actors were unable to manage the appropriated conflict and therefore matters remained unresolved. Some participants spoke about absentee personnel which resulted in delays and postponement of matters. As one victim noted years have passed between the inquiries at Magistrate Court. The mismanagement of ownership was also evident in the officers' interactions with victims. Moreover, the ability for justice actors to act without measures of accountability by implementing by the institutions further proved that there was a mismanagement of ownership. The lack of capacity regarding technological resources also contributed to the suggestion that justice institutions and its actors mismanaged their ownership of appropriated conflict. For example, Victor's (the father of a murder victim) discovery that the DNA samples from his son's murder had not been to the lab or forensic centre is evidence of mismanagement. Another example was given by one domestic victim where there was some confusion on the process of providing a medical report to the court. Such instances and the other experiences of issues of institutional capacity demonstrated that there was the maladministration of ownership of conflict. In their narratives, victims' potential opposition to these mechanisms of mismanagement are diminished and they come to accept the

procedures of the system and to participate in them, rather than opposing them and pulling out on grounds of principle. Although they are opposed to the process and procedures as well as barriers experienced, victims realized that a failure to participate may mean unresolved conflict, reinforcing the power within state institutions. This management of ownership affects how the system interacts with its victims reinforces historical tensions between itself and its citizens. In the early post-colonial society, the courts fulfilled several social functions, acting as a mechanism for control and management of urban lower classes, indentured labourers, and the rural peasantry on behalf of the plantocracy (Dodd, 1982, p.19).

Usurping the victim and mismanaging the conflict also resulted in the dismissal and stagnation of conflict. For many victims, once their conflict was appropriated, it became stagnant within the system by these barriers that distanced and silenced victims. Although victims gained limited access, they did not gain justice, as for many the State is unable to provide them with any resolution. Lazarus-Black, in an examination of domestic violence in Trinidad and Tobago, cited Abrams, stating that ‘the most important single characteristic of the state is that it constitutes the ‘illusory common interest’ of a society; the crucial word there being ‘illusory.’ (Lazarus-Black, 2007). The states stagnancy in the management of victims’ conflict, demonstrates the illusory nature of the criminal justice system that it represents the common interest. Victims of domestic violence often experienced this stagnation of conflict as their reports were often dismissed by police officers in their interactions. Indirect victims were also subject to the erosion of their conflicts, as many were subject to deficits in information about their cases and the process. The continued lack of information meant that they often received no closure or knowledge of progress. The erosion of conflict can also be tied to the inequalities victims experienced when accessing justice. For example, where victims had social ties, they were able to obtain information and at times some result from the appropriation of their conflict. For victims who had no social ties, they were subject to dismissal and the stagnation of conflict.

Conclusion

The analysis of victims’ experiences identified them as stakeholders in the process who lacked power, voice, agency, and ownership of their conflicts. Victims at the micro level were required

to negotiate and navigate interactions with justice actors to gain access to justice. At the meso-level when interacting with institutions, their capacity and their policies related to victims' access to justice, victims were met with systems that only served to silence them. Their negotiating of interactions and silencing by institutions, culminated in an experience which grounded in inequality. Victims' narratives expressed that their experiences of access were filled with some form of inequality which either worked or did not work in their favour. However, this inequality experienced spoke to a larger issue, the victim's position, and control of their conflict. Here, it is noted that the adversarial system has long been criticized for its inability to be victim-centered and its appropriation of conflict. However, based on victims experiences the appropriation of conflict is conflated due to these experiences. While justice was accessible to most victims, through their ability to make a report or even attend court, their experiences indicated that their interactions, the process, and policies made them feel marginalized, silenced, alienated and unequal. These experiences lead to the usurpation of the victim, the mismanagement of ownership and the erosion of conflict.

Chapter Six: Experiences of justice on rights consciousness and citizen identity: The criminal justice system as a tool for othering victim

Thus far this thesis presented an analysis of the challenge's victims experienced that hindered their access to justice. It is safe to say that in pursuit of justice, victims experienced revictimisation, neglect and silencing, often losing their sense of agency and ownership of conflict. These experiences not only impacted victims' access to justice but perceptions of their relationship with the legal system and the State. More importantly, their experiences with the legal system affected their rights consciousness (Merry, 2003), that is their awareness of existing rights and privileges within the system. Engel (2012) suggests that an individual's rights consciousness is derived from the intersection of their experiences with the interpretative frameworks in their social environment. Moreover, how and whether individuals consider themselves rights-holders is dependent and shaped by their identity and personal narrative (Engel and Munger, 1996).

This chapter adopts a post-colonial analytical framework to explore how victims' experiences of access shapes their identities both as victims and citizens. In this section, the post-colonial concept of 'othering' is used as an analytical lens to explore how the criminal justice system casts victims as the 'other' within the process. Two modes of othering are explored: the victim's relevance to the system, and the relevance of their victimisation. These narratives are replete with language and experiences indicating that participants felt marginalized, put-down, and otherwise disregarded by those working in the criminal justice system. This 'othering' creates a specific framework of relevance that shapes victims' identities as a result of engaging in the justice process. The emergent victim identity is representative of otherness (cultural and legal) that either aligns or resists with vulnerability and powerlessness. Further, the chapter explores how victims' experiences of othering impacts upon their rights consciousness and can serve to delegitimize their citizen identity.

Experiencing 'othering' in the Criminal Justice System

As evidenced in the previous chapter, many victims described interactions and processes that varied in response to their needs. These experiences were indicative of how organisational

practices and goals allow some statutory personnel to act evasively. In turn, this served to widen the chasm between individuals and statutory representatives. Furthermore, the institutional barriers victims encountered reflected silencing mechanisms, the appropriation and stagnancy of conflict coupled with the absence of any/satisfactory resolutions. Victims' narratives lead to questions about the equality in the system; in particular, their ability to participate in their conflict as equal to the defendant and their ability to gain access to mechanisms of justice regardless of their network, gender, or financial standing.

The examination of these experiences through a postcolonial lens indicates how the othering process enacted by the criminal justice system facilitates victims' variable inclusion and exclusion in their conflict, impacts on the fairness of access, and determines their ability to ultimately gain justice. Based on interviewees' experiences, the criminal justice system, uses various legal and social practices as well as institutional structures and processes to encourage not only self/other distancing but also self/other identification. Moreover, the bureaucratic nature of criminal justice system sets the stage for othering to occur (Bullis and Bach 1996), as those operating within the system have more power and are in the position to 'other' the victim. As such victims' narratives highlighted two modes of 'othering' occurring within the criminal justice system. The first relates to the victim's relevance to the process, and the second, to the social and structural relevance of their victimisation. This section explores the distinct modes of 'othering' which consisted of routinely explicit and implied arrangements which made victims the 'other' in the process as well as in their own conflict.

Victims' relevance to the process

Participants' experiences of inclusion and exclusion in the criminal justice process provided an understanding of their relevance to the process in Trinidad and Tobago. It should be noted that

unlike the United Kingdom¹⁷, Australia¹⁸ and Canada¹⁹, there is no clear policy on the role of the victim within the criminal justice. While this is not an endorsement for the use of such methods in the provision of victim rights, the absence of a minimum policy or guideline leaves victim's relevance to the process and their rights subject to *ad hoc* decision-making by justice actors. Such decisions can be subject to prejudices and bias rooted in issues of gender, race, class (economic status) and social networks (social status), affecting equality and equity of the process. The following section examines experiences of inclusion and exclusion, detachment, and dehumanization. The narratives reveal how power operates to create imbalances in the process, particularly with respect to knowledge and information sharing. Additionally, these descriptions suggest that power imbalances fostered a relationship between victims and justice actors characterised as 'them/they' versus the collective 'us', and illustrated the less visible structural inequalities faced by those who seek justice

Considering the offender over the victim

Several victims claimed that they believed that there was too much consideration given to the rights of the accused (alleged offenders). Moreover, they found that the system and its actors seeming willingness to enforce the rights of the accused was to their detriment as victims. For them, witnessing the treatment and interactions between the offender and the system demonstrated to them that the offender ranked higher in the process than they did, which negatively impacted on their own sense of value. As Hannah outlines:

...the justice system is one that crosses over the body of the victim to read to the perpetrator his rights, [...] the perpetrator has more focus in the criminal justice system to go through

¹⁷ In the United Kingdom there is the Code of Practice for Victims of Crime (Victims' Code) which is a statutory document which sets out the minimum level of service victims can expect from criminal justice agencies, including the police and courts.

¹⁸ South Australia recognises the rights of victims under the law. The Victims of Crime Act 2001 lays down principles to govern how victims of crime are treated, including a requirement that victims are treated with respect and compassion. Government officials and agencies are required to comply with these principles, which are more commonly referred to as victims' rights.

¹⁹ The Canadian Victims Bill of Rights (CVBR) defines who are victims and provides victims with guidelines on their rights to information, protection, participation, and to seek restitution within the criminal justice system.

the process. Because you don't read the rights properly the person could get off. And if you don't do this properly and don't apprehend them properly and ensure that they have a line up system or all of that is wrapped up in ...making sure that your case is solid as a police officer. So, they focus on that and it tends to leave the victim in the dark... (Hannah, victim of sexual assault and home invasion/robbery)

While victims recognised that the system is designed with the goal of prosecution (and, where relevant, punishment) in mind, this focus effectively alienated and marginalized them in the process. Upon engaging with the system, victims experienced how the process was centred around the alleged offender, often observing this from their peripheral position. Hannah's account suggests that successful outcomes in the system are reliant on the due process of alleged offenders. Therefore, this becomes the focus of the police and other justice actors. Further, it is inferred that the focus on the accused's rights provides little time to consider the victim or their trauma. This signals to the victim that their needs are of a lesser priority, which can be interpreted as meaning that they are less relevant within the process. Such feelings may be exacerbated if their victimisation has been particularly traumatic, yet it was this very incident which generated the crime report in the first place (thus is insignificant to prosecute offenders).

Victims may also become aware that the accused has rights which they are made aware of, while victims do not. This imbalance may lead to victims navigating the process while feeling invalidated and unsure. This imbalance of rights may be inferred as a power imbalance, where the accused has certain protections and the statutory personnel dealing with them are accountable for ensuring these are upheld. Compared to this, victims may feel more uninformed by comparison, and feel that they it is they who should have clear rights – or, at least, some sway over the nature of proceedings. Such cases may reinforce the powerlessness victims feel due to their trauma and awareness, and therefore renders them as 'other' in the process.

The issue of defendants' rights versus the state's ambiguity on policies and provisions for victims was a common narrative among some participants. Some believed that the system's (and, by extension, the state's) conferring of rights upon the accused demonstrated the existence of a hierarchy in which the offender's needs trumped those of the victim. Jennifer and Auderey (mothers of murdered victims) commented on the treatment of the accused throughout the process. In their view, the state's protection of such individuals – for example, in prisons and via the

guarded escorts to and from court when on remand – was representative of this hierarchical imbalance:

Jennifer: To me it feels like the prisoners²⁰[those in remand] have more rights.

Audrey: Yeah, they have more rights because we still out here and they protected and whatever little tax we give it going to feed them and they protected

Jennifer: Yeah, and they protected

Audrey: So, we the citizens really have no rights

Jennifer: They might say we have rights, but we don't have rights

Though the outlined security measures are designed to ensure public safety and follow due process, these victims expressed disgruntlement with the rights afforded to the accused. However, such comments and sentiments need to be explored within the context of their trauma and experiences. From these women's perspectives, the accused is being looked after in a way that their daughters were not. He has been provided with a police escort, protected from harm, maintained by taxpayers (like them), and treated with more statutory attention than their daughters received. This creates a perception that the system prioritizes the offender over victims. For both Jennifer and Audrey this perception is evident by the fact that the accused, a prisoner of the State, is offered a level of statutory protection that was not extended to their daughters. Additionally, such assertions support the idea that the offender is the antithesis of the crime victim and promote the polarization of people into the categories 'us' and 'them' (Heber 2013). Such views support the binary constructions of the victim versus perpetrator as 'law-abiding citizens' who are deserving of rights and State protections versus undeserving 'law-breaking denizens' (Standing 2011).

Moreover, it highlights the discontent with the system and its operation. It suggests that when it comes to the treatment of victims the state has been going in the wrong direction as victims feel overlooked or ignored, not just as victims, but as legitimate or innocent persons who are deserving of attention, sympathy, protection. For these women someone who has evidently done something wrong and is being punished for it is being treated (in their eyes) more favourably, than

²⁰ In this scenario the victim is referring to prisoners that are in the same position of the accused in her case. The accused in this case when captured by the police was placed in remand prison.

the victims of the crime. In their opinion, the offender is not a person that is deserving of legal protection and should have his rights forfeited. Here, the dichotomy of why bad things happen to good people comes into focus and it causes persons to believe that there is a lack of fairness, as bad things should happen to bad people. In their estimation the accused is in some way benefitting from a system which ensures their rights and upholds those rights, and seemingly does not suffer consequences for their actions or harms caused. Additionally, the taxpayer-funded maintenance of the accused while in prison compounds these feelings of unfairness. The sentiments expressed here are that victims feel doubly harmed, first by the loss of the family member and then there is a perceived misappropriation of their tax contributions. For some victims and the wider citizenry, the allocation of tax contributions to housing, clothing, and the provision of meals for the accused in prison, is an undeserving and unworthy use of their contributions.

This issue of offenders being supported and provided welfare by taxes when in state custody was also a concern and to some extent a grievance for another interviewee:

The state considers justice as putting them behind bars. A victim considers justice as restoring to me what was stolen not just physically but financially, emotionally relationally everything your life has been stolen. What that means to me is not just about you sitting behind bars eating my taxpayer's money food. To me it is a lot more... (Hannah, victim of sexual assault and robbery)

This comment reinforces the point that victims believed that offenders continue to take from them even after the criminal event. They suffer an initial loss in the original criminal event, then a loss in the perceived absence of justice and in the meantime (or after) in taxpayer funded prison provisions. The victim just keeps losing out, whatever happens. Additionally, this indicates that justice means more for victims than mere a prison sentence but recognises the limitations of what the state can do in providing this. Nonetheless, focusing on the state's role in ensuring the accused's needs are met implies that victims feel that the balance is unfairly weighted towards benefiting the offender. While the accused commits the crime and is supported by the state, victims lose a lot more from their victimisation. For, example, Karen, a victim of grievous bodily harm, comments on the aftermath of her incident where she suffered problems recalling certain things, she's supposed to know, such as associating names and faces as well as words. Such injuries have affected her ability to earn an income as well as her way of life.

For some victims of domestic violence, sentiments that the offender's needs were being prioritised over their own were compounded in their recollections where justice actors appeared to provide a greater duty of care to their abusers. Particularly when they recounted being dissuaded by police officers from making reports against their abusers on the basis that it would have negative repercussions (for him). This caused concern that officers were not taking these reported incidents seriously enough, nor did they consider that they might be repeated in the future. Such dismissive attitudes signal to the victim that the state gives more consideration to the impact on the perpetrator rather than her experience or risk of future victimisation. It can also be inferred that she is in the wrong and should be thinking along the same lines as the officers from whom she is seeking help. This represents the power justice actors have in influencing, and to some extent manipulating, the victim and can lead to a feeling of being othered.

Ameena recounted showing the police her protection order which stipulated the conditions under which her abusive partner could interact with her. The police officers failed to arrest him or take any action on the matter; rather, their course of action was to subtly manipulate her and discourage her pursuing the complaint:

The harassment is something they can call him and warn him about. My protection order stated that...verbally, physically, mentally...100 feet away and I showed them [the police] and they still couldn't arrest him. They [the police] say consider that he has children and think about it...and I said "alright" ... (Ameena, victim of domestic violence)

Despite having bona fide legal documents (the protection order), which ordinarily should indicate the seriousness of the issue, the police chose to render Ameena's documentation was irrelevant. Such attitudes serve to disenfranchise the victim as they have a legal right (via a protection order) and expectation to seek official recourse from those with a duty of care to protect them. The request to reconsider demonstrates a willingness to deny victims the few rights they possess, in lieu of protecting the offender.

Other cases similarly demonstrated how officers and judges appeared to express greater levels of concern about the offender and his interests, rather than the victim or hers. This linked to a theme which was evident in some of the domestic cases, where efforts were taken by state agents to foster a culture of reconciliation. Sunita, as well as other domestic violence victims, described how they had been involved in court orders that required their partners to go for counselling:

we did go in front the magistrate and our case was called and he told the magistrate that it was a mistake, and we would go for counselling. But then I said, 'no I just want out' and the magistrate said, 'if the man want to go to counselling, let's give him a chance'. And the magistrate said go seek counselling and he was supposed to go for a week, he went for three days and when he came back up [from the counselling] he nearly beat me to death.
(Sunita, victim of domestic violence)

Sunita's experience indicates how the judge in her case was more willing to accept her partner's version of events and desired outcome than her own. Despite Sunita having been physically harmed by her partner, her aspirations for a life free from him (and his violence) were considered subordinate to his desire to continue a (violent) relationship with her. Alongside dismissing her wishes to end the relationship, the judge also inferred that she was being unreasonable in not supporting him with undertaking counselling. At no point did it register that she (as the victim) was taking active measures to safeguard herself from further violence from her abuser. Furthermore, the judge appeared to accept unquestioningly her partner's inference that this event was a 'mistake' and that by undertaking counselling it would not happen again. Sunita likely knew better, having been in a relationship with the man who abused her. The fact that he then went on to be so violent as to nearly beat Sunita to death three days later after being sent and engaging in counselling indicates that the judge should have taken her seriously or considered the possibility that she was still at risk from him. On a broader level, it shows how women often bear the brunt of male anger and humiliation, which was evident in her abusive partner's concession to attending counselling (a practice often disparaged as indicating that the person seeking counselling is in some way 'defective'). Therefore, for some of these victims their matters are settled but with no real legal redress.

Victims being used as procedural tools.

Another aspect of othering that was found in victims accounts was related to their role in the process. Victims' engagement with the criminal justice system and the representatives within it often left them feeling like a cog in the prosecuting machine rather than the driving force behind it. Treating victims as procedural tools or objects was evident in practices such as viewing them

merely as sources of information for investigative and cross-examination purposes. Such treatment changes or lessens their status as victims. During the interviews, one victim advocate identified this change as part of the process. She stated:

The court doesn't see them as victims anymore. And I think what happens is that if they are not seen as the victims and they are seen as witness then the kind of compassion that is meted out to a victim is not the same compassion that will be meted out to a witness. (Irma, Victim Support Officer, Female)

While it is understood that the court and the trial process turns the victim into a witness, this perspective also causes persons to lose some of their victim label. When a person is identified as a victim, they not only assume certain characteristics, but they also are subject to a certain type of treatment. They are viewed as individuals being qualified to access mechanisms of justice and the appropriate ancillary and supportive services. The change from the victim label to the witness label means that there can also be a change in the access granted and the type of services/ supports they receive. Moreover, as stated by Irma, the type of compassion will change as well.

Victims varied in how much they felt they were being used as procedural tools, but their narratives indicated a shared understanding of their demoted purpose and positionality within the system. As one victim stated:

We really do feel at the end of the day that we are just there for when the police need us to say something, It's not that they [victims] are integral part of the process and it seems as though we are just there to ensure the police case holds. (Hannah, victim of sexual assault and robbery).

Such sentiments of only being needed to provide evidence suggested to victims that they are nothing more than procedural tools. Besides Hannah, another interviewee described his experience of being used for information purposes:

They give me one advice, to find out more about my son activities and I did. To get somebody to come forward and say something and when I give them the person name it took them months to call the person and when they do call the person the person had a change of mind ...well they wanted more information about it by talking to people sometimes people might not give information so if you ask as a friend of whatever they

might give you. I did that. In acting on the information I was getting to see how and to find out how my son was operating and moving around the school ...they took too long to act on it. (Victor, Father of murdered teenage son)

In Victor's case, his willingness to assist the police was fuelled by the belief that this effort would be rewarded with information on the case's progress. However, as Victor notes, after this communication he received little information on the investigation of his son's murder. Additionally, there was also very little action by investigating officers once they received this information. The ethics of asking a murder victim's father to investigate his son's death are questionable enough, but the abuse power relationships evident here – failing to reciprocate with information or advice – is indicative of the type of experience victims referred to when describing being used as procedural tools in justice processes.

However, Victor's case was unique. Other victims did not express that they were directly advised to gather information to assist in the investigation of matters. Instead, participants often stated that there was limited communication from the police following their initial report of victimisation. In some instances where communication was forthcoming, this usually related to the police's desire to obtain further information as part of the investigation rather than updating the victim about the progress of the case. The norm appeared to be that no further communication would be forthcoming unless the victim themselves sought this out. Officers would take their reports or evidentiary statements and that would be the end of their interactions. For the bereaved families of murder victims, this was particularly difficult. Grace, the mother of a murder victim, stated that after the initial inquiry into her son's death there was a lack of further communication from the officers:

I never heard from them and my other son said that they never contact him. The phone remain with the police because we never made contact with the officers. You know they have to go through the phone and what not. They never contact to say well listen we finish all the investigation come and take up this phone. No, they didn't (Grace, mother of murder victim)

This experience was common among participants who stated that the police had no leads or further information on suspects or other witnesses to the offence. Despite this possible lack of evidence

that may cause the case to stall, many victims expected some form of communication or information rather than being left in the dark:

I think they should call me and let me know that this is what is happening with the case or give me a feedback let me know what it is. (Jennifer, Mother of domestic violence and murder victim).

The failure of officers and other personnel to provide an update on matters or next steps, often left victims with questions about their relevance to the process. It is likely that criminal justice agents are focused more on the practicalities of an investigation than the pastoral care necessary to ensure families do not feel abandoned or overlooked. Officers may not consider it important or part of their job to keep family members abreast of developments, therefore may not be aware of the resentment or hurt this can cause those who are grieving. This lack of communication between criminal justice personnel and victims creates a gulf between the two parties which results in greater distancing the longer it goes on. The exclusion of victims maintains the distance and maintains the ‘us and them’ syndrome that is the hallmark of socially excluding practices.

The lack of communication between victims and the system was accompanied by a perceived lack of sensitivity and support. These failings transformed what were highly personal experiences into a depersonalised process, exacerbating the distance created between the victim and the justice system. This depersonalisation is further demonstrated in the narrated experiences of victims’ identification of suspects. Three participants (Amanda, Hannah, and Harvey) who were asked to identify potential suspects in an identification parade recounted the process as lacking in sensitivity and being traumatic. After experiencing a serious assault, the police called upon Amanda to see if she could identify her assailant from a line up. In recalling her experience, she indicates how this was very different to what she had anticipated:

Again, coming from like just watching these things on T.V. I am telling myself I am walking into a two-way mirror room ...[laugh] that is just my naïve part of it ... where I thought I will be in a two-way mirror room where I can identify the person. However, I walked into a room no wider than this width ... with some men against a wall but I held my own and I did what I had to do when they ask me if I see the person around, look at all their faces and whatever. (Amanda, victim of grievous bodily harm)

Amanda described being in the same room as the men in the identity parade – one of whom the police thought might be her attacker – without any efforts being made by the police to conceal her identity. Furthermore, she had not been warned that she would be in the same (small) room as the men – and her potential attacker – before entering it. This incident demonstrates the absence of thought given to how it might make a victim of crime feel to be in the same room as their attacker, never mind looking right at them and indicating (if they recognised them) to the police that this is who they believe assaulted them. The potential ramifications for the victim are significant, yet seemingly overlooked or ignored in favour of progressing the case.

In addition to the traumatic elements of being confronted with one's attacker, Amanda noted how the small room size meant being in close proximity to the suspect which added to her discomfort with the process. Furthermore, the offender's family member was also in the room, which she had not anticipated. This exacerbated her traumatic experience and left her feeling as though she was the one being judged. Again, Amanda had not been briefed that this would be the situation.

When I walked in...there was this strange person in the room and I simply asked, 'Who is this?', then I found out that is part of the legal process a family member of the perpetrator has to be in the room with you, to validate that you weren't prompted to select the person. (at this point the interviewee became somewhat emotional recalling this event) ... (Hannah, victim of robbery and sexual assault)

While it is common practice for a member of the accused family to be in the room, to add credibility to the process, they are required to remain silent and not to speak to the victim. However, for Harvey, a victim of robbery and attempted murder, when in the room attempting to identify the suspect, the alleged family members were making attempts to interfere with the identification process:

The thing is that...you know you have to go and identify these people and they are like right there. Two days ago, you just tried to kill me and then you have the family members there of the offenders...who not really supposed to talk to you but still trying to say 'ay...you sure is him...you sure is him' that kind of way...clouding your judgement.

Harvey, like the other victims who participated in the identification process, spoke about how this additional trauma reminded them of their original emotions arising from the initial incident. These feelings were further compounded by the lack of support for the victim when in the room identifying the suspects. Moreover, the failure to enforce policy regarding no communication between the victim and the accused's family made things worse. The trauma experienced, lack of support by justice actors and failure to enforce policies creates some contention for the position of the victim in the process. After the identification of the suspect Amanda stated:

as the door closed behind me I am in pretty much a puddle...but thankfully my family member walked in same time, that again was another traumatic event. Because to me they gave me no warning, other than they caught him and just in case you don't recognise him when you go in...they didn't say which spot he would be standing they didn't give any type of pertinent information other than he cut his hair.

Being a victim who came out of a crime like that say to this person prior that you are going to go into this room and it will be no more than 12 feet... not even 12 feet... a lot of things and to me it was a box. (Amanda, indecent assault, and robbery with the intent to cause grievous bodily harm)

The identification of the suspect(s) was a traumatic event for these victims, evoking a number of emotions. While they did not specify what these emotions were, it was clear there was an emotional impact. Based on Amanda's recollection of the experience, the nature of the act had a profound impact. It is a deeply personal process for the victim. However, another interesting aspect is the support being received was from family members and not from the justice system. The identification of suspects for the system and its actors are evidential processes that victims and witnesses need to engage in. However, there seems to be a failing by the system to recognise that these 'evidentiary' acts are a deeply personal and traumatic event for the victim. This failure to recognise or foresee this procedure as being traumatic for the victim presents two issues. Firstly, the system is disengaged and distanced from the victim of crime. Secondly, it suggests that the system views victims as procedural tools. The victim as a procedural tool is also emphasised in her comments about being told about the possible (probable) suspects change in hair style. It indicates that her presence to identify the suspect was part of a procedural checklist that was needed to establish that they have found the accused. While it was reasonable for victims to expect support

and to be treated with sensitivity, the types of experiences they recalled were indicative of actions they could not have pre-empted and requested information on, for example the size of the room or, the presence of family. However, some of these actions appeared routine to the criminal justice agents involved. The police did not think to alert Amanda to anything unusual about it, indicating that they did not consider it an unusual situation.

Victims' lack of agency: becoming silent subjects

Participants' narratives reflected their experiences of silencing by the criminal justice process and through their interactions with justice actors. The analysis found that some victims lacked agency when engaging with the process and justice actors. While some have argued that victims' agency is presumably 'antithetical' to the system's goal of formal equality of treatment and punishment (Fohring 2018), justice actors are encouraged to serve a dual role of acting on behalf of the system and the victim. However, based on victims' accounts justice actors operated in the interest of the criminal justice system, and by extension the State, though at the same time failing to give victims any capacity for authentic agency. This dismissal of victims' agency resulted in the alienation and silencing of victims and their disempowerment. For domestic violence victims, failure to be consulted on matters that would affect their lives caused additional trauma, particularly if their perspectives and requests were ignored or dismissed.

This was noticeable in Sunita's narrative of attending court, where she clearly expressed her desire to exit her abusive relationship but was thwarted by the Magistrate's insistence that her abusive partner be given a second chance. As such, victims are not only subjected to the appropriation of their conflict by the trial process but there is also an appropriation of their agency in the decision-making that comes afterwards where such avenues to decide exist. The process did not allow the victim to exercise any measure of resistance and self-determination to regain control of their lives. This inability to become active agents within the process, has some implication on victims' relevance to the process. Additionally, it also implies that these individuals may feel a sense of disenfranchisement as they held no power to determine their own fate. For domestic violence victims, this impediment to expressing agency may mean that they are at further risk of

violence as a result of the Magistrates' insistence on counselling and therefore denying them the opportunity to exit violent relationships.

Domestic violence victims' frustrations around being unable to have their voices heard or their wishes considered implies that their views and safety are not prioritized in the State's pursuit of justice. They are also impeded from acting in their own interests. According to Stewart and Logan (1993), the othering of individuals assumes that they are incapable of reflective thought, and they are considered passive and unable to make choices. Here, the othering of domestic violence victims has traditionally been along the lines of infantilization, so it is unsurprising that women's wishes are contested when speaking out in a way that indicates agency. Rather than empowering victims by prioritising their knowledge or expertise to act in a manner that would positively impact their well-being, they are positioned as subordinate to the offender's needs and wants.

This lack of agency stemmed from the construction and production of knowledge within the criminal justice system. While it is acknowledged that criminal justice agents were authorities on how the system functions, powerholders within the system, there was very little knowledge transfer between these agents and victims. The lack of knowledge transfer was evident in victims' narratives of being unaware of the process and the lack of communication between themselves and justice agents. Once again, Sunita when recounting her second court experience intimates that her lack of knowledge of the process:

...well that point in time I tried to raise my hand but even the court...the court is very fearful...you're very fearful in the Court. When you don't know the rules and procedures, makes you fearful. So, I tried to raise my hand, but the Magistrate said so and so and that's it...just called the next case. (Sunita, domestic violence victim)

Here, the lack of knowledge about the process induced fear but also a physical and mental silence. The lack of awareness of Court rules and procedures silenced the victim in a manner that she was unable to practice some form of self-determination or agency. Sunita, explains that after this incident and a subsequent violent interaction with her partner, when she reported the incident the police officer gave her information on the rules and process. She stated:

The officer did tell me that when I go back in front the Court he will come with me and if the Magistrate want to give the relationship a chance I (Sunita) will speak up and let them know they are making a mistake. But the Magistrate that I got was a female Magistrate and she did ask me to speak I did raise my hand because I realise if I didn't fight for my life it was going to be taken from me (Sunita)

In this second interaction, her knowledge of the process, the support of the officer and the possible presence of a female Magistrate gave Sunita, the agency and self-determination to speak on her situation and give an input.

However, the victim as a silent subject lacking agency was also evident in instances where defendants were given the opportunity to participate. For some interviewees, they expressed displeasure at their defendants being able to speak and more so speak to them (the victim). For example, Hannah expressed that she was shocked and concerned that the defendant was permitted to directly address her in the court, but no-one had warned or informed her that this might happen:

The other thing is that I did not know that they can ask you questions...that was the worse. I was like gall and the audacity of you to even speak to me... again...I had to hold on to the bar because I was like 'Are you kidding me?' I don't think they told me that part before, it was after. The Magistrate did say do you have a question and one of them actually had a question. It was traumatic for me not as traumatic as the line-up, but it was traumatic. (Hannah, victim of sexual assault and robbery)

While the defendant being given the opportunity to question the witness/ victim is part of the due process in the criminal justice system, failing to inform or prepare victims that this might occur can have significantly detrimental consequences. For Hannah, the harm and emotional trauma the defendant caused vetoed his right to communicate further with her, yet she was unaware that this is not how it works in court. As the statutory agents are more than aware of this potentiality, their failure to prepare victims for the possibility of this occurring demonstrates their lack of consideration for victims and their needs in the traumatic space of the courtroom.

For some victims, these feelings of repression and silencing were further compounded, by justice actor's ability to make decisions and contextualise the way justice was meted out. This found some victims' rationalizing and justifying their victim status to themselves and others, as

well as feeling as their sense of agency as a victim of crime was diminished. Janet's experience highlighted this paradox. Jemma was a victim of domestic violence and a criminal justice employee which, she discovered, created unique problems for her in court:

I had to try to justify what was going on and he was there spilling a whole lot of lies and saying all kind of things about me and my character in front of everybody [co-workers and persons attending court] and it was so ridiculous that the Magistrate and all became impatient and was like 'allyuh [you all] wasting my time, this is not good, allyuh need to sort out yourselves' this man and woman thing and it was basically like that and dismissed the whole request to have the protection order. (Jemma).

Domestic violence victims often spoke of negative attitudes of personnel in the process and their exclusionary practices in the provision of services and support. Janet's experience was made even more personal because of her working relationship with some of the officer's present in the court during her case. This interpersonal knowledge may also have played a part in the dismissive tone of the magistrate, although judging by the language used it is also possible that he/she was dismissive of domestic violence incidents. In denying her a protection order, the magistrate was potentially placing her in greater risk of harm from her abusive partner yet did not consider this to be a problem. Such dismissals by justice actors constitutes secondary victimisation and implies that victims' needs not always considered relevant. Additionally, it indicates that victims hold a subordinate position to both the offender and the judiciary. The attitudes displayed by decision-makers not only reinforce victims' lack of agency but create and augment feelings of inferiority and insecurity. Janet's experience also demonstrated that despite the victim's knowledge of the criminal justice system and its varying mechanisms of justice, the process still can render them silent. Besides such incidents being a contributing to experiences of institutionalised secondary victimisation, the ability of the defendant to express themselves and ask questions of victims, the victims lack of capacity to voice concerns, and the dismissal of concerns where expressed, contributed to victims silencing. Such a repression of victims' voice and agency contextualized their relevance to the process.

Recognising victims' agency goes beyond influencing the desired outcome; for many, simply being heard would suffice. Acknowledgement and the space to express the effects of their trauma are important aspects of justice for victims. Not only does this affirm their agency, it

reaffirms their position as an injured party who deserves to have the system listen and fight on their behalf. Sunita's experience at the court indicates how the primacy of the focus on the offender can mean that victims are left feeling ostracised and alienated, with little care or attention paid to how they are managing or coping:

I had no empathy from anybody from the system, the court system... I remember sitting down there in the gallery and the Magistrate asking him how you doing?' ...I am sitting there, and I know I am scared for my life and I have to walk down and walk up behind this man scared for my life and here is this Magistrate now asking how he is doing and I am there wondering how come nobody is asking me how am I doing? How am I coping? How am I keeping myself and my children safe? (Sunita, Domestic Violence Victim)

The sense of disenfranchisement outlined by Sunita was compounded by witnessing members of the judiciary express concern for the welfare of the person had harmed her, but not making similar efforts to ask after her own welfare. Seemingly, her well-being was not of concern, and neither was the potential traumatising impact of the impending court case. Nadia's experience demonstrates that this lack of understanding, and care was not just felt by victims, they bore witness to it in their quest to seek justice.

The relevance of victimisation: Justice actors' responses to victimisation

Victims' descriptions of their experiences suggested that othering practices by justice actors were also related to their victimisation. Fohring (2018) highlights that a key concept associated with victimisation is innocence. The socially acceptable victim is characterised as being innocent, sufficiently weak, and adequately respectable. In this same vein, their victimisation should also fit this criterion, where they were sufficiently cautious not to be victimised or at risk of victimisation or harm. As such the individual should be 'blameless' in their victimisation. As noted by Carrabine et al (2014), when exploring the hierarchy of victimisation, it was noted that the innocent and their victimisation occupy the uppermost, privileged position in the hierarchy, with each successive step downwards being reduced in innocence and acquiring blame until the thin line between victim and offender is blurred. Such a hierarchisation can lead to the creation of a preferential treatment in

access to justice where, some victims and types of victimisation may merit attention (homicide survivors, victims of human trafficking, victims of rape, and victims of domestic and sexual violence) and others may not be considered priorities.

The analysis of participants' experiences highlighted that there existed some prioritisation of victimisation based on gender, social status, and networks, as well as public opinion. The responses of justice actors served to 'other' certain forms of victimisation as well as place such within a context that questioned its relevance within the system and the public. These othering practices seemed more prevalent where victimisation was viewed as private harm rather than a public harm and gender or social capital.

Types of victimisation and its relevance

In this study victims' narratives indicated how responses to their victimisation was often related to understandings of public harm. For example, responses to domestic violence, seemed to frame this form of victimisation as being a private matter by both the police officers and the courts. Victims' depictions of incidents when reporting and attending court indicated that justice actors may not have considered their victimisation as relevant as there was minimal contribution to public harm. For example, Ameena recalled that, when reporting her victimisation, a police officer in the presence of his colleagues stated '*that's how their love is*'. Such a comment implies a belief that this form of victimisation is a private matter, as it is simply an expression of love between two persons. Therefore, the officer suggests that this type of behaviour is somehow normalised, and it is a private matter that does not a public solution (reporting as a crime). For Ameena, this not only signaled that the justice system may not provide her with relief, but her victimisation was not relevant as it is a private matter. More importantly, it demonstrates how a police officer's personal perspectives on an issue have informed his professional conduct. In this sense, discretion is merging with discrimination if he is belittling her claims on the basis of gender biases he holds.

As previously discussed, Jemma a victim of domestic violence, was subject to a similar attitude towards her victimisation by the magistrate when it was said, '*allyuh need to sort out yourselves this is man and woman thing*'. While the magistrate's comments are representative of

the interpersonal justice victims' experience, it indicated an environment which suggests that private harms are irrelevant or may not be taken as seriously. Other victims' accounts of officers' responses also indicated that some forms of victimisation were not considered as in need of an expedient response:

They [the police] wouldn't do anything. They would ask about the situation and about how dangerous it is and I understand that they are important but to me I needed help now and to me it took me 10 to 20 minutes to answer these questions before they send somebody over. It was prolonged... (Ameena, victim of Domestic Violence)

For Ameena, the officers lack of immediacy and responding with urgency suggests that her situation did not seem relevant to the officer. The questioning and time delay implies that they did not believe her victimisation warranted some sense of urgency in their actions. Ameena's experience also calls into question the decision-making activities of police officers and how decisions are balanced against the public interest. While most victims may not understand police work and emergency responses, the officer's questioning during her time of vulnerability and powerlessness only served to prolong these feelings. Moreover, her experience also questions how justice actors consider harm and measure the risk of harm in domestic situations that rationalises a prolonged/ delayed response. Added to this the overall experience of these victims also indicates that there may exist a cultural sanction against interfering with 'husband and wife' business. As such Ameena's victimisation as well as others who are subject to domestic violence would be cast as a private harm and should be handled privately.

Jemma's account of her negative experiences at court as a result of the dismissive attitude and responses demonstrated by the officers and judge:

And it was a laugh for people after that because the officers who were working in the court with the whole charade would have gone and tell other officers and so it was dismissed.
(Jemma, Victim of domestic violence, employee in the CJS)

For Janet, when her victimisation became a public matter, she believed it was a source for ridicule. The attitudes and responses suggested that the harm she experienced was fodder for gossip for which caused her a sense of embarrassment. Moreover, it suggested that her experiences were trivial and not necessarily cause for concern.

For some responses to victimisation were also met with inactivity, police officers failing to act when victims made reports. For example, Jennifer in discussing the events that led up to her daughter's death (along with other bystanders, a family friend and the landlord who attempted to intervene) by her abusive ex-partner, she suggests that it was the result of a lack of due diligence and dereliction of duty by police officers. Jennifer noted that, two days prior to her murder, her daughter had reported the threats and acts of violence by her former partner:

She went and made the report and I have proof because I called her while she was at the station, her father was with hermy son was with her, and its only 'ok ma'am we have to go by the Health Centre and get the medical report and then we will go and pick him up' and that was it. They never went to the Health Centre for the report and they never showed up by his house. (Jennifer, mother of murder victim)

Auderey, the mother of another victim of this incident (a bystander killed when Jennifer's daughter was murdered) recalls meeting the mother of the accused. After confronting the accused's mother, her response implied the fatalities could have been avoided:

And then she [the accused mother] turns and say I so sorry the police did not come and pick him up when she [the victim, Jennifer's daughter] made the report otherwise all of this was not going to happen. (Auderey, Mother of murder victim)

The experiences of these participants were indicative of police officers' lax behaviors and ineffective responses to reports of victimisation – particularly in cases of domestic violence. These scenarios imply a dereliction of duty and due process by officers involved. A failure to actively address complaints and reports in a timely in this instance lead to fatal consequences.

Some victims suggested that these lapses could be due to the severity of the crime and the lack of sufficient physical harm they had incurred. Some believed that only matters of death and extreme injury would be worthy of a speedy and effective response. Mark, a victim of assault perpetrated by his child's mother, made reports of harassment, assault and child neglect but received no positive response to his reports. When questioned about following up on the reports made, he suggested that such actions are ineffective as his reported crimes lacked severity:

Waste of time because at the end of the day there are people making reports and nothing really being done. It's not until something really happen... serious.... that's how they [the

police] might do something because it happen to one of my friends already. She got chop from her boyfriend, she went into the [REDACTED] station to make a report and they say he should have chop you again and all her hands had marks. (Mark, Assault Victim)

Domestic violence victims were among some of these cases that questioned the severity of victimisation and whether alerting the police and reporting allowed them access to justice. Based on their accounts, they experienced lengthy delays between calls for assistance and receiving assistance from officers. Some victims thought that they experienced such delays as officers believed that their crimes were not serious and their victimisation not severe. Ameena gives an account of her ex-partner visiting her home and threatening her. When she called the police, she was told that they were unable to assist as there was no vehicle available, so to call back if anything ‘more serious’ occurred. This response suggested that they would only respond if the harm escalated to a critical level:

... I went and made a report and told them he is still harassing me...he would come up by the school and what not and they were like ‘Yeah...Yeah... we will hold him and we looking for him’. But they would call him because they had his number and they knew the situation and they would call him and say, ‘ay boy behave yourself don’t go by the school and harass the woman’ and that’s it. It ends there. I just totally give up... somebody at the station told me personally they would wait literally for something physical to happen to you do something about it...Imagine an officer told me that. He say only if he comes and physically harms you that’s the only way that we can come in and do something for you. I said ‘serious?’ and he said yes, and I said ‘ok’’. (Ameena, victim of domestic violence)

Such interactions imply that the failure to act is a deliberate decision by officers to not engage until the matter reaches crisis point. While there can only be speculation on the rationale for an officer’s failure to provide a timely and adequate response to a victim’s report, such actions can dissuade victims from future interactions. For Ameena, the failure of officers to intervene when she requested assistance signaled her victimisation be unimportant and eventually caused an aversion to reporting further incidents.

The experiences of these participants were indicative of police officers’ lax behaviors and ineffective responses to reports of victimisation – particularly in cases of domestic violence. These scenarios imply a dereliction of duty and due process by officers involved. A failure to actively

address complaints and reports in a timely in this instance lead to fatal consequences. Moreover, when this inactivity is seemingly due to a perceived lack of severity, victims interpreted such responses as neglect and demonstrative of a lack of empathy, particularly when interacting with judges and court personnel:

...because I wasn't physically harmed in that I didn't have a chop hand or broken limb or a scar saying I am a survivor of abuse I had no empathy from anybody from the system, the court system. (Sunita, victim of domestic violence)

However, for Anna, a victim of domestic violence, also experienced what she considers an inappropriate response to her victimisation when reporting. In the description of her experience, she focused on her physical condition at the time of the report:

I was injured my face was battered, my face was twisted just like it is now, all my eyes black and I had to wait. I mean it I walk in the station and police seeing me looking like this nobody came...they were dealing with other people, and I had to sit and wait until an officer would call me and it was my turn. (Anna, Domestic Violence Victim)

As a visibly battered woman sitting in an occupied police station, she was still not attended to as an emergency or high-priority case. Despite the visual indicators that she was in need of (medical) assistance, no immediate attention or concern was forthcoming. She referred to 'waiting her turn', which implies that she felt as though she were simply a small aspect of police work that was to be checked off a list of duties. In line with some of the other experiences disclosed by domestic violence victims in this research, Jemma's encounter appears to confirm that domestic violence victims are not considered a priority in policing practice. This factor does not change regardless as to whether they are reporting a previous incident or have turned up in need of help at a crisis point. In essence, this goes beyond minimalization or de-prioritization and instead suggests that police officers in these situations may not consider it within their role to attend to domestic violence situations or victims.

In this research analysis, the theme of inequality in victims' experiences was observed. Particularly, inequality based on gender and certain factors related to social capital were pervasive and seemed to influence responses to victimisation. Some experiences clearly indicated that gender influenced the responses victims received when interacting with justice actors. Victims' narratives revealed that there was a lack of responsiveness to persons victimisation where, such persons did not seem to fit the mold of the ideal victim based on their gender. On such occasions, individuals felt that their victimisation was minimised by police officers who failed to take their reports seriously, or when their reports yielded no outcome. Victims' and victim support officers' descriptions of justice actors' responses provided some evidence of victim-blaming and shaming. Frank, a victim support officer, found that reports of victimisation by male domestic violence victims are often subject to minimalisation. He recalls an incident:

Sometimes the attitudes aren't particularly good if it's a man, who is being emotionally or physically abused. I remember, one particular case where a guy came to the police about his girlfriend, and it was more or less emotional abuse. And I was somehow by the charge room while he was making the report and a policewoman said 'You see this woman with five children, what you putting yourself there for?' So that was a lot of shaming and so on.

The officer's demonstration of victim-blaming and shaming attitudes serves to minimize the individual's victimisation. This scenario also suggests that the male victim may have been considered non-ideal and therefore his victimisation may not have been taken seriously based on him being a man and victim of domestic violence. Victimisation takes place within a social, cultural, and historical perspective, and the cultural ideal of masculinity may not consider him an appropriate victim to this form of victimisation. Victimisation is associated with loss and suffering, loss of oneself control (Rock, 2012) and even vulnerability (Walklate, 2014). According to Anne and Rainbow (2018, p.264) 'the crux of the ideal victim construct seems to be an acknowledgement of the vulnerability of the victim – those who are clearly vulnerable seem to be accepted as being victims.' Vulnerability is often associated with the feminine and weakness, therefore men may not be considered vulnerable or the ideal victim, but maybe an underserving victim. In this scenario, there is a failure to recognize the man as a victim, and recognize the harm done to him. This is

related to the discourse on deserving and undeserving victims. Here the denial of victim status because he may be considered a non-ideal victim (Fohring, 2018b) means that the victim may not receive benefits and resources, such as legal aid, compensation, access to justice or service rights.

Some victims stated the officer's responses during their interviews made them feel ridiculed. Jason, a victim of domestic abuse, stated that when reporting his abuse, he excluded certain incidents as he believed that officers may have ridiculed him, based on the fact that he was a man reporting his partner for being abusive. He stated:

Because they ask me some questions did you all have some physical struggles and I told them. And probably led to them not following up, because it wasn't that serious, they would laugh in their head and not show me in my face that they laughing at me at that point. It's kind of like petty crime, 'allyuh just go home and sort it out patch it up and make love the whole night'. They think it's a little thing like that but in truth it doesn't be that you know it won't because it does lead to serious break down. You have to be in it to know it. (Jason, victim of domestic violence).

For Jason, the irrelevance of his victimisation was demonstrated by the officers '*not following up*'. According to his account it may not have been considered serious enough to warrant a response. Additionally, he believed that officers ridiculed his victimisation, which also indicates that it was not a serious matter to them, equating his experience to a petty crime. This implies that there exists some hierarchy of victimisation where more serious matters are actionable and relevant while others are irrelevant and warrant only a cursory assessment. Also, it should be noted that Jason's description of the officer's response, '*allyuh just go home and sort it out patch it up and make love the whole night*', mirrors the response Keisha, another victim of domestic violence received when she reported her victimisation. Such a response by the officers suggests that there is an association between sex and masculinity and resolving domestic issues.

The relevance of victimisation and its association to gender was also visible in victims' descriptions of the victim-blaming attitudes of justice actors. One such example is given by Keisha, a victim of domestic violence. She recounted the officer's minimizing and victim-blaming attitude towards her victimisation which implied gendered and age bias:

I made police reports ... and the officers would say 'you young girls like to go and take your boys and then want to come here'...so they never really took it seriously or did anything.

Part of the process of reporting a crime is being questioned by the responding officers. While many victims understood the need for this querying, some found the attitudes of the officers undertaking the interviews to be disparaging of their victimisation experiences. Such a discourse surrounding domestic violence victims depict them as blameworthy, and powerless (Leisenring, 2006).

While the relevance of victimisation was related to gender, there was also the implication that its trivialisation was related to victims' socio-economic status. One advocate noted how stigmatization played an integral role in the relevance of victimisation:

stigmatization can be seen as an issue. A persons' geography (where they live and socio-economic status can also affect how they are treated by officers in the system. Persons who have a high socio-economic status may receive different treatment and access. (Michael, Victim Support Officer)

This implies that others are aware of how justice actors may respond differently victims according to preconceived notions about their worth or value. In other words, who they are matters more than what has happened to them. Victims considered part of the higher socio-economic status may find that they are treated more beneficially when seeking help and support via the justice system. Here, the implication is that individuals with a higher economic status can expect greater access and service provision. Victims who may not be considered wealthy or who reside in crime 'hotspots' are deprioritized by officers by comparison.

Are othering practices institutionalised?

While victims' experiences implied that othering practices may be institutionalized, it was suggested that sources of such practices may be entrenched in societal values. One victim support officer purported that the relevancy of victimisation is related to the public's understanding and attitudes to crime and victimisation in Trinidad and Tobago. In her estimation the lack of concern

for victims and victimisation may not be one that is only institutionalized within the system, but societal. Irma noted:

Well, the thing is because of our crime, and now everyone talks about a situation, but because the human does not operate in an egalitarian concept mode consistently so that these things would happen, it would be spoken about, but it is not remembered. When it is remembered and the only time and way it is remembered is by its writing, by the end result written down and nobody goes back to that to read it. It is never brought up again until something else like it happens and then we talk about it and then we go back to that place of a level of comfort. (Irma, Victim Support Officer)

Irma suggests that individuals in the society do not operate with belief in or based on the principle that all people are equal and deserve equal rights and opportunities. When this is applied to how individuals think about crime, it presents as the short-term memory of the public. She states individuals may discuss a crime (criminal event) for a period in its aftermath, but after some time it is forgotten. In her opinion, the public's recollection of crime is better where the incident and its possible resolution is documented. Here, her reference to documentation can refer to the media and the news cycle documenting the event and the actions of the offenders, victims, and justice actors in its aftermath. Even so, such documentation is not reviewed and therefore, once again forgotten as time passes. However, the public's memory is once again jolted when there is a reoccurrence of the crime (crime type), and it continues in the cycle of discourse and after some time it seems to be forgotten. Therefore, Irma implies that due to the belief system, the lack of social equality, individuals exhibit short term memory when it relates to crime and even possibly to certain types of crimes. The crime, the offender, the victim, and the justice process are the topic of conversation in the immediate aftermath and after this it seems to be forgotten.

In an opinion article Demming (2021), discusses the aftermath of the murder of Andrea Bharatt²¹, that was filled with candlelight vigils, demonstrations, motorcades, and conversations to end gender-based violence and to protect women and girls in Trinidad and Tobago. The article

²¹ Andrea Bharatt, 23-year-old, court worker went missing when travelling from work to home in a taxi. Bharatt was said to be travelling with a friend in the back seat of the taxi, with a man in the front passenger seat. Her friendly dropped off at her own home and the taxi would drop off Bharatt next, however she never made it to her home, where she lived with her father. After days of searches and the detainment of persons related to her disappearance the body of Andrea Bharatt was found seven days later in a forested area.

reiterates Irma's opinions about the public's memory, 'just as we forgot about Akeil Chambers²² and the hundreds of persons who have been brutally murdered since his murder, Andea Bharatt will recede to the dark spaces of our memories forgotten forever' (Demming 2021). While the author hints to certain differences to citizens reaction in the wake of Andrea Bharatt's murder, as there has been continued call for policy changes months after, it hints to how citizens view and have treated crime. Irma also states that individuals return to their place of a level of comfort. This suggests in forgetting, persons distance themselves from crime, and this action has some influence on how justice is viewed and discussed. Distancing from crime also implies a distancing of individual's victimisation. While such does not imply an othering based on power, here there is the dimension of othering where crime and those involved are placed as the 'other', outside the norm.

The impact of othering practices on victim identity and the (de)legitimation of citizen identity

As previously stated, part of this research seeks to explore how victims' experiences shaped their identities as citizens. An exploration of the victims' experiences described situations where they were at times marginalized, had decreased opportunities for participation, and in some instances, exclusion. Here, it is argued that these experiences, identified as experiences of othering which influences victim's relevance to the process and the relevance of victimisation, plays an important role in the construction of their victim identity as well as their citizen identity. Weis (1995, p.17) notes that othering is a process through which people construct their own identities in reference to others. The analysis of victims' narratives showed that their experiences of othering practices reinforced and reproduced positions of domination and subordination, and therefore shaped how victims' felt, how they were defined, related to, and constructed.

Through the analysis of victims' narratives, the following sections will explore the impact of othering on identities. Here, it is presented that the othering experiences places the victim as the

²² Akiel Chambers, an 11-year-old was smothered to death on May 23, 1998, when he went to a birthday party at a home in Haleland Park, Maraval (a wealthy area). A post-mortem also revealed he was sexually assaulted, and his body thrown in a pool more than 12 hours after he was reported missing. To date there are no suspects nor has anyone been held accountable for his murder.

other within the justice process. As the 'other', victims are characterized as vulnerable and powerless identities which they either adopted or resisted. The impact of othering on identity formation or reconstruction may also had an impact on individual's notion of citizenship and more so their rights consciousness. As such the following section will delve into how their experiences impacted the dynamics of victim identities and citizen identities through their rights consciousness.

Victim Identity and Othering

The identity of 'victim' is a label or status used either by the individual to describe themselves when affected by a crime or an accident, or by others. As such, the term victim as an identity can have several implications, depending on who uses it, claims it, rejects it, or assigns it (Meredith, 2009). Therefore, it involves self-perception, identity (understood as the different ways in which one relates to oneself and presents oneself to others), feelings (e.g., of self-worth, self-respect, confidence, and dignity, or on the contrary demoralization, depression, hurt and loss of confidence) and interests (the desire to gain social recognition, to seek justice, to benefit from reparations, to influence public opinion, to highlight the guilt of perpetrators). Consequently, the impact of the victim label or status is more than that of labelling individuals but the accessibility to justice, resources, and services. If an individual is not assigned the identity by justice actors or does not claim the identity, such can hinder their access.

A structuralist understanding of the concept of othering argues that identity formation is inherent to othering. Such suggests that in the othering the subordinate (the other) is offered an identity and the ability to construct and offer identity lies with the powerful. Based on victims' narratives, there were various dimensions of power evident. In their interactions with justice actors and the process, they were made acutely aware of who held power, as they justice actors always played the role of decision-makers. Another dimension of othering that served to reinforce the powerful and powerless dynamic, was the access to knowledge. Within the criminal justice system knowledge is a technology of power. Othering practices, here, implied that knowledge is the property of the powerful not the other (the victim). Therefore, through these interactions with justice actors and the process, victim identities were constructed, which can be evaluated as the subordinate other.

Christie (1986) in his work on victim identity, captures the social conditions under which an 'ideal victim' status is constructed, labelled, and recognized. He purported that the attributes linked to the term "ideal victim" are often associated to the states of vulnerability (weakness) and powerlessness. Meredith (2009) noted that such attributes at times held negative connotations which may affect the people they are meant to describe, by devaluing them. The key and often taken for granted characteristic associated with being a victim may be described as suffering as a result of an imbalance of power relations, willingly or otherwise (McGarry and Walklate, 2015). While the analysis of the victims' experiences found parallels with Christie's (1986) and Meredith's (2009) assessment of the victim identity, the power imbalance existing between victims and justice actors influenced identity. More accurately, the othering practices observed in victims' experiences served to construct victim identities which associated them with being vulnerable or powerless. The vulnerability of victims was best exemplified amongst victims of domestic violence where their reporting was either dismissed or deprioritized. Their vulnerability was also evident in their dependency on justice actors to alleviate the harm they experienced, as they very rarely were given the opportunity to express agency nor were they able to actively participate in the process. Moreover, victims' powerlessness was evident in their lack of communication with justice actors and the lack of information and knowledge about the process and even their own matters. Additionally, justice actors' responses to victimisation through deprioritizing certain forms of harm served to perpetuate vulnerability.

Through these othering practices, justice actors and institutions produce 'institutional identities, which according to Gubrium and Holstein, (2001, p.11) are 'locally salient images, models or templates for self-construction; they serve as resources for structuring selves.' Victims' experiences of access allowed for the construction and engagement with the institutionalized victim identity associated with vulnerability and powerlessness. Through their narratives victims were observed as engaging with such identities. However, they also tended to resist such identities through becoming self-aware, considering themselves as survivors and finding opportunities to engage in the process.

Vulnerable and powerless identities

The analysis highlighted vulnerability and powerlessness as recurrent themes in victims' narratives. Victims' vulnerability was constructed and, in some cases, augmented by the othering practices within the process and by its actors. Participants spoke about their interactions with those in the system and their continued reliance on such persons to demystify the process. This continued lack of knowledge about the process as well as information on their cases, instances of miscommunication, and inadequate support services enhanced the vulnerability individuals experienced. Moreover, in circumstances where justice actors acted on their behalf or failed to provide them with opportunities for participation, such perpetuated a lack of agency which bolstered an identity associated vulnerability and powerlessness.

Victims are not expected to be familiar with the policies and practices shaping the justice system; that is for the professionals working within it. These professionals ought to be adopting a position whereby they determine the level of understanding victims have about what is happening with their case, and what additional information they need to know in order to continue in an ethical and informed manner. The need for this was outlined by Kara:

perhaps my head was in the wrong place at the time for a victim at the time who does not know anything, who has not ever been in this kind of thing, it can be frustrating because they will not know what are all the steps they have to take, avenues like victim compensation, the support what is available out there for them and how they should access it. There is nobody there guiding them through that... (Kara, victim of grievous bodily harm,)

Kara highlights two important issues. Firstly, victims are unaware and uninformed about the system and its process because they do not have previous encounters with the system. This indicates that the distance that exists between victims and the system, as noted by Dodd (1982) and Lowenthal (1972) in their assessment of the relationship between the society and the criminal justice system. Secondly, when persons enter the system as victims, they remain uninformed about the process as there is a failure to inform them. This implies that victims' continued lack of knowledge stems from the inactive system. While some victims may get information, this was an exception to the rule amongst participants and often occurred where persons were connected

or found sympathizers. However, many victims expressed that they were usually left without any guidance or clarification. This lack of knowledge placed many at a disadvantage and left them feeling vulnerable.

The physical settings of some justice institutions also created an environment where some victims felt vulnerable and powerless. Shauna when discussing her experience of approaching the police station for information, she expressed her feelings of tension and at times vulnerability approaching the building. She stated:

You know...at least continue liaising with the family members... following up and informing us. We may not always have the courage and confidence to come inside the homicide department because that was a kind of shaky thing for me to do. When I had to go in there it was like [exhales loudly] you need to take a breath a few deep breaths before I go inside (Shauna, wife of murder victim)

Shauna's experience with engaging with the process and justice actors, seemed to be a daunting task. Her husband's murder and the lack of information surrounding the event attributed to her feelings of powerlessness. The trauma of her husband's death and the continuous seeking of information seemed to have an emotional toll. Her description of the event suggests that on approaching the institution there was a sense of powerlessness which she felt that she need to guard against.

Ameena's account of her time at court demonstrates how the system and its physical setting creates disadvantages for victims:

Mind you I am sitting close in court, but I can't hear what is being said, what is being transpired [...] and I didn't know what was happening [...] I don't know what to do because sometimes they would just call up the officer and the gentleman and he had his lawyer so they would go up. (Ameena, Victim of Domestic Violence)

Her physical placement in the court did not allow her to participate or be fully aware of what was happening. She was not privy to the discussions between the judge, the prosecuting officer, the perpetrator, and his lawyer, but remained on the periphery of the process and these conversations. She was not furnished with any useful information: *'they [the officer] never tell me a procedure to know how it would be. I never know how it would be.'* Ameena's experience demonstrates that

within the process some victims are present but yet excluded. While it is unclear whether the lack of information about the process or her exclusion from the conversation was intentional, the effect that was garnered positioned Nadia as the 'other'. Additionally, such an instance indicates how the process perpetuates feelings of vulnerability and powerlessness and concretizes them as attributes of the victim identity.

For some victims, the vulnerability produced by their victimisation was further emphasized by the othering practices. The re-traumatisation experienced within the criminal justice system also propagated vulnerability amongst victims and powerlessness within the process. For example, Harvey's experience of trauma from his victimisation, was translated to vulnerability and powerlessness in his interactions with the justice actors and the process. Harvey's experience of being simply given instructions without ample explanation and support seemed to augment the trauma he already experienced. Based on Harvey's description of events as a victim he felt like an object subjected to another's control. As such, the process seems to strip some victims from the very little agency they have left in the aftermath of a crime. After an experience of victimisation there is trauma which all victims experience, however their experiences with the criminal justice system seems to reinforce this trauma. The victim is unable to control what happens in the process similarly to his inability to control what occurred when he was victimised. The inability to control their situation, through having an input or given information on the decisions made, regardless of their position in society demonstrates how victim identities align with vulnerability. Harvey states further:

Being a victim, it can be traumatic. The thing is that...you know you have to go and identify these people and they are like right there. Two days ago, you just tried to kill me and then you have the family members there of the offenders...who not really supposed to talk to you but still trying to say 'ay...you sure is him...you sure is him' that kind of way...clouding your judgement. (Harvey, attempted murder, and robbery)

He associated his trauma as a victim with the trauma of participating in the process. Such experiences also have policy implications for the provision of support services and effective interventions.

The process seemed to continuously require victims to engage in daunting tasks and situations that exacerbated their feelings of vulnerability and powerlessness. For example, victims

were at times required to confront the accused. Some victims found such experiences to be additionally difficult as these interactions were undertaken with little or no professional support. This inadequacy of care heightened victims' feelings of vulnerability:

They force you. If you don't go well the case will get throw out, so either way you screwed. So you going in front there [the court] and you facing that man and he's taunting you and he have an attorney so he can say whatever and the attorney lock off her ear [not listening]. And this is what the system does, they are forcing you to face this man, or they force the children. (Jemma, victim of domestic violence).

Jemma's experience illustrates how a range of factors inform and sustain feelings of vulnerability and powerlessness. The requirement for some victims to confront their perpetrators without support, traumatizes and marginalizes the victim in the court room. The activities establish the court as an unsafe space for the victim while they are subject to the institution and its processes. In these circumstances, victims can be identified as powerless as they have no control over what occurs and how these situations unfold. The system relates to some victims in a manner that makes them feel dehumanized.

Resistance to vulnerable and powerless identities

In their narratives some victims seemed to resist the social constructed identities placed upon them by their experiences of access to justice. Participants resistance to vulnerable and powerless identities stemmed from how they defined themselves as survivors rather than victims. Besides, such identity-related resistance, it was found that through the process, participants demonstrated their resistance through persistence in accessing justice. This persistence was notable in their quest for knowledge and information about the process, as such some victims demonstrated determination and chose to empower themselves. While such persistence resulted in expressions of legal cynicism, it suggested that they resisted becoming the 'other' within the criminal justice system and recognized they were non-reliant on the system to achieve justice.

Victims who referred to themselves as 'survivors' demonstrated their resistance to the associated vulnerability and powerlessness created by the trauma of their victimisation and the

othering they experienced in the criminal justice system. The resistance to the victim label was notable among some domestic violence victims, as they preferred to refer to themselves as ‘survivors of abuse or domestic violence’. For example, at the beginning of the interview, Sunita, a victim of domestic violence refers to herself as a survivor and it is seeming this self-identification is what prompted her willingness to access to the criminal justice system by her reporting. She stated:

well I am a survivor of domestic violence. So when enough was enough for me I got up and made a report.

Another victim, Jemma, also referred to herself as a survivor rather than a victim:

You know how horrible it is for me to go to that court system and face that man. And this is what the court does to survivors.

The “victim” and “survivor” identities expressed by Sunita, and Jemma is important to victims’ sense of empowerment and strength. The use of the term ‘survivor’ represented their ability to overcome the trauma of their victimisation. Rock (2004) purports that victims of crime are increasingly harboring reservations about being called victims as the label of victim carries with it a negative and disempowering ideology that can be unattractive and off-putting. For example, Celia, a visually impaired victim of a home invasion and robbery, stated: ‘*well I don’t like to use the term victim*’. The term victim is portrayed as having little responsibility, agency, or power, being passive and helpless. Victims have traditionally been considered to be bad luck, so while those aware of their plight may offer sympathy, they will often also be mindful to distance themselves in order to avoid befalling a similar fate. Recognising this, the discursive turn towards using the term ‘survivor’ was adopted among feminist circles to both enfranchise people who had been victimized and to indicate the agency they had in moving past this label and the circumstances which instigated it. The term ‘survivor’ is characterized as strong, willful agents who cope positively and are resistant as well as resilient (Dunn, 2010; Leisenring, 2006; Dunn, 2005) and is at odds with the use of the term victim. The use of ‘survivor’ has been most evident among people affected by domestic and sexual victimisation. This was also evident in the present research, with such participants indicating a preference or adoption of the term. However, their statements also suggest that the process of justice attempts to remold them into vulnerable and powerless identity of victim rather than survivor. Jemma’s outrage about the treatment of survivors of the court

suggests that despite her self-empowerment to act but she is now put in a process that places her before the offender which may make her powerless.

Other victims also narrated an awareness of their position and need to be present in the process, particularly when attending court:

Yeah. It's really just a hearing. We don't need to go but we just want to be there to know exactly what is going to be taking place. If it going to be coming to the High Court and what not [...] because we just heard that the case calling X day and me and my family show up and then others family because we want to know what is going and what will be done.
(Auderey, mother of murder victims)

Auderey states that the hearing was not important which, in the wider scheme of things, may have been true. However, its importance is illustrated in the fact that this is how she was able to keep abreast of what was happening in the case. Turning up with family members may also have been Auderey's way of ensuring pastoral and emotional support, in addition to not missing any crucial details. While Auderey – or any mother of a murder victim – could be considered a vulnerable person, this activity indicates the strength she was able to muster to remain informed about the case's progress. It may also have been intended to keep the legal professionals accountable; knowing that family members of the deceased were tracking their handling of the case may have had some bearing on their commitment towards it.

Some participants noted that to effectively maneuver the process, they needed to become more aware of the process by becoming actively engaged where permissible and possible. Therefore, victims at times made decisions that demonstrated their self-empowerment. Some victims stated that they sought information and advice from various sources aligned to the criminal justice system as part of their quests to gain knowledge about the process. Other participants described their actions of accessing psychological and material resources which they believed increased their sense of power and took control of their lives. Such activities consisted of visiting police stations and investigative officers to obtain information on their matters. As one victim stated when asked about gaining information about their cases:

I always had to go or my son would go. Another thing was that... I was supposed to be...writing when I go what we discussed and whatever, and the days so I would have a better idea as to how many times I have been there. (Mary, mother of murder victim)

For Mary, approaching the system as well as documenting her visits and what was occurring ensured that she was up to date with information on her son's murder investigation. Such a practice of document the information seemed to be an empowering exercise for Mary. Some domestic violence victims also engaged in activities that required them to be assertive, resisting the identity associated with vulnerability and powerlessness. Therefore, these victims challenged the power relations between themselves and the system. For example, speaking up in court to ensure that their voices were heard, or requesting information from officers to ensure their cases were not dismissed. Some victims sought legal services and advice to increase their control over their own lives and the process. One victim noted that she engaged the services of a lawyer to ensure that her court matters were dealt with effectively. The use of lawyers by some gave them feelings of control over the situation and their lives.

Victims' right consciousness and delegitimizing their citizen identity

According to Merry (1990) individuals' willingness to use the law as a problem-solving tool is closely related to their understanding of law and authority. In this study victims accessed the system to engage the process as they understood the law and the authority of the law as the only means to provide some resolution. However, how they proceeded within the process was coloured by their experiences and social interactions, possibly affecting decisions about what options to explore or even if their problems were 'justiciable'. Such experiences also have an impact of individual rights consciousness. Their experiences caused them to either question their rights as encounters with the system made them feel like they lacked right, or they simply believe that they had no rights. The analysis of interviewees narratives revealed that othering practices had an impact on individual's rights consciousness, their ability of define themselves as rights holders.

In the criminal justice system, the citizen identity refers to the individual's right to justice; the right to defend and assert all one's rights on terms of equality with others and by the due

process of law. Therefore, the awareness of rights, or rights consciousness is an important component to victims' access to justice. Engel (2012) explains that rights consciousness adopts what might be called a vertical perspective, tracing the flow of legal forms and practices from authoritative centres of cultural production to local settings, where they may be adopted, resisted, or transformed. This means that there needs to be a transfer of knowledge from the criminal justice system and its actors to victims, however based on victims' narratives there seemed to be very little knowledge transfer.

As citizens of Trinidad and Tobago, all individuals have inherent, and natural rights to equality before the law, the protection of the law and the right to equality of treatment from any public authority in the exercise of any functions under Chapter 1, Section 4 of the Constitution (Chap 10:04). As it pertains to being victims of crime their rights are much more narrowly defined. As previously mentioned, in Trinidad and Tobago there is a lack of clear guidance, policy or statute that guides victims' rights or the clearly states the systems obligations towards victims. For example, while victims have access to all institutions within the justice process such rights are narrow in scope. For example, when reporting a crime, the policy dictates that when a report is made at any station regardless of proximity from the victim's location or abode, they are required to get a receipt. The receipt provides proof that a report was made. Victims also have the right to compensation as per the Criminal Injuries and Compensation Act 2011, which established the Criminal Injuries Compensation Board to make provision for the payment of compensation to victims of criminal injuries. More importantly, it provides a means whereby a victim of a crime of violence can obtain compensation for injuries suffered. According to the Act, the Board will consider all applications from victims of crime or their representatives and make its decision on compensation based on the recommendation of its administrative arm. Other legislative provisions can be found within statutes on the trafficking of persons and domestic violence, which specifies the procedures for the application of protection orders by victims. In situations where they believed that the police acted outside their scope, unlawfully, maliciously, or injuriously, persons can access the Police Complaints Authority to seek accountability. However, outside the above-mentioned there is very little guidance on access to justice, the rights of crime victims nor the obligations of institutions and its actors towards victims and ensuring that they articulate victims' "best interests".

When asked about the existence of policy or guidelines on treatment and provisions for victims, the victim support officers interviewed stated that while there are no formalized policies, the informal institutional guidance mandates that victims receive the necessary support once they interact with criminal justice institutions. Moreover, police officers are mandated to refer all victims to the VSWU within the police service, and it is incumbent on this unit to assist victims with their needs. The aim of the unit is to bridge the service gap between the Trinidad and Tobago Police Service (TTPS) and victims and witnesses of crime, which means providing information, support, and awareness. Patricia, a victim advocate, when discussing victim's awareness of the system and their rights within the system indicated that there is a drive to make citizens aware of the process and their rights within the process. She stated:

Understanding the process is a citizen thing as most citizens are not aware until they become victims. Although the information is available, some citizens don't take the time to get the information. We host town meetings where information is given but very few persons attend (Patricia, victim support officer)

Here, Patricia clarifies how knowledge of rights are handled and who has access to this knowledge. For Patricia, the knowledge and information of the justice system is accessible to all citizens, therefore, knowledge about the system is related to the citizen identity and not the victim identity.

This approach to the dissemination of information supports the understanding that citizens development of rights' consciousness is a top-down approach (Engel and Munger, 1996). Rights and rights awareness originates from authoritative centres, such as the state or the criminal justice institutions and through various mediums it is relayed and to citizens who can either adopt, resist, or transform these rights. This dissemination of information about the system and creating awareness of the system suggests that there may exists efforts to empower citizens. She also implies that citizens are ultimately responsible for knowing their rights within the justice system as the information is being made available, however, few persons access such information. Her comments stress the importance of literacy and education for individuals' access to justice. In a study of barriers to access to justice, Fitzsimons (2016) found that low levels of education and literacy have a very high impact on awareness of legal rights. Macaulay (2002) notes that one of the obstacles to women's effective access to just is their lack of knowledge of their rights and of the mechanisms of the law. Accordingly, to counter their lack of knowledge and

disenfranchisement, Macualay (2002) explores women's legal literacy in Latin America, that trains grassroots outreach workers who in turn assist working-class women in accessing the justice system. Such projects seem to extend women's citizenship and secure them positive rights as well as redress when their rights are violated and stimulate reform. Therefore, citizens who are unaware of, or fail to attend, the types of meetings alluded to by Patricia can be doing themselves a disservice in terms of accessing knowledge about their rights.

While other interviewed victim support officers discussed the use of town halls and radio interviews to disseminate information about the work of VSWU, and the justice system, they acknowledged that this information may not reach all persons. Further, even where face to face with justice actors, some individuals were not informed of the necessary rights-related information. The failure of justice actors to provide this information was a sore point for many victims. Many expressed frustrations with the system as they were not provided with the necessary information which impeded their access to mechanisms of justice as well as their understanding of the system. One victim indicated that she was unaware of her rights to claim compensation for attending court as she was uninformed about the process:

I wasn't advised of any claims, and I think I should claim for travelling allowances each time to and from court. Compensation from loss of earnings that was incurred from attending court (Sita, mother of murder victim)

Another victim, Victor stated '*police don't give you advice. You have to figure it out on your own*'. Both Sita and Victor expressed similar a concern: that justice actors provided no advice of their rights as victims in the process. Rights consciousness and the ability for persons to define themselves as rights holders emerges from (supportive) encounters with the police, prosecutors, judges, and other actors involved in the criminal justice system. However, the failure to provide the necessary advice for their understanding of the process, influenced victims' opinions of themselves as rightsholders. Here their lack of knowledge, made them view themselves as without rights in the process and therefore without power.

For one participant the term victims' rights or the understanding of himself as a right-holder was a foreign concept. When asked whether he believed he had rights as a victim of crime he stated:

Well, to me this is the first time I am hearing about it, that a victim has rights. So, if I am a victim of something and I have rights, I can't say what are those rights. I will just say being good citizen in this country knowing the law to an extent that I won't violate it, I will say I am within my rights. (Jason, domestic violence victim)

Jason stated he was unaware of the possibility of rights as a victim of crime. Moreover, he was uninformed of the rights he may have as a victim and what are the possible responsibilities the system toward him. However, he relates being a rights holder to his identity as a citizen. However, he relates his rights awareness as a citizen to knowing the law and engaging in a law-abiding behaviour. In his opinion once he did not violate the law, and therefore he has not violated his rights, whatever those rights may be.

Besides the construction of the victim identity, othering practices also affected an individual's rights consciousness. Based on the interviewees' experiences it was noted that the criminal justice system in Trinidad and Tobago is an imperfect system and that many may not have access to mechanisms of justice and the services needed. While some rights and mechanisms exist, victims often questioned whether these rights were accessible to them and even questioned their status as rights-holding citizens. Victims' narratives revealed how they saw themselves as rights-holders within the criminal justice process, how their experiences had oriented them toward the law, and how their conceptions of their rights as victims affected their identities as citizens. For example, Auderey and Jennifer, mothers of murder victims, questioned their rights as victims and even as citizens, regarding the systems treatment of the offender versus its treatments of victims. Based on their assessment of the treatment of the offender in their case, they believed that offenders were protected by the law due their constitutional rights, however, in their assessment as victims failed to have the same kind of protection. As such they believed that *'we the citizens really have no rights [...] they might say we have rights, but we don't have rights'* (Auderey). Marshall (1950) contends that citizenship is a process, consisting of a civil, political, and social element, that ensures rights, as well as obligations and responsibilities. Therefore, citizenship represents a "relationship between the individual and the state, in which the two are bound together by reciprocal rights and obligations" (Heywood 1994, p.155). As such it is not only a legal status, but an identity, with an objective dimension, specific rights, and obligations but also a subjective dimension: a sense inclusiveness and belonging (Paz and Turner, 2004).

The questioning of being a rightsholder as a victim seemed to be deeper rooted for some victims. Their questions did not arise only from their experiences of the criminal justice system but from their lived experiences as citizens. For example, Victor notes that his feelings about being a rightsholder in the justice system, also stems from his day-to-day life experiences. He states:

I always feel like I don't have rights. I mean to say I ain't intelligent, but we don't have rights. If you not in a certain class you don't have rights. Let me give you an example, this building here I spent a lot of money to build this[...]a man comes here a day and asking if I have a certificate. I tell the man 'here what going on, my building build up to specs'. After trying to prevent me from getting my certificate I went to the office in Town and Country and make a real big scene and I told him if he would like someone to do that to his friends and family? You would not always be in this same position ...and after that I get my certificate. (Victor, father of murder victim)

This implies that Victor's inability to define himself as a rightsholder stems from his everyday lived experiences. Victor's connection with being a citizen with rights is related to his status in the societies structure. For him being in a certain class (part of the elite) allows you as a citizen to have rights to access services. His statement also implies that to gain his rights he also needed to assert and empower himself. Nielsen (2000, p. 1087) purports that "people make connections from their past experiences – good or bad – which arise in part from the social positions they occupy – and that these experiences shape their understanding of the law". Based on Victor's narrative and the narratives of some victims, their lived experiences of interacting with state institutions and systems makes them question their identity as rights-holders when accessing the criminal justice system. Such feelings seemed to be reinforced by their interactions with justice actors and the process.

For Victor, the institutional practices of the system further compounded his sentiments of feeling excluded and lacked rights as a citizen. His experience of othering practices made him believe that he had very little access to the resources within the criminal justice system, therefore, distancing him from and to some extent delegitimizing their identities as citizens:

[...] well, the whole system is a major problem. The whole system is a problem [...] if it was one of them politician mother, sister, brother [...] they would have had enough resources that time to find that killer. They have technology but they don't want to do it, they only want to do it for their people not us. (Victor, father of murder victim)

Victor when discussing the accessibility of resources in the investigation of his son's murder questioned his identity as a citizen. In his opinion, the system due to the class structure of society placed very little value on him and his family and investigating his son's murder. In his estimation those within the criminal justice system are more concerned with the politicians and those persons that may be considered the elite in society, as they may have used all resources at their disposal for such persons. According to Kamugisha (2007, p20) in the Anglophone Caribbean there has been the denial of full citizenship to many persons in the nation state not in the legal sense but in the variety of practices, images of belonging and identity concerns that frustrate and deny the aspirations of many people. It is argued that the structural features of Caribbean life that acts as constraints of contemporary citizenship, more so the elite domination that is present in the Anglophone Caribbean (Kamugisha, 2007, p.22). Here middle-class elites, politicians and their families, their citizen identity is legitimated as characteristic of the post-colonial society is middle-class domination. Victor does not see himself as part of this middle class and therefore, subject to a delegitimated citizen identity.

The belief that the importance of class in access was also noted by other victims. For example, Celia, a visually impaired victim of robbery, also comments on the ability of some to pay for justice:

Celia: Based on that I know persons who went through the system, and they had different court matters there are times perpetrators get off easily because of some loophole or whatever. Or sometimes too I hardly hear of cases being done fairly and persons being found guilty...it seems rare. That's a handful for me. Victims don't get a fair time...unless you have money.

Interviewer: So having money as a victim allows you to get a higher level of justice?

Celia: I think so yes [...] yeah

For Celia, the question of rights was related to the fairness of the process, where perpetrators were able to evade liability or punishment. In her estimation the possible loopholes in the process and the laws led her to the belief that victims may not have rights, or more accurately rights to a just outcome. Further, her belief that persons can pay to access justice suggests that there exists a contested citizen identity for those who do not have money. It implies that there is the elite

domination through wealth and privilege, quite similar to the country's colonial past. As such victims seem to construct their citizen identity around this understanding that if they are not part of the wealthy class, they may not have access to the system. Such an understanding supports that assertion that othering experienced in the process that can be translated as practices of delegitimation of victims' citizen identity. More importantly such experiences affirm that the system organizes its relationships with the citizenry which are often traditionally hierarchal.

The analysis of the narrated process and interactions, through the lens of othering revealed that the criminal justice system, created and promoted socially and structurally distant relationships between victims and authorities. These practices of othering served as a delegitimizing function which creates a sense of differentiation and inferiority (Tajfel, 1978, 1981), to the extent that it seemed to exclude the victim from the acceptable range of norms and values as citizens. This was very evident in the interactions between justice actors and female victims of domestic violence where the biased responses of officers to women. Additionally, the lack of financial equity was discussed mostly by domestic violence victims. For some their partners had the necessary finances to ensure that they faced very little consequences for their actions were made to feel as invisible citizens when accessing the system as justice actors often failed to adequately respond to their victimisation. Victims' experiences presented a gendered element to the application of the law and the criminal justice process. It indicated that women and men are treated differently by the justice system and its actors. According to McClintock (1997), no nation in the world grants women and men the same access to the rights and resources of the nation-state. Garcia and McManimon (2011) maintains that the historical characterization and social construction of women's place in society as extensions of their fathers and husbands influence how society thinks of them and labels them as victims. As such their access to justice is connected to their male partners, their abusers, making the context of their citizen identity based in a hierarchal identity-driven membership. The result being a delegitimation of their citizen identity to the extent that these women may not see themselves as rightsholders.

Conclusion

In this chapter, victims' experiences were explored through the lens of othering, where their narratives expressed disenfranchisement, marginalization, silencing and distancing. Moreover, their experiences demonstrated the power imbalance that exists between the various parties in the process as the system worked from a vertical top-down perspective. The processes of othering observed in victims' experiences reinforced and reproduced justice actors positions of domination and subordination. It was found that information, knowledge as well as support flows and decisions making came down from authoritative centres to the victims. These experiences made victims the 'Other' within the process and in their interactions with justice actors. A major question that the research wanted to answer related to how these experiences of access affected their identity as victims and as citizens. It is in answering this question that the lens of othering and seeing the victim as the other played an important role. It was noted that based on their narratives the victim identity formed by experiences of othering, produced the victim as the other. It is the identity of the other that was either adopted or resisted. Their resistance or adoption as the other, also affected how they understood themselves as rights-holders, how they oriented themselves toward law, and how their conceptions of their rights affected their identities even when they do not assert the right.

Chapter Seven: Victims' Perceptions of the Criminal Justice System: Legitimacy and Legal Hegemony

We understand that there is accessibility but whether or not you get the satisfaction you are looking for now that is another story. (Irma, victim advocate)

Trust, confidence, and fairness in the criminal justice system in Trinidad and Tobago have been subject to considerable public discourse, yet little empirical data exists on these issues. As noted in Chapter One, legitimacy is defined as 'people's beliefs about the right of justice institutions to hold power and influence' (Jackson et al 2015, p.2). Victims' perceptions of the system's legitimacy are integral when examining their willingness to cooperate or engage with it (Pugach and Tamir 2017). Accordingly, the police and other justice actors depend on the victim's cooperation to address (and potentially reduce) crime, as they are important sources of information. Crime victims assist statutory agents in their endeavor to investigate crimes; in some cases, this is rewarded by the conviction of offenders and the possible prevention of future victimisation of both themselves and others by the perpetrator (Pugach and Tamir 2017). While they constitute a small part of it, victims can play a key role in the effective workings of the justice system (both its actors and institutions) yet consideration of their treatment within it remains scarce. Exploring their perceptions can shed light on factors informing victims' willingness to cooperate in criminal justice processes, as well as their views of the State.

This chapter explores two major themes to emerge from the analysis: victims' perceptions of the criminal justice system's legitimacy, and the reinforcement of legal hegemony. The first theme focuses on; communication and the quality of interpersonal treatment; trustworthiness of and confidence in authorities; and the perceived efficiency and fairness of the process. It demonstrates how the misalignment between victims' expectations and their experiences contribute to their dissatisfaction. The second theme contends that the systems' legal hegemony is reinforced through victims' resignation to the legal system and the rationalization of their experiences. It concludes that victims' experiences of access do influence their perceptions of the criminal justice system, but also reinforces the legal hegemony of the justice system.

Victims' Perceptions of the Criminal Justice System's Legitimacy

Victims' perceptions of the criminal justice system provide an understanding of how they see themselves in relation to the law. Ewick and Silbey (1998) suggest that a person's orientation to the law varies with context and can be expressed through one of three paradigms: people see themselves as with the law, before the law, or against the law. In the present research, the analysis of victims' narratives indicated that many positioned themselves as either *before* or *against* the law. Such positioning stemmed from how the system appropriated their conflict, ultimately framing them as the 'other' within the process. Additionally, it affects victims' 'legal consciousness', the ways in which they made sense of the law and its institutions and their understandings and meaning applied to experiences and actions.

Moreover, the public's sense of legitimacy when it comes to the justice system, is reinforced when the authorities' actions are viewed as consistent with their expectations (Jacobson et al, 2016). Therefore, victims' perceptions of the criminal justice system are not only informed by how they positioned themselves in relation to law and their experiences but also by their expectations of the system. Expectations play an important role in determining satisfaction with the police (Pugach and Tamir 2017). Satisfaction with the police plays an important role in victims' willingness to report crimes and cooperate with investigations and trials. Theories of expectation formation identify two general forms of expectations: predictive and normative (Hjortskov, 2020). Predictive expectations are about how a future service will be, whereas normative expectations concern how this service should be (Hjortskov, 2020; James, 2011).

During the interviews victims expressed mixed perceptions of the criminal justice system, with many being dissatisfied with the process of justice and their interactions with justice actors. Additionally, they spoke about their expectations of the justice system and its actors, in relation to their actual experiences. The analysis of participants' narratives found that their sense of alignment with the criminal justice process was shaken by their (often negative) experiences. For some victims there were gaps between what they expected when accessing the system and their actual experiences of the criminal justice process. Some individuals indicated that they believed some of their needs would be met through service provision, support, and effective communication. Many had preconceived notions of how they thought things would be done, and how they would be

treated. Some interviewees spoke about how they believed justice actors ought to function and how the system ought to support and treat victims while managing their conflict (matters). Considering this, the analysis found that perceptions of legitimacy were implicitly and explicitly linked to themes in victims' narratives. They highlighted communication and the quality of interpersonal treatment such as being treated with dignity and respect, politeness, with concern for their individuals' rights, the trustworthiness of authorities as well as the fairness and efficiency of the justice process.

Communication and the Quality of Interpersonal Treatment

Individuals' sense of legitimacy about the criminal justice system was reflective of their direct interactions with its agents and their expectations of such interactions. Positive interactions would compel them to view the system and its actors as legitimate and negative interactions may serve to achieve the opposite (Pugach and Tamir 2017). When exploring the issue of quality of interpersonal treatment in victims' narratives, some of the recurring themes were communication and support. The analysis found that the communication, and support victims received from justice actors varied considerably. While most victims experienced lapses in communication and minimal support, making them quite weary of the system and its personnel, a few had described these experiences as positive.

When exploring victims' narratives some individuals seemed to be mostly satisfied with the communication and the support they received. Hannah, when specifically asked about her satisfaction with her interactions with justice actors and if her experiences met her expectations, she stated:

...I would have to say to an extent yes.... and then I probably just have or unusual expectation of the police service because I am aware that they are humans dealing with their own issues and limited resources. (Hannah, victim of sexual assault and robbery)

The interesting aspect of Hanna's narrative is her use of the term 'unusual expectation'. In her opinion she received respectful and empathetic treatment, which she described as being an 'unusual' thing to anticipate. This implied that its abnormal for officers to relate to victims in such

a manner. It is likely that her prior relationship with police officers and being the wife of a police officer meant she thought she would be treated more preferentially. Therefore, her expectations and her positive experiences were unique and not universal to other victims within this study. In further explaining the support, she received she states:

I guess as a sexual assault victim, and then also I know this would impact them emotionally and mentally...so... the response that I got was overwhelmingly supportive, but again that is possibly because it's a colleague of theirs and they are very protective of their uniforms. (Hannah, victim of sexual assault and robbery).

Amanda, one of the two victims in this study whose matter proceeded to the High Court expressed satisfaction with the communication she received from justice actors. Despite her worrisome communication with police as it relates to the ID parade, when asked about her experience of communication with the police she stated:

I don't think at no time for any long period of time I wasn't informed of something...so they pretty much kept me abreast of what was happening and the fact that I know that he was off the street was. Good. Yeah, there were some psychological issues about what I went through but knowing the person in particular was off the street ...

As it relates to her experience with the prosecutorial team (the attorneys at the Director of Public Prosecution) she stated:

Wonderful... Just as the two officers' full points for them. Ms XXX especially and two other ladies especially they treat me well. When I went there, they offered something to drink...they make sure you relax. Yes, it was a lot of time. I spent a lot of time there going over...rehashing being prepared for the actual trial, but it was worth it. I believe in the end.

Despite the above experiences, many interviewees recounted that there was a lack of effective communication between themselves and justice actors. Many experienced lapses in contact and in some cases, there were minimal updates provided about their cases. Mary, a mother of a murder victim, spoke at length about the lack of communication between herself and police officers. When discussing the officers' reticence to keep her informed, Mary's accounts implied that she expected officers to be proactive in their efforts to keep in touch:

If I don't go to the police, they won't come to you, and I feel that they're supposed to be liaising with the person and telling them what's happening. You know... if we getting a headway, and I would always feel that you come to people and tell them that you getting a headway...because you are the police...

The failure to communicate or provide feedback often left victims unaware of the process and the status of their matters and feeling retraumatized. Mary suggested that the lines of communication between victims and the police should be open and ongoing to allow for greater information-sharing. This is not an unreasonable expectation; if the police and other justice actors fail to provide insight and feedback to victims on their respective investigations, then who will? In her estimation this was part of their responsibilities as police officers. Other victims like Jennifer and Audrey (mothers of murder victims) also outlined how they had envisaged that the police would be the ones to call and provide them with information:

... they should call me and let me know that this is what is happening with the case or give me a feedback let me know what it is. (Audrey)

Some victims expected officers and other actors to provide them with pertinent information.

No...just like in my case.... the police are assigned in my case and he leaves and go somewhere else. Why am I the one to come to find out that he left, when right away you're supposed to go through your file and see how many people you have to deal with and you know if you're leaving then right away I'm supposed to know you're leaving and this person will take over. I did not get that. (Mary, mother of murder victim)

Mary expected to be informed of the investigating officer's absence and the handover of her matter to another officer. However, this lapse in communication demonstrates not only the misalignment between expectations and experiences but also, perpetuates tensions between victims and the system. Moreover, it impacts how the victim perceives the system and therefore affects their willingness to engage with it in the future. As such for these victims there was a misalignment between their expectations and their experiences of difficulties in their interactions with state agents, particularly receiving updates on the status of their cases and how the wider criminal justice process operated.

More importantly, victims lack of satisfaction in the communication they received from justice actors was also related to the impact it had on their mental and emotional well-being. One such example is Shauna, where she noted that the lack of communication, affected her sense of closure. Shauna's description of her experience of communication with police brought to light some issues. Firstly, the lack of communication between herself and justice actors informed her feelings around a lack of closure, as she was unaware about the case outcome or what happened next. Secondly, she implied that the police's lapses in communication resulted in her having to attend the police station to prompt engagement, which she found to be intimidating:

At least continue liaising with the family members, following up and informing us. We may not always have the courage and confidence to come inside the homicide department because that was a kind of shaky thing for me to do. When I had to go in there it was like [exhales loudly] you need to take a breath a few deep breaths before I go inside. (Shauna, wife of murder victim)

For many these discussions on the lack of communication between themselves and the system, lead to their opinions on the need for and importance of information. One victim, Harvey, believed it was extremely important for police officers and justice actors to provide victims with information. From his perspective, the trauma of victimisation experienced by many creates the 'need to be briefed before as to what to expect'. Most victims indicated that they had wanted to be made aware of what was happening and had believed that they would receive communications about the facts and progress of their individual cases. Gina implied that communication was an important tool for accessibility and the processing of information:

I know with regards to investigation the police will limit as to what they can tell you. But they must have some kind of information as to what it is going on and what it is that happening and what it is they are planning what it is they're doing with regards to that. Instead of just being lost and you don't know nothing. All of that helps with processing and accessing the fact that you lost someone all of that helps... (Gina, wife of murder victim)

While Gina was keenly aware of the limitations placed on the police in the sharing of information during a police investigation, she believed that some information is necessary. In her opinion the provision of information by justice actors had an almost cathartic value, as the provision of information allows the victim to process their loss. Like Gina, Kara provided another perspective

on the importance of communication for victims, indicating that this can be a source of frustration for victims. She stated:

I could say that it can be frustrating for a victim. For me, perhaps my head was in the wrong place at the time, for a victim at the time who does not know anything who has not ever been in this kind of thing, it can be frustrating. Because they [the victim] will not know what are all the steps they have to take, avenues like victim compensation, the support, what is available out there for them and how they should access it.

Some victims' lack of knowledge and awareness about the criminal justice the failure of justice actors to provide this information became a source of frustration. Tapley (2003), in a longitudinal study with victims of crime, found that the lack of information at all stages of the process remained one of the constant sources of frustration. Moreover, it is purported that victims experience further distress when they were not kept fully informed of what is happening and why at all stages of the process, both pre- and post-trial (Newburn and Merry, 1990).

This sense of frustration and even trauma due to the lack of communication was also discussed by Harvey. Harvey acknowledged that communication between the victim and the system improves victim's satisfaction as well as perception, resulting in victims being less traumatized and reinforces the legitimacy of the criminal justice system:

The thing is I know how time...how long it takes for laws to be amended simple things can be done to give the public's perception of the system as being made easier. So as I said communication from the court...communication from the police service ...the victim is happy, less traumatized and informed and that will boost the public's perception of the criminal justice system. Saying 'hi, somebody is looking out for me' (Harvey)

Besides being a possible means of easing victims' trauma and frustration with the process, for Harvey, communication can make the victim feel supported. As such, the lack of information may give the victim the impression that: the system is not interested in them; there is a lack of recognition of the harm that they suffered; and even that they have no status in the process.

However, the issue of communication did not only pertain to providing victims with information, but the victim being able to adequately communicate their feelings and trauma within

the process. When discussing the communication victims may want from the process, one victim discussed the importance of the victim communicating their harm. She stated:

they could tell the Court how the crime has affected them and this should be taken into consideration maybe in the sentencing. Because it could affect them, they could be depressed they could suffer from anxiety, from PTSD which happened to me, you feel angry you feel upset sometimes you normal and then sometimes you again into a relapse in that emotional state again. Sometimes you lack sleep a whole lot of things. (Sita, Mother of Murder Victim)

In Sita's opinion the process puts very little stock into the psychological effects of victimisation and, also, the traumatic effect of the process. Here, Sita, is referring to the use of victim impact statements to inform sentencing or during the Court process. From her experiences the system's focus is on the offender and offending behaviour and there is little consideration to the individual's victimisation and the effects of their victimisation. The lack of communication in this way can cause the victim to feel further trauma.

The lack of communication also resulted in some victims perceiving the system as unsympathetic and impersonal. As one victim stated:

I know the police is dealing with this persona that they in charge or whatever but at the same time people will be experiencing things for the first time, they will not be in their right senses they will be emotional and all these things. I think the police needs to be a little more sympathetic with the public, especially with the loss of someone in that manner. Because it's not going to see them again just somebody just snatch them away from him not ever going to see them again, so you know other emotions is happening with the individual (Gina, wife of murder victim)

Gina acknowledges that the police possess a persona that implies a hegemonic power and authority. However, in her estimation there needs to be a balance between their persona and the sympathy that is needed when interacting with victims. Her statement implies that in her experience, there is an imbalance in understanding from police officers when dealing with victims. She asserts that a victim's trauma plays an important role in their response and interaction and therefore this should be considered by officers. However, her assessment also supports statements

made by Hannah (victim of sexual assault and robbery), about the role of trauma in victims' responses and the nature of interpersonal treatment. For Hanna, her trauma played a major role in how she engaged with the process:

...there were so many layers that I was dealing with at that point in time because I was pregnant, and I still had my 2-year-old to take care of ...monitoring the process was the furthest thing from my mind. The process was really consumed by protecting the mind of my daughter, and I guess just me surviving.... my mind was not in that analytic capacity (Hannah)

However, while Hannah had recognized that her trauma played a role in how she responded to officers, and her affiliation allowed her their empathy, she also realized that the police were 'clinical' in their approach. For her the 'clinical approach to their investigation often lacked the humane aspect:

It lacks humane services...and when I say humane services... I am talking about not being so clinical that you disregard the practical needs of both the victim and the perpetrator and the community. If you are saying that I understand why you need to have someone in there in the line up to validate this process. Its clinical to provide verification and ensure transparency in the process. I get that. However, the humanity in the process will be to provide services for the victim so that they [victim] can understand the process and why we [the police] need to do it this way (Hannah, victim of robbery and sexual assault).

This implies that some officers were unable to merge sympathy and empathy with the more administrative and investigative element of their jobs. This lack of sympathy was a source of discontent, as the trauma of victimisation meant that victims would need some form of sympathy and empathy in the process. Hannah, and other victims (Harvey and Amanda) found the identification parade to be a particularly traumatic experience. As such, they were dissatisfied with the quality of treatment they received, even describing the process as inhumane, and in turn feeling further victimized.

When discussing the views of some of the victims interviewed about their disappointment in the quality of support and treatment they were subjected to, Patrick, a victim advocate stated the following:

it has a history in culture in terms of how the Police Service being first considered the police force and changing over to a service. Some of the energy or stigma of being a force is still there so there is a kind of intimidation of people coming to the station. (Patrick, victim support officer)

Patrick refers to the historical origins of the service, and the militia-type culture (Harriot 2000; Mars, 2007), that is associated with the policing institution in Trinidad and Tobago and the wider Caribbean region. More importantly, there is the suggestion that the renaming of the national policing institution, from force to service did not change the earlier stigma attached to the policing institution. To date this stigma is still attached, due to incidents of alleged police brutality, with victims reporting beatings and other mistreatment at the hands of police (Deosaran 2002); and the police use of deadly force (Amnesty International 2006; Kowlessar 2008; Renne 2008). Therefore, by its very nature, the service may be considered intimidating and such interactions can become traumatic.

The quality of interpersonal treatment was not only problematic due to the lack of communication but also because victims felt unsupported. For example, Grace, the mother of a murder victim found that the system often left individuals alone to face the effects of their victimisation:

And as everybody who know who face these things it's a lot of trauma families face after murder ...it's a lot to deal with. Alot of people who never face these situations do not know it's a lot of trauma you're dealing with. You're dealing with situations like seeing somebody and can't remember their name or situations like I wonder if I eat today you forgetting that you drink water...it's so much that you're facing

The failure of the system to provide the necessary or sufficient support to assist persons with the trauma of victimisation, made some victims view the system and its process negatively. The inability of the system to provide the necessary support meant that they were rejected and stripped of their victim identity which was integral in further provision of services and being taken seriously in the process. This experience was visible in the narratives of domestic violence victims. As noted earlier the treatment experienced by some of these victims often left much to be desired. Victims when recalling their experiences described accounts where they were subject to harsh, contemptuous, and disrespectful interactions with police officers. The lack of sensitivity by

officers, contributed to victims' plight and heightened the trauma stemming from their original victimisation.

This disappointment and lack of satisfaction in the support received stemmed from some victims' expectations of the criminal justice system and its actors. Such 'gendered' expectations were reflective of gender norms, that is, there was an expectation of what female justice actors should or would do in relation to cases involving female victims of domestic violence. Some victims expected female justice actors to be more empathetic, understanding, and willing to help and support victims. These expectations played an important role in victims' perceptions of the criminal justice system. In this study, Heidi, a victim of domestic violence, expected more support and assistance as her Magistrate was female, so the inability of the female Magistrate to assist or help was contrary to her expectations. Heidi's gendered expectations implies her belief in the solidarity existing amongst women in the criminal justice system (female justice actors helping female victims). She stated:

The Magistrate Court was not nice. It was painful. Knowing that it was a female magistrate, and she can't help...well not say can't but could not help. I went to the Magistrate Court more than once before this, but I was never granted a protection order. She always dismissed the matter... (Heidi, victim of domestic violence)

Heidi expected the female judge to be able to resolve the issues by granting her a protection order. Her expectation was that there would be solidarity among women. The magistrate's inability to provide the necessary support or assist and to meet her expectations was a source of dissatisfaction that was heightened because of feeling betrayed by gender too. Another victim of domestic violence, Keisha, also made mention of the difference in communication and support she received from a male police officer versus a female officer. She stated she was mostly ignored by the male officer but was offered support when she communicated with a female officer.

Feminist scholars have drawn attention to the gender-biased nature of the criminal justice system and been critical of its effects in relation to service delivery. For some it is argued that the presence of women as police officers' boosts reporting and reductions in violence against women and children (Bull, George and Curth-Bibb 2019; Bull *et al.* 2021; Carrington *et al.* 2020). Bull *et al.* (2021) in the study of public perceptions of service delivery, highlighting perceptions about women in policing, identified clear support for increasing the number of women police. It was

recognized by Bull et al, (2021) there was an appreciation of the strengths of women police who, in a context characterised by regulatory pluralism, were able to address the needs of female victims and offenders in ways that male officers could not. Bull, George and Curth-Bibb (2019, p.9) in a study of policing in Pacific Island states maintains the women police are both insiders and 'strangers' who 'may be perceived as having a particular effectiveness or objectivity that is valuable in the regulation...'. This was also suggested in some victim's descriptions of their experiences interacting with male and female officers.

One victim of domestic violence indicated that her interactions improved when she communicated with a female officer. Keisha, when discussing the barriers experienced engaging with male officers, noted that such difficulties were often non-existent when dealing with a female officer:

I made police reports right here in [REDACTED] and the officers would say 'you young girls like to go and take your boys and then want to come here'. So, they never really took is serious or did anything. Because in their mind... a male officer head different because its only until I had interaction with a female [officer], that's how I reach to victim support (Keisha, victim of domestic violence)

The female officer from her perspective was caring, empathetic, sympathetic, and willing to assist as the officer provided her with the necessary information to get the support needed. Other victims also found interactions with female officers allowed for a depersonalized process to become personal and somewhat intuitive to their needs. For example, Sita, the mother of a murder victim, took a special notice of the female officer and her ability to comfort and provide the emotional supported needed at that time. Hannah also noted that in her experience the female officer provided more support and pastoral care:

the woman officer called me the next morning, to find out 'Did you take the medication?', and I was like no and she was like I saw it in your eyes that you don't want to take and was like why don't want to take it? But yeah ...they were very personable and stuff (Hannah, victim of home invasion and sexual assault).

While some victims were disappointed with the communication and support, they received by justice actors, others accessing the system expected to be treated poorly and therefore, were not

disappointed. One male victim, Mark accessed the system believing there would be no resolution in his matter as he believed the law and the system held some form of bias. Mark, a victim of assault perpetrated by the mother of his child, who he is currently in conflict with concerning child custody and childcare arrangements, stated:

When I try to talk...the law is for women so when I try to talk not much getting said. (Mark, victim of assault)

For Mark, there is the expectation that the law (the criminal justice system) routes for women and is constructed to seek the best interest of women regardless of their status as victim or offender. Therefore, the lack of responsiveness by police officers to his reports, and the inability of the process to provide him with a preferable solution means that the system met his expectation. This sentiment was also expressed by Jason. In his discussion about his expectations of the system and its treatment of domestic violence:

If it were a female victim, they would have come home quickly but if it was the other way around I believe that would happen [...] If I as the male was beating his wife immediately the police would have arrested the guy and take him out, one time, in front of neighbors. No matter the embarrassment they would handcuff the guy because of the fact that they will show him... 'hey you just broken the law' and I know that is what they do. But when it's a different case [a male victim] they just wouldn't do it. (Jason, victim of domestic violence).

Like Mark the police were unresponsive to Jason's report, however he was not surprised as he believed that there exists a gender bias in the system.

Mistrust and the lack of confidence in Authorities

Trust and confidence in the criminal justice system plays an integral part in victims' perceptions of its legitimacy but also influences persons willingness to report crime. In this study, when asked about their trust in the criminal justice system and its actors victims expressed mixed perceptions. At a micro (individual) level there were mixed reactions amongst victims: some had trust in police officers while others – usually those with more negative experiences or who felt let down –

indicated mistrust. For example, Amanda, a victim of grievous bodily harm and indecent assault when asked about trust stated:

...Trust you say ...trust is a big word, if I would put a percentage on it I would 60/40. 60 being trustworthy 40 being not trustworthy. And I still question that answer. (Amanda).

At the meso (institutional) level, there was a general mistrust of the police as an institution. For example, Mary, the mother of a murder victim expresses her mistrust for the police, as she perceives the police as an institution as untrustworthy. She stated:

You [the citizen] can't trust the police...if somebody comes knocking at your door how would I know that it is really the police...how would I know that the police didn't set up somebody to do something to me. That's why I always say I don't want to have to go to the police station I always say that...I always try to keep myself on the straight and narrow and I try to instill that in my children. You don't do things to get yourself involved and go to no police station, because you cannot trust the police. (Mary, mother of murder victim).

Her comments imply that she believes the police are capable of wrongful behaviour and harming citizens who they are duty bound to protect. Her statements imply that she believes that the police may be out to get her. While she provided no real reason for such sentiments, her comments suggest that she has a deep-rooted mistrust of the police stemming from beyond her experience with the police. This mistrust has the potential to be ingrained as she also warned her children about encountering the police. Pino (2009, p. 219) in the exploration of the theoretical concept of democratic policing argues that 'distrust of the police also comes from a general distrust of state institutions and feelings of abandonment by the government'. He recalls that one participant intimated 'people in the community could tell you where everything is but why should they tell if you are part of the oppressive system?' (Pino, 2009, p.219). More interestingly, Mary's mistrust of the police and her belief that the police are capable of corrupt behaviour, influenced her compliance and cooperation with the law. This mistrust also makes her unwilling to interact with the police unless necessary.

For other victims' expressions of mistrust of the police were not only due to their experiences but also their belief that officers willingly engage in misconduct while on duty. For

example, both Heidi and Anna, victims of domestic violence, expressed mistrust in the police and perceived the police to be untrustworthy because of misconduct and allegations of corruption.

No. I do not trust the police. I am currently staying with my mother and the police showed up at her house threatening her. Those visits are traumatic and petty. They give no reason for visiting our home and they make threats. (Heidi, domestic violence)

No...because I honestly also don't trust [REDACTED] police...my husband does stress that his pocket is deep and [REDACTED] police is his friend. (Anna, domestic violence)

The lack of trust affected how Heidi and Anna engaged with the police. During the interview, Heidi made it very clear that she did not trust the police because of her experience and as such limited her interactions with police officers. Jemma, a victim of domestic violence and a worker in the criminal justice system, recalls the source of her mistrust of the police:

I would have gotten summons... there was one instance where I did get through, and I got an address for him, and I give it to the court, and they would have gone through and given it to the summons or warrant officer whoever it is. And the person refused to serve it. Because he [her abuser] was in criminal circles and they were in cahoots with some of the police officers in that jurisdiction.

Such an account shows not only did Jemma have reason to mistrust the police officers involved but also, demonstrates the officer's failure to fulfil their duties.

Some victims also implied that there is a general lack of trust in the police by the public, and this can have a knock-on impact on witnesses coming forward in criminal cases. Mary and Grace, mothers of murder victims believed that the lack of witnesses in their sons' cases was the result of communities (and possibly the public's) mistrust in the police. Their statements during the interview alluded to such a sentiment:

...because they [witnesses] don't trust the police. They don't trust them enough to protect you. How can there be people who don't think of themselves in such a situation. Everybody is loved by somebody. (Mary, mother of murder victim)

even if they were willing to investigate, remember we [the community] were at a point in our lives when nobody trust the police to give information. That is the God's truth about it

nobody wanted to give information for fear of their lives ...nobody was willing to give the information. (Grace, mother of murder victim)

Such comments suggest that they believe that there is a mistrust in the police by members of the public, and the police may not have the diligence to protect witnesses' identity. Moreover, these victims are implying that citizens expect police officers to pass along the information reported and reveal their identity to suspected offenders. According to some authors on policing in Trinidad and Tobago, citizens often refrain from reporting witnessed violence, or relying on police officers for help, due to fear that local officers are corrupt (Adams 2020; Katz, Maguire, and Choate 2011). Adams' (2020) exploration of the attitudes and perceptions of the police among Trinidad and Tobago locals and their level of willingness to work with officers in a high-crime area confirmed this assessment. Based on the analysis in the study there was a general sense of wariness among residents based on their personal and vicarious experiences with police officers. Like the victims in this study, Adams (2020) found that, when respondents did report incidents of victimisation to the police, they were often dissatisfied with how their complaints were handled.

This assertion that witnesses may mistrust the police and refuse to provide evidence or speak due to corrupt officers was not an isolated phenomenon. Shauna, the wife of a murder victim also expressed the view that witnesses may not come forward due to their mistrust in the police. She stated:

Well, I get now why persons won't come forward seeing the crime rate in the country. I know people afraid of their life. You see it on TV all the time. Eyewitnesses and such they get take down [killed] because somewhere in the system, some kind of corruption thing, somebody talk...identify the person, they put out a hit for this person and that's how this thing is going. So, I get that...that to me that would be their main reason for not wanting to come forward...to identify the person who did the act. (Shauna, wife of murder victim)

Shauna, like Mary and Grace believed that witnesses in the cases of their loved ones did not come forward due to the public's mistrust. Police officer's involvement in the 'street economy' (involvement in crime) is a major concern for some victims (Adams, 2020). Some individuals like Grace and Mary believe that some officers are responsible for the dissemination of confidential information due officers' possible alleged involvement in crime. While this is a credible concern,

one victim advocate provided an explanation for this perception that police officers are untrustworthy.

A lot has to do with myths. Myths and stories going around that states that the Police Service is a corrupt institution...and also it hangs on the fact that when you deal with some people who are victims of an incident, they were also victims of other incidents where no report was made and when you ask about why no report was made it was because of trust. They don't trust that anything will come from it, they don't trust that the police will not go back and talk to the perpetrator...a lot of these things are unreal but for them for some reason based on some story it becomes concrete and very, very real. (Patrick, victim advocate)

Patrick situates the societal mistrust in the stories about police corruption. Moreover, he indicates that the unwillingness to report by some victims stems from their perceptions of the police as a corrupt institution. This implies that the feelings of mistrust by persons within society can affect their compliance and willingness to engage with the law. It also implies that persons see the police as outsiders being socially and culturally distant. Moreover, his comments suggest that there is a belief among some persons that the police are ineffective in their ability to manage crime and handling information, as there is a real fear that some officers when provided with information may speak to perpetrators and share the confidential information received as well as the source(s) of the information. While Patrick purports that some of these beliefs (perceptions) about the police are unfounded, they are very real to victims and some citizens. The reality of such perceptions was quite visible in this research when interviewees discussed the trustworthiness of the police.

Other victim support officers noted that victims' lack of trust in the police and reservations about the institution as a whole, were based on negative experiences.

Not all victims. Those who have good encounters often develop trust, but those who have been ill-treated tend not to trust officers. (Patricia, victim support officer)

Tell you the truth, it is based on the response people get from police officers that really would contribute to their trust or mistrust. Some people come based on past experience so they would have no confidence because they would have experienced a bad situation with the police, or they may have confidence because they a good relationship with the police.

However, there are times though, when victims would develop a confidence with the police and not the officer's but the police service after they have interacted with us [VWSU]. (Irma, victim support officer).

Here, there is the suggestion that the quality of interpersonal treatment that victims receive is related to the issue of trustworthiness and confidence in the system. Laxminarayan (2013) observed that people are concerned about their treatment by others during conflict resolution procedures, therefore it also demonstrates the usefulness of victim advocates in the justice process. Irma's comments also imply that the support provided by the VWSU, which is a unit within the Police Service that assists in improving victims' satisfaction and by extension their perceptions of the overall police service. This suggests that victim advocates are useful source of support as they provided the necessary buffer between the victim and the criminal justice system as they facilitate some of the necessary support services that are missing from the system. In a study of criminal justice officials' perspectives on collaborating with victim advocates, prosecutorial officers believed that advocates were useful (Gaines and Wells 2017). It was found that officials believed advocates make positive contributions to the justice system process through effective communication and by supporting victims and their families. However, the barriers to strong partnerships between justice actors and these advocates include concerns about role conflicts and advocate involvement in criminal investigations (Gaines and Wells 2017) Yet, the inclusion of such advocates under the umbrella of the police service can be a disadvantage. As one victim advocate suggested:

Being with the Victim Support Unit, one of our downfalls is that we work out of police stations. So the victim can see it as a direct correlation in terms of this officer treats me so then everyone in the station will treat me that way. The feeling is very unique to that person at that point in time. (Patrick, victim advocate)

Patrick's comments call into question the most effective means of service provision by advocates, whether such persons should be built within the resource structure or a structure outside the system.

This association between treatment and trustworthiness was also verbalized by Celia, (a visually impaired victim of robbery). When asked about trust in the system, she mainly discussed her trust in the police, she stated:

to some extent yes...well the ones who show that they care...yes... I'll trust them but generally no...its mixed kind of question based on my experience (Celia, victim of robbery)

Celia's response suggests two implications concerning trust of the police. Firstly, she suggests that there is a criteria/ threshold where persons may be willing to trust the police. Trust is connected to the quality of interpersonal treatment as the degree of trust is based on the demonstration of care by the justice actor. Caring officers gain her trust. Secondly, it seems her trust is extended to the individual officer, and not by extension to the police service (institution). As such it suggests that trust is related to the individual's relationship with the police officer. This suggestion that issues of mistrust or trust was relates to the relationship with the police officer, was confirmed by Hannah. When asked about her trust in the police she stated that her trust in the police was based on her relationship with them at the point in time.

The efficiency and fairness of the process

'Access to justice requires that parties have the opportunity to present their case effectively, that procedures will be fair' (Fitzsimons 2016, p. 26). As discussed in the literature review, procedural justice theorists are often concerned with the identification of mechanisms that secure and sustain legitimacy of criminal justice institutions (Tyler 2007). One of the mechanisms identified is the perceived fairness of interactions and processes within the justice system. In this study, among the themes of communication, support and trustworthiness, victims' narratives also highlighted their thoughts on the fairness of the process and interactions with the system.

The analysis of experiences revealed that some participants expected the system (and those within it) to work in a manner that supported victims and their needs, to be fair and to provide some resolution to their issues. Victims also expected to be provided with some form of justice. However, for many there was a misalignment between their hopes and the system's realities. Many discussed experiences and feelings of neglect due to lapses in due process. As a result of these experiences and their substantive interactions with justice actors, they expressed dissatisfaction with the system. For instance, Heidi stated:

The system should be able to work with us victims and not against us. The system fails to provide us with the support we need to leave those kinds of situations and when you have kids it makes it difficult to leave the situation... There is nothing to help women who have been abused. No support to help us leave. (Heidi, domestic violence)

Here, Heidi implies that the kinds of support she needed at the time as a victim of domestic violence was not forthcoming. This included being given the confidence to leave her (abusive) situation while receiving access to or information on legal or financial support or assisted with other types of resolution to her predicament. Victims of crime where trauma was a feature may have had greater expectations of support from justice actors, fueling their negative perceptions of the criminal justice process when these needs were not met. Heidi's experience detailed a lack of supportive infrastructure and a failure to provide her with access to necessary services as a person fleeing domestic abuse. Additionally, her experience was that the system is unable to work with victims like her and this makes her situation more oppressive and difficult.

Interviewees also s expectations of how justice actors should perform their duties and respond to persons' victimisation. This was common among indirect victims. For example, Mary, the mother of a murder victim, shared her thoughts on police officers' actions in the investigation of her missing son and his subsequent murder. In her story she expressed her disappointment in the police's actions and their inability to treat the matter appropriately:

...the police to me didn't work how they were supposed to work. We reported that my son was missing, and I felt that they [the police] could have been there faster, deal with it faster, because when we reported they say usually have 24 hours to report a missing person. I reported within the 24 hours gave them [the police] a lot of information, which I think they didn't deal with the information as they were supposed to deal with it, and I always have to go with them they really didn't come to me. (Mary, mother of murder victim)

Mary's comments on the actions of police officers indicate that she expected expediency when dealing with her missing son, and some form of mutual communication and sharing of information between herself and the officers. Like Mary, there were other victims who anticipated that police officers would respond to them and their victimisation with empathy, understanding and expediency. For example, Victor the father of a murdered teenager also expressed disappointment in how the police conducted their investigations as they failed to meet his expectations.

Victims also recounted what they believed were lapses in due process in their interactions with police officers and other statutory personnel. In their opinion police officers failed to meet their expectations and follow protocol, by failing to follow the processes as mandated by legislation and policy. One example of the failure to follow due process was around the serving of summons. Some domestic violence victims and support officers acknowledged officers' failure to deliver summons to victims and defendants. For example, one victim of domestic violence recalls her experience:

On several occasions after when I made reports, to me like the police and them [the police officers], they would have seen me there a couple of times when I would make reports so they would have known me. One particular officer, when we were going to the court, he didn't issue a summons for me to come to court. This is the case...when the assault case started, I was supposed to be summoned to come to court, he did not issue a summons to me to come to court. We had to go and tell them what is happening with the case.
(Elizabeth, domestic violence victim)

In Trinidad and Tobago, part of the administrative responsibility of police officers is the serving of summons, subpoenas and other legal documents issued by the courts. Therefore, officers who failed or neglected to perform their duty, affected the efficacy of the process and hindered victims' access to justice.

This failure of officers to effectively carry out their duties, and ensure an effective process, was detrimental and even deadly for one victim. As previously mentioned, Jennifer's daughter was a victim of domestic abuse who was murdered (along with other bystanders, a family friend and the landlord who attempted to intervene) by her abusive ex-partner. In discussing the events that led up to her daughter's death, she implies that it was the result of a lack of due diligence and dereliction of duty by police officers. Jennifer noted that, two days prior to her murder, her daughter had reported the threats and acts of violence by her former partner:

She went and made the report and I have proof because I called her while she was at the station, her father was with hermy son was with her, and its only 'ok ma'am we have to go by the Health Centre and get the medical report and then we will go and pick him up' and that was it. They never went to the Health Centre for the report and they never showed up by his house.... (Jennifer, mother of murder victim)

Auderey, a mother of another murder victim (a bystander killed when Jennifer's daughter was murdered) recalls meeting the mother of the accused. After confronting the accused's mother, her response implied the fatalities could have been avoided:

And then she [the accused mother] turns and say I so sorry the police did not come and pick him up when she [the victim, Jennifer's daughter] made the report otherwise all of this was not going to happen. (Auderey, Mother of murder victim)

Another victim, Anna also commented on the officer's failure to respond to her immediate physical distress or inquire about potential emotional trauma. Anna believed that, when reporting her husband for assault, her evident physical condition warranted some response from the police officers in the station. Her narrative indicates that she expected the police officers she interacted with to respond to her physical injuries with some concern as it was visible that she had been assaulted and possibly needed medical attention. Moreover, Anna's expectations remained unmet as, once the report was taken, she then had to question the police's approach to documenting her victimisation. She stated:

Well, no pictures were taken, aren't police supposed to take pictures of your injuries? Nobody at the hospital or the police station. I took my own photos...nobody took any photos... (Anna, victim domestic violence).

Anna also indicated that she believed police officers should be able to take action against her abuser (the accused):

I would think that with this extent of damage something would have happened. Something... he should have been locked up...that's what I am thinking all the time. He is living his life. The man is going to go all the cricket matches, he's working, he's living his life. I am here, fearful for mine. (Anna, victim of domestic violence)

For Anna, her physical injuries warranted police action and possible imprisonment for her abuser. Her account implies that she approached the system with the expectation that she would be treated as a legitimate victim of crime, or that some action would be taken. Instead, her comments indicated that there was a lack of police action either to respond appropriately to her assault or to ensure her safety and security. Instead, she was left more fearful as a result of her abuser not being curtailed in his movements. This demonstrates the inequity in responses to victims and offenders.

Here, the failure of the officers and the process to meet the victim's needs and ideas of justice serves to undermine the legitimacy of the justice system.

It was found that this gap between how victims believed the criminal justice system should effectively and adequately address their issues and the inability of the system to do so meant that victims were dissatisfied with the process. Sunita, a victim of domestic violence recounts her dissatisfaction with the officers' inability to help or provide a resolution to her conflict:

I felt let down I felt like the system is letting me down because there wasn't anything I could have done, and I felt like the officers like their hands were tied there really wasn't much they could do. (Sunita, victim of domestic violence)

Sunita's dissatisfaction was the result of officers' inability to effectively deal with her abuser and provide her with a desirable outcome. For Sunita the officer's inability to act indicated that the system is not only inefficient but ineffective. This lack of effectiveness also implies that she believes that the system is not fair to her as a victim as she is unable to get assistance.

Like Grace and Sunita, other victims also indicated that not only is the system ineffective as it fails in its mandate to provide justice for victims, but that it performs weakly. For example, Mary describes the system as being inefficient. She states:

I don't think they are efficient in their jobs, and I don't know how they look at it. If I am a police, I try to do the best that I can do, but I think that most of the times the police just don't really care and I think they are overworked and overloaded with stuff and they can't deal efficiently with what they have to deal with it ...Because everybody feels that you will not get justice because of the police. People will feel that you wouldn't get no justice. (Mary mother of murder victim)

Here, police inefficiency stemmed from officers seeming unwilling to do what she believed they should do. Additionally, the lack of care and concern demonstrated by officers also contributes to this sense of inefficiency in the police service. Therefore, Mary implies that the lack of 'gaining justice' is also the result of the inability of the police to effectively do their jobs. Based on her previous comments where she believes the police to be corrupt, untrustworthy, and ineffective in conducting police work, she is of the mindset that victims are unable to gain justice. Such dissatisfaction with the criminal justice system serves to churn away and undermine the confidence

in legal institutions. It may also impact persons willingness to engage in a compliant manner and cooperate with justice actors. Tankebe (2009) in his assessment of citizen's willingness to cooperate with police in Ghana found that citizens are most willing to cooperate when they think the police are effective and therefore can improve security. In effect, persons may turn away from the system if it fails to provide the kind of justice they seek.

The sense of system unfairness was associated with situations where perpetrators were not held accountable by anyone in a position to do so. One victim stated:

Based on what I know persons who went through the system and they had different court matters there are times perpetrators get off easily because of some loophole or whatever. Or sometimes too I hardly hear of cases being done fairly and persons being found guilty...it seems rare...that's a handful for me. Victims don't get a fair time...unless you have money. (Celia)

While Celia's perception is not based on her own experience, her knowledge of the issues faced by others shaped her perception. For Celia, the lack of accountability for perpetrators due to the inefficiencies in the criminal justice process, suggests that there is also an issue with fairness. Also, her belief that the lower number of guilty verdicts in court suggests that the system is unfair. She equates fairness in the justice process with having money, suggesting that persons with money can benefit from a desirable justice outcome. Such a suggestion indicates the erasure of public perceptions of the legitimacy of legal institutions. It also raises the prospect of citizen disengagement from the important collaborations that are essential to the co-production of security. If people think that a fair process is only afforded to those with money, then this can have significant repercussions among victims of crime.

Irma, a victim advocate also discusses the issue of fairness of the process and individuals' ability to buy justice. However, unlike Celia who implies that justice can be bought in the formal system, Irma argues that the buying of justice is done informally:

today...now...you would hear a poor man who has never interacted with the justice system saying 'I will go to court for you and I will go and make a report and let the magistrate do whatever'. A man who has power who has money who has access to whatever he knows that he will pay for his justice. He will pay the little stupid boy down the road to go and kill

this person. You know why...because he knows no matter what that matter go before the court he is not going to get justice unless he has to get the best lawyer and it may take him more than...because to pay to kill somebody now is \$3000 or \$5000 to get a lawyer will take him more than \$5000 to go before the court. Money and time.

According to Irma, the difference between the wealthy and poor in relation to the fairness of the process and its outcomes is that poor persons believe they can access and gain justice through the courts. Whereas the wealthy understands that there is a major cost for accessing the courts and that paying someone outside the system to deal with the matter can be more cost-effective. As such her comments imply that those without money are naïve to the nature of the process and its ability to be fair. Additionally, she suggests that justice can be bought within the formal system or via a vigilante or hired hit man. Regardless, the implication remains that those with power and wealth can gain access through lawyers or create their own justice through hired hands. It is this understanding of the system that undermines its legitimacy.

Like Celia, Jennifer (the mother of a murder victim) believed that the system and its process was unfair as it failed to hold the perpetrators accountable:

it stinks ...[laughs] to me it is very rare that people get justice in Trinidad ...I look at it that way.... why ...2 years aback my niece was murdered in [REDACTED] ... Beatrice... she was a night worker she was my great niece and up till today her murder is still working around. They found her clothes in her house and her cell phone in his house and today he is walking free...so where is the justice...and that's about 2 years now...where is justice (Jennifer, mother of murder victim)

Recounting her experience of dealing with the criminal justice system as a result of her daughter's death, Kara outlined the efficiencies she witnessed:

There is nobody there guiding them through that. And in terms of the court system which I didn't go through anything, that is, when you think about it, it is frustrating because to think that these people [offenders] are out there, and they are just allowed to do what they want and get away with it and there is no kind of retribution for what they are doing something is wrong. So... I will think it would be frustrating for a victim. (Kara, victim of GBH)

For victims like Celia, Jennifer and Kara, the inability to prosecute and convict the perpetrators indicates that victims feel let down by the system. While Kara acknowledged that she had no interaction with the court, she stated that victims may feel a sense of frustration when offenders are not brought to justice. From their standpoints, the failure of the police and the courts to provide retribution or even deliver an outcome is demonstrative of its ineffectiveness and unfairness. Such experiences led other victims to question the ability to gain justice, even though they have access to mechanisms of justice:

I know the justice system in Trinidad does not give satisfaction. It is too often that criminals get to walk the roads free. It is too often that criminals get to walk the roads free. It is too often. It's something too open and too blatant. And they know. The problem is that they have so much stupid lawyers. That's the kind of dotishness [silliness or stupidity] I can't understand. Why do we have a system and criminal investigations? I think this is one of the reasons why people may take justice in their own hands. They either pay someone, a criminal inside there to deal with them or wait till he come out and get somebody to do it. Because you don't get satisfaction [...] you don't get it. (Auderey, mother of murder victim)

According to Auderey the system provides the victim with little satisfaction, due to its inability to provide a fair and just outcome. Auderey, expresses frustration and disappointment in the system's inability to ensure that 'criminals' face consequences of their crime. In her opinion the systems lack of efficiency and even fairness, is possibly the result of lawyers. This is reminiscent of Christie's discourse in conflict as property, where he refers to lawyers as professional thieves.

The theme of procedural fairness was also associated with the trustworthiness of authorities (justice actors) and social capital. It was found that some victims of domestic violence perceptions of criminal justice were influenced by the perceived bias of justice and their partner's social capital coupled with threats that they can pay bribes to not face consequences. For the victims, the possibility and threat that their abuser's finances can ensure that they not be held accountable contributed their perception that there exists a lack of fairness in the process. For example, Martha stated that she had no faith in the system as she believes that her inability to get justice stemmed from her husband's '*friends in the police*'. Moreover, she found the officers' responses disappointing. As a result of her experience, she hoped that she never had to deal with system

again as there was no benefit from engaging with it. While she believed that there may be persons who received justice, she referred to herself as one of the ‘*unlucky few*’ as she was one of the many who did not.

During the interviews, there was a strong belief that these experiences were the result of the system being an ineffective and unfair bureaucratic machinery of the state that fails to deliver justice. This sentiment was expressed by Harvey, an ex-law enforcement officer and victim,

Archaic...because it's not dealing with the level of crime and the turnover of criminal activity. Archaic from the perspective of laws...the system... the interaction meaning that there is no kind of psychological or mental support, not necessarily you have therapy at the court but thinking of the flow of the system as it relates from a victim's perspective. (Harvey, victim of attempted murder)

For Harvey, the criminal justice system at present is not equipped to deal with the increase in crimes and the number of cases entering the criminal justice system to be process. Here, he purports that the system being out of date, and therefore an inefficient system as it is unable to provide the support services that are needed. This was also inferred by Rachel, a victim of domestic violence:

It failing ... it's not only the justice system. Everything works hand in hand...social services...everything works hand in hand. Everybody has to work...if you want to get rid somebody in your life everybody should come into play. Look in America, they don't deal with them thing like how in Trinidad and Tobago they put it on the backburner. They find ways to help and get people help. But in terms of helping people not much is done...not only me but it have plenty people facing the same dilemma. Its fear for your life and your family, because these psycho-men and find you and kill everybody. That's what I would say about the justice system it needs to be more into people...send social workers, send people to find out what is the underlying problems. (Rachel, victim of domestic violence)

For Rachel, the inability of the system's institutions to work cohesively and the lack of priority given to domestic violence, creates a sense of inefficiency and suggests unfair and unequal treatment. This unfairness stems from victims being unable to obtain their desired outcome. Here, the inefficiency and arbitrariness create the perception that the system is failing and therefore

erodes legitimacy. However, an interesting paradox is her comparison of efficiency of the local system and the American system. Another victim who infers this is Jemma, as she elucidates her understanding of how the system works in other jurisdictions, and particularly in America.

But in the US and those places they have places where this person dare not try that again because the police responds to reports of domestic violence, is that if you call within how much seconds they have measurements of whether their service is going to be rated as good. It is measured so if they say within 5 minutes of a call you have to be at that location. They have benchmarks...you will have the ones that understand their job and that this is a serious thing and they know that when they come the victim is to be protected and this perpetrator has committed a crime especially where there is a protection order. They not playing and you know for sure that these police on your side and you will be protected.... the system supports. You can go to work and continue to live and exist...yes with precaution but you can still exist...whereas here you feel as though the only thing you can do is... [shrugging her shoulders] (Jemma, victim of domestic violence)

While Rachel had no real experience in dealing with the American system, Jemma, in her interview stated that she escaped to America to seek refuge from her abusive partner. She stated while there she was able to learn and to some extent be involved in domestic violence awareness and advocacy. However, both women use the American system and its perceived efficiency as a measuring stick for how the local system should treat with domestic violence.

The sentiment of the system being a failing mechanism was also expressed by other victims. For example, Grace refers to the system as being broken; this idea stems from the unwillingness of witnesses to provide information and testimony. According to Grace:

The system has broken so badly in this country one of the witness said she was going to give information about what had happen with the guys and what they were doing because like they were asking him questions. And then, all of a sudden, she change her mind. She change her mind because that same family in that same house one of the girls children father went as a witness and they [perpetrators] killed him right there same spot. (Grace, mother of murder victim).

Grace indicates that the inability of the system to protect witnesses of crime and adequately collect such forms of evidence means that persons are unable to gain justice. These comments suggest that she believed that the criminal justice system is inefficient, where its agents and its processes reinforce this inefficiency. Additionally, this implies that the trustworthiness of the police is also in question.

Nobody studies that the humanity side that will include collaboration with the mental-emotional understanding that will help support the justice system...I don't think we have the time to go there it was all about retribution and getting it done. As opposed to the restorative part and how that works. I am not saying that the systems that are in place are not working...I am just saying that the system can be improved and that there are new systems that exist around the world that works that we need to be willing to embrace those new systems and I also saying that there is an appreciation that comes with knowing that every stakeholder is also human. That includes the police, the prison, the prison officer...they are all human and because of that you need to manage customer service and customer interaction.) (Hannah)

This suggests that there is a need for reform and a distinct path that should be explored. It indicates that the system for some may be devoid of humanity in its interaction and there is a need for a more victim-centered approach. However, coupled with victim-centeredness and the customer service approach is the realization that justice actors are also fallible human beings. Such an approach to victims and justice was expounded by other victims.

Some victims were very specific about what they believe was needed to promote access to justice as well as a satisfactory result. For example, Shauna highlighted the need for police officers to become more efficient in their jobs by performing the required duties. She stated:

Like seeking your best interest in trying to capture the person responsible. Like going around interviewing people and talking to people. I don't know just go out and do something, make something happen. Not just sitting down and waiting for the person to do something again and somebody will identify and say that was the person. (Shauna, wife of murder victim)

Her response is reflective of some victims' experiences and perceptions, that justice actors do not effectively perform their functions. In her estimation, a proper functioning police service, works in the best interest of the victim. However, it speaks to how police conduct investigations and the realization by some victims that their inability to gain justice is the result of poor investigations. This sentiment prompted another participant to suggest, that their needs to be a re-education of officers, which would equip them with the necessary skills.:

Police should in the first instance should be better equipped and they need to go to school to be more efficient in their jobs. I don't think they are efficient in their jobs, and I don't know how they look at it. If I am a police, I try to do the best that I can do but I think that most of the times the police just don't really care and I think they are overworked and overloaded with stuff and they can't deal efficiently with what they have to deal with it
(Mary, mother of murder victim)

For Mary, police performance and efficiency were related to their lack of education. This perspective stems from the educational criteria for the recruitment of individuals into the police service.

Reinforcing Legal Hegemony

Victims' perceptions of the criminal justice system reflect the complex experiences of accessing justice, but also the relationship individuals have with state institutions. It is quite clear that victims had negative experiences and perceptions of the criminal justice system in Trinidad and Tobago which can serve to undermine the legitimacy of the system. This leads to another concern, namely how the criminal justice system continues to have an authoritative status and ensure conformity, given victims' experiences of justice and the lack of contact between citizens and the justice system?

Holder (2017, p.650) asserts 'if the law, legal procedure, and law's institutions are experienced in some frustration by citizens, this does not weaken their authority'. The accounts of victims' experiences suggest that while frustrated, justice institutions were continuously viewed as the authority. This implies that the systems' legitimacy is rooted in the hegemonic status of the

criminal justice system. This hegemonic status is enabled and reinforced by victims accessing the system as it is the only means to access justice. The term *hegemony* as coined by Gramsci (as cited in Bates 1975) refers to power that maintains certain structures of domination but that is ordinarily invisible. As such through practices and relations, it secures, and shapes consent to ensure that the power of the dominant classes appears both legitimate and natural (Pugach and Tamir 2017). Based on the experiences discussed, at present the criminal justice system fails to adequately recognize the wishes or needs of victims or consider them as a visibly legitimate party to the proceeding. The word visible is used as justice actors represent the victim throughout the process. This invisibility stems from the justice actor's engagement in discrete and indiscrete practices of power through objectification, miscommunication, and the use of its discretion and institutions lack capacity and processes of silencing. The accounts presented indicate that victim's invisibility, and their identity as right-holders as predicated by the state reinforces the hegemonic status of the criminal justice system. This hegemonic status serves to reproduce inequities and reinforce structures of domination but fails to endorse the system. Therefore, the interest of those considered or viewed as dominant are sustained, while the interests of the subordinate (the Other in this case the victim) is continuously contested. The analysis of victims' experiences suggest that many were either tolerant or begrudgingly accepting of the system, and at times rationalized their experiences in such a way that implied that there is the reinforcement of legal hegemony and not necessarily perceptions of the system and legitimate.

Tolerance of the legal system

The narratives of the process and interactions with actors were diverse and reflective of participants' interpretations of their experiences and expectations. Through the reflective nature of the interviews, their recollections highlighted a tolerance of and weary subscription to the criminal justice system. While some victims expressed cynicism when recounting their experiences, they failed to realize their own implicit commitment, subscription to the criminal justice system and passive acceptance of its processes. Despite their very initial experiences (negative or positive experiences) and first encounters, some victims continued to engage with the system, its agents and process as there existed no other option to access justice. For example, domestic violence

victims repeatedly reported their victimisation to the police despite having been subject to disrespectful responses or continued attending court when matters were delayed. Similarly, the family of murdered victims persisted in contacting officers when there was no communication on cases and matters. Such responses to the system imply not only a willingness to comply but an understanding of the power of the justice system to confer rights and solve conflict. This was noted by one of the victim advocates interviewed. He stated:

If the help is critical in that they need the help throughout based on the situation they will take the pain and go through the process. If the help that they receive is different or therapeutic in its form, then they usually have a change of view with the individual they interact with not necessarily the change of view with the entire police service. (Patrick, victim advocate.)

Such a statement implies that the criminal justice system has ‘naturalized’ or ‘institutionalised’ its practices so that ‘how things are’ seems inevitable to victims of crime. Such an approach serves to bolster the power of the system and its agents, to appropriate victims’ conflict and cast them as the ‘Other’ in their relationship with the state. Patrick’s comments denote that the system by its very nature is a painful process that is not therapeutic however some victims seem to (begrudgingly) accept the process and responses of justice actors. Additionally, his comments suggest that while interactions with individual justice actors may turn a painful process into a therapeutic one, such an experience fails to change the overarchingly negative perception of the police service.

Shauna, the wife of a murder victim, also expressed acceptance of the police officers’ performance in the investigation of her husband’s death. She stated:

...I don’t know I just I kind of laid back with this whole thing and how this whole thing happened, and with regard to how the situation is being handled I just laid back. Like I say I understand their role and everything they have to do... it’s not like just my husband case but probably a million and more that they have to deal with... I just find that it don’t have enough justice in the system. (Shauna, wife of murder victim).

Here, the description of her attitude towards the police investigation implies that she has given them control of the matter. The State through the police can co-opt her conflict, although she believes that justice is limited within the system. While there is acknowledgement or some

understanding of the police's function, there is also a rationalization for their performance. The acknowledgement of the limitations to finding justice through the system, her rationalization of police performance and the permissive attitude to the state's appropriation of conflict reinforces the hegemonic status of the justice system.

Other manifestations of such forms of passive acceptance were related to victims' willingness to let the justice actors (the State) handle their matters without any query. Amanda, a victim of indecent assault and grievous bodily harm, when asked about her seeking legal counsel on her matter for any purpose, provided the following response:

No based on the incident I know it was in the hands of the state so I knew that they are taking care of everything. (Amanda)

Shauna and Amanda, both display tolerance of the criminal justice system and rationalize their experience, however for Amanda her experience plays a major role in her acceptance. For Amanda, her experiences with the police and prosecutors were mostly positive and therefore based on this premise she had confidence in the justice actors and their ability to handle the case. As such she willingly accepts that the case is '*in the hands of the state*', this allows the State's appropriation of the conflict and permits the reinforcement of their hegemony. While the responses of these victims vary, the common thread is their tolerance of the system and the hegemonic nature of law in the resolution of conflict.

Some victims were openly apathetic and tended to see themselves as small cogs in the bureaucratic machine that operates outside of their interests or needs. For many their approach to the system and its processes can be interpreted as 'it is what it is'... As one victim stated:

Sometimes they do work and sometimes they don't. Sometimes they go around and ask questions for them to get the results. They do their act...they put their best foot forward and do what they have to do to catch the criminal. Sometimes they do work and sometimes [shrugging shoulders] (Shauna, wife of murder victim).

Shauna's comments represent her tolerance of the irregular performance meted out by the police. While it is understood that all officers may not perform their duties with same level of commitment, Shauna's comments imply that it is accepted. Here, there is the implication that such irregularity of performance and commitment are part of the natural order of the criminal justice

process. It also represents the autonomous power of institutions within the justice system and their ability to maintain social control when on occasions it fails in achieving its mandate.

Throughout the process some victims played the role of acquiescent observers of their fate rather than shaping it, displaying acceptance. This was common among victims who had experienced going to court. Many victims recalled instances going to Court and not being addressed by the judge or any of the justice actors. For example, as previously noted, Sunita, a victim of domestic violence demonstrated passive acceptance during her court proceedings to obtain a protection order. In her description of events at the court, she states that when *'infront of the magistrate'* she expected to be called upon, but her abusive partner spoke up and told the magistrate that his abuse was a mistake and they would go to counselling, the magistrate ordered them to go counselling without seeking Sunita's consent or agreement. However, what is important here is, when recounting this event, she states *'the situation that I am in is a dire situation and that I am fearful for my life'*. While this experience is an example of the system's ability to silence the victim, this experience also demonstrates the victim's acquiescence. Her lack of active involvement in the process and dispirited willingness when her husband is given a second chance and ordered to counselling represents this passive acceptance. In this scenario, the victim's acquiescence reinforces the legal hegemony of the criminal justice system, demonstrating the control and authority in the acceptance of their decision-making even to the detriment of the victim.

Irma, a victim support officer, seems to give an explanation for this seeming willingness to subscribe to the nature of the criminal justice system and how it reinforces the legal hegemony. Irma states:

...you have one-something million persons in Trinidad and Tobago, not even one third...probably less than 100,000 persons might come into contact with the criminal justice system. So based on my experience even if I had a terrible experience with the court and I go and write it all over the place, nothing happens. Because my experience is my experience, and your experience is your experience and based on the fact that my experience may affect you someday to come or may not affect you at all it may not be in your interest to pay attention to what I am saying. So that's why our justice system can get away with so much discrepancies and people continue to live in it and our country could be so corrupt in terms of its justice system because the justice system is really the

police...the court system and every other system that works around these two big systems that you find a lot of corruption is taking place and nobody is in charge of that, because who speaks loudest, he who have the power and the money and he who have the power and the money is the one who is in charge of the corrupted and making the corruption. (Irma, victim support officer)

The question implied by Irma's account is 'why should we care about how people feel about the criminal law and justice when it affects so few of us?' Most people have little contact with the criminal justice system, with very few being victims of crime and seeking police protection or redress from the courts. As such the negative experiences of those who encounter the system go unnoticed. Therefore, the gaps between the criminal justice process on the books and the process in action goes disregarded by those who have not been exposed to the system. Irma also alludes to the institutionalization of corruption within the criminal justice system, more specifically the police and the courts. In her estimation, there are no safeguards within the system to prevent or appropriately intervene when there is corruption. Additionally, like some of the victims in this study she believes that those in power, or those with financial resources are able to adequately negotiate access and corrupt the system for their own means. Her comments imply that the corruption that exists is known and begrudgingly tolerated as there is no real outcry or will to implement change.

Rationalizing experiences of access to justice

The analysis of the victims' narratives revealed that rationalizing dialogues accompanied their accounts of accessing justice. Such dialogues took the form of victims providing possible reasons for their positive and negative experiences and case outcomes. These rationalizations at times accompanied their tolerance of interactions with justice actors and the process. It was found that these rationalizing dialogues were often used when narrating the experiences of interacting with the police and the police performance. This suggests that such reasoning attached to experienced interactions, activities and processes can serve to reinforce the hegemonic status of the criminal justice system.

The rationalization of experiences of access mostly accompanied victims' experiences of inadequate communication and poor performance by the police. Some interviewees attributed their experiences to some failure within the criminal justice system but rationalized that police officers acted on good faith or only wanting to seek their interest. As such the shortcomings of officers were excused and brushed off and not clearly identified as a shortcoming. One example of this rationalizing process is in Hannah's recollection of the investigation process, where actions of police officers were tolerated and not considered as a shortcoming:

I am aware that they are humans dealing with their own issues and limited resources. They are just one part of the criminal justice process. I think that the fact that the police apprehend so quickly is great. I think that what they had to do clinically to ensure that they had a sound case is also great, but their actions can take the effectiveness of the criminal justice system so far and no more because they can only uphold the laws that we have if we don't have proper laws, we can't expect them to be enhancing their performance.... And at the same time, I understood that the officers involved were more focused on apprehending rather than taking the time to walk it through with me. (Hannah, victim of sexual assault and robbery)

Here the manifestation of the rationalizing discourse by Hannah, begins by humanizing police officers describing them as fallible beings with their own issues. This implies that their possible biases, prejudices and lapses in work performance can be expected due the fallible nature of being human. She further rationalized that their focus on apprehension was the reason for their lack of communication and support in developing her understanding of the process. While Hanna acknowledges there was a positive outcome in the investigation of her case, she rationalizes that due to sparse resources and the lack of proper laws the police are unable to do their job. As such these rationalizes places responsibility of police performance on other issues rather the police and the police service. Hanna further reaffirms this position rationalizing that the lack of resources.

I really do think that they are human. Yes, the police officers. But they are more motivated to bring closure when the resources that they need are available to them. For instances like this I can understand when there is a personal motivation they will go above and beyond to get access too, but it should not be like that. It should be that they should get

access to all the resources that they need when they need it for any case. Those types of things are...understanding as well that their hands can be tied. (Hannah)

I still don't believe though that they have all the resources to do their job properly. Because even in an effort to try to resolve my case in a quick manner, the accessibility to these resources are not the same for everyone, and very much aware of that. (Hannah)

Hannah once again refers to officers being human and subject to error. However, here she rationalizes the motivations of these officers, implying that officer's motivation was related to resources available. While she acknowledges that her relationship with the police created a bias that worked in her favour, she also indicates that officers should not work on such a bias. However, at the same time she provides an excuse and rationalizes such behaviour by indicating that the inadequacy of resources contributes to officers' lack of motivation. As such she rationalizes the bias/ prejudice that allows persons with close connections or some form of social capital to access justice. This rationalizing of behaviour reinforces the systems legal hegemony as it promotes the associated idea that those with 'power' (social capital) are in control of the system and can access the system.

Another manifestation of these rationalizing dialogues was detected where victims excused the inadequacy of support as officers attempting to safeguard them from trauma. One such example is Jennifer the mother of a murder victim:

As I say they trying to safeguard me because they don't know about... You know sometimes somebody might get information and based on the information they might get it might trigger off some kind of thing in the person. So probably they are safeguarding me...I don't know.... I just recently started to ask questions. (Jennifer, mother of murder and domestic violence victim).

Here, the victim rationalizes the lack of communication on her daughter's murder investigation as the police officer's attempt to protect and safeguard her from further distress. This rationalization was also expressed by Hannah. Recalling her lack of awareness and knowledge during the process of investigation and even at the bail hearing, she believed that information was not always relayed to her as a means of protecting her from being re-victimized. The inability of the victim to

adequately access justice through effective communication, support, and participation, were excused by victims' own narratives.

When discussing their experiences, the majority of participants failed to demonstrate active resistance to the practices they were confronted with. One victim, Victor the father of a murder teenager, spoke about visiting the Police Complaints Authority. As previously mentioned, the PCA is the body responsible for police accountability. Besides, Victor, the victims interviewed had not taken up their matters with any of the systems of accountability that exist within the criminal justice system. This implies that there was no active resistance to their experiences. Such inactivity also served to reinforce the legal hegemony of the criminal justice system.

Conclusion

In Caribbean postcolonial societies the legitimacy of the criminal justice system is often contested due to its historical origins within the plantation society and its relationship with the State (Trotman, 1986; Rediker, 2013; Altamirano, et al 2020). Victims' narratives suggest that there is a negative perception of the system due to their experiences. Jammulamadaka and Murphy (2017) describes the post-colonial state as subject to constant and varying expectations and pressures, leading to tensions within the state itself between the state and citizens. The descriptions of victims' experiences versus their expectations identified the gap between what they believed the system should be and what they experienced. Besides this gap, victims' access was fraught with service and procedural issues which further implied that there were negative perceptions. Their narratives suggested that the legitimacy of the criminal justice system may not stem from victims' perceptions, but it is derived from the reinforcement of the system's legal hegemony. This reinforcement occurred through their subscription to the process and their tolerance of the discursive and behaviour practices of justice actors. It was also seen that such tolerance was at times accompanied by rationalizing discourse, which sought to overlook the missteps and therefore maintained legal hegemony.

Conclusion: The implications of victims' experiences of access to justice

The overarching goal of this thesis was the exploration of victims' experiences of access to justice in Trinidad and Tobago. Grounded in the narratives of in/direct victims and victim advocates, the thesis captured how their experiences informed their identities, both as victims and citizens, as well as their perceptions of the system. While the insights presented cannot claim to be a broad reflection of victims in Trinidad and Tobago, the research sheds light on some of the intricacies of access to justice, subsequent identity formation, and perceptions of the system. Additionally, it contributes to the body of work on criminology in the Global South as it provides a previously unheard perspective of victims' access to justice. In concluding this thesis, this final chapter situates the findings of this study within the postcolonial context. It explores how victims' present-day experiences are linked to the consequences of Trinidad and Tobago's colonial legacy. Moreover, it provides some recommendations to address the issues uncovered and proposes future directions for the study of victims' access to justice.

Situating the Thesis Findings in a Postcolonial Context

In his discussion of therapeutic jurisprudence in Trinidad and Tobago, Kerrigan (2020, p.446) poses an interesting question: 'What might be some contemporary consequences of colonialism and slavery in the Caribbean?' In this present study a similar question was raised. Trinidad and Tobago, like other postcolonial states, has evolved somewhat differently from states in the West (Global North) (Bennett and Lynch, 1996). The country, like its Caribbean neighbours, was founded and built on a history of violent dispossession on murder, rape and kidnapping directed and sanctioned by elites but not recognised as such today (Watson and Kerrigan, 2018). In the post-colonial society, the historical rationale for the establishment of the criminal justice system was the exertion of social control to safeguard the interests of the monarch (Wiener, 2009; Antoine, 2008). The colonial-state manifested as a legal bureaucratic-police structure that was the colonizer's instrument for exploiting the colony (Jammulamadaka and Murphy, 2017). When these former colonies sought independence there was a transfer of ownership of the state structure appearing to take the same form with the elites that the colonial education created. These

individuals inherited the government and continued the use of privilege to monopolize the control of the state (Jammulamadaka and Murphy 2017).

Alavi (1995) argues that a characteristic of the post-colonial state is its inherited 'superstructure' that was present in the colonial and immediate postcolonial era. This superstructure state refers to an 'overdeveloped' state in proportion to the structure in the colony, where the state apparatus is equipped with bureaucratic controls, institutionalized practices, and mechanisms of government that through routine operations enables subordination, regulation, and control of social classes. As a historical implant, the justice system's policies and plans often tend to mimic the evolution of justice and justice institutions, as seen in the United Kingdom.

The experiences captured in this research intimated that there exists a variability (inconsistency) in victims' ability to access the criminal justice system, its actors, and processes. Based on the analysis of victims' accounts many faced varying interpersonal, structural, and systemic challenges and obstacles. This variability is grounded in the nature of the criminal justice system which is characterized as being entrenched in ideologies that promote inequality, invoking distancing, silencing, and marginalization. From the analysis it was noted that nuances of access were related to a victim's gender, social capital and the type of victimization, as well as the situational and contextual factors related to their victimization. Based on their experiences, there were variations in the manner justice actors interacted and communicated with victims, and the way they applied policy and processes. Victims' experiences revealed that the system worked vertically, a top-down approach where knowledge, information and decision making came from the authoritative centres. As such, they were required to negotiate experiences of institutionalized secondary victimization, neglect, and information deficits in their interactions with justice actors.

Watson and Kerrigan, (2018) argue that the legacy of colonial past and postcolonial present have shaped the society. The behaviours within institutions and the relationships between the masses and these institutions have generated a culture that includes nepotism, solidarity networks, negotiation, informal systems, and processes, 'metis versus techne', and resistance to change (Watson and Kerrigan, 2018). These characterizations were reflected in victims' experiences of accessing the criminal justice system. In the analysis of the experiences of domestic violence victims, some victims were required to negotiate interactions that were demoralizing and offensive. From a post-colonial perspective, such responses may stem from the role women are

assigned in the post-colonial society. De Beauvoir (1948) and Cain, (1990) describe that in the post-colonial society men are regarded as the norm and women as the 'other'. As the 'other' within the society women exist and are only conscious of themselves in ways that men have shaped them (Hughes and Witz, 1997). For some victims the inconsistency in access was impacted by solidarity networks. Victims with connections to justice actors had fewer issues in their interactions and communications as well as the process. For victims who reported that their abusive partners were part of these solidarity networks, they believed that such relationships affected how they experienced justice and gained access.

The analysis of victims' narratives revealed that many felt that the persona espoused by justice actors and the system were inherently superior to them. This context informed the construction of their identities in the criminal justice system, shaping a victim identity that was vulnerable and powerless. Such an identity created an 'individual who is disqualified from full social acceptance' (Goffman 1963, p.9). Victims' experiences also reinforced the dichotomy not only between victim and offender but also between victims and survivors and deserving and undeserving victims. Such identities were also compounded by the social aspects of participants' victimization. These experiences impacted victims' reflections of themselves as victims and citizens as rightsholders. When examined from a postcolonial lens, interactions with justice actors, information deficits, lack of institutional resources and institutional policies were seen as practices of othering as elements of power and subordination existed between victims and those in the system. It was realised that through their experiences, victims were dehumanized and stripped of agency and voice. This suggested that the relationship between the State and the victim was steeped in 'the psychology of colonialism' (Fanon as cited by Bulhan 2004). Here the term 'psychology of colonialism' refers to a colonial mentality that is the internalized attitude of inferiority felt by people because of colonization. Hutchinson (2015, p.150) notes that 'in postcolonial societies, individuals often struggle with these issues of agency, control, self-worth and efficacy...It's a feeling that decisions are made about you without your input, and they may not reflect your identity, interests, or desires'. Therefore, Fannon (1963) and Hutchinson (2015) suggest that legacies of structural violence, histories of subordination and collective trauma have a long-term impact on individuals in spaces of historical oppression and coloniality globally, and therefore are important considerations in understanding experiences within a Caribbean criminal justice system.

Othering practices perpetuated by the imbalances of power between the victim and justice actors also affected victims' rights consciousness as many were unaware of the process and the pathways available to them beyond reporting their crimes. This imbalance of power within their interactions and in the process served as a means of delegitimizing their citizen identity. This was most observable in the narratives of victims of domestic violence. Women's experiences confirmed that access may not be equal, and in the post-colonial society their citizen identity is incorporated through their male counterparts. In the postcolonial society the process of decolonialization, is often associated with the frustrations and aspirations of men. According to McClintock, Mufti and Shohat (1997, p.90) the process of decolonialization endeavoured to 'remasculinize' men as colonialism subordinated and effeminized men, as such women appear in a metaphoric and symbolic role. For women, their citizenship is incorporated through being the dependents of men; and this shapes their relationship to the rights and resources of the nation-state. Therefore, women's access to justice is connected to their male partners/ abusers, making the context of their citizen identity based in a hierarchal identity-driven membership. The result being a delegitimation of their citizen identity to the extent that these women may not see themselves as rightsholders.

In this study victims' perceptions were influenced by the various strategies of power displayed by justice actors. Moreover, the othering and the culturalization of victims as the 'other' replicated the hierarchy and relations between the masses and justice actors which existed during the colonial period. From their accounts, victims perceived the police as untrustworthy, ineffective and unfair. However, for some these perceptions were not solely based on their experiences but seemed to be related to their lived experiences. Johnson, Maguire and Kuhns (2014) explain that 'historical experiences with police mistreatment can have a lingering impact on citizen trust in police and perceptions of police legitimacy, particularly when these issues continue to remain salient'. Moreover, it has fostered a culture of cynicism of the law and distrust of authorities (Kerrigan, 2021). Despite such perceptions, victims seemed to tolerate these interactions and inconsistencies in the process and in some instances rationalize these experiences seemingly naturalizing these interactions and inconsistencies in the process. Therefore, their experiences become 'how things are', sustaining and reinforcing these interactions, practices, actions and inactions as the norm.

Given the possible effects of the consequences of colonialism, this leads to another question: ‘How do victims secure justice out of a state of injustice?’ Hickling and Hutchinson (2012) purport that to overcome these effects of colonialism ‘there is a need to nurture protective strategies to enhance resilience and social capital’. The narratives of victims and victim advocates intimate that there is a need for change and the adoption of an approach that allows victims to effectively engage in the process. This approach should not only improve the access and resultant outcomes for victims but empower victims when they access the system, a victim empowerment approach.

Victim empowerment means the implementation of a process that promotes the resourcefulness of victims by providing opportunities to access available services and build their own capacity and support network and to act on their own choices. By empowering the victim, it means less institutionalized secondary victimization, better quality of life, fewer psychological distress and mental health symptoms arising from victimization, and more social support and effectiveness in accessing resources (Garvin, 2012). More importantly it means victims having voice and agency, being recognised and having control which is usually appropriated by the process. It also allows them to not deal with the immediate damage but the lingering consequences with a measure of control and even human dignity.

Recommendations for Practice

Based on the findings of this study, there is a clear need to empower victims while recognizing the impact of class, gender, and the intersect with experiences of victimization as well as institutional and social power relations. Therefore, the practical approach in addressing the challenges and obstacles highlighted in this research should be the promotion of resilience among victims and enhancing social capital.

Promoting resilience amongst victims requires the system to provide individuals with the capacity to navigate and negotiate resources that allows them to sustain their wellbeing. The system in its interactions with victims should aim to prevent and reduce further adversity exposure, increase resources and access to resources as well as become process focused. By promoting

resilience, there is the enhancement of social capital, as such strengthens social bonding and bridging networks.

To build resilience and enhance social capital, police-victim interactions is a major focus, challenging the inequality and dynamics of power that exist. It should be noted that post-colonial policing scholars are often weary of the potential for reform programmes to reproduce power relations resembling past forms of colonial domination. Such criticisms are often justified in the realm of what Brodeur (2010) refers to as ‘high policing’. Pino (2020) purports for comprehensive, systemic changes in police behaviour change should be led and sustained from below, and if those in authority, including politicians and the police, are held accountable in line with transformative justice principles. According to Gready and Robins (2014, p. 340) ‘transformative justice is defined as transformative change that emphasizes local agency and resources, the prioritization of process rather than preconceived outcomes and the challenging of unequal and intersecting power relationships and structures of exclusion at both the local and the global level.’ Victims’ experiences often highlighted the unequal and intersecting power relationships and structures of exclusion within the criminal justice system. As such any reform of the police service should consider approaches that are centred on local perspectives and contexts but are comprehensive, intersectional and actor oriented. Such approaches to conflict should ensure that victims are included, and priority is given to upholding their agency.

Of special note are experiences of victims of domestic violence, who were subject to victim-blaming attitudes, which often made them feel. As such there needs to be a change in the cultural attitudes of justice actors and institutions to become more helpful and being trustworthy. While there has been implementation of a Gender Based Unit in the police service and the use of the Family Court to service such persons, there needs to be sensitivity training in many institutions. To treat with this issue some jurisdictions have turned to increasing the female intake of police officers and in some instance an all-female police station (Perova and Reynolds 2017).

A major theme across victims’ experiences was the need for communication and feedback as many were information providers, however, very rarely did they receive information. As such central to any reform that prioritizes agency should focus on providing victims with timely communication about matters and the process. Winkel and Koppelaar (1988) proposed the use of repeat contact, where information is provided when the crime is reported, and further information

is given a few days later, when a police officer pays the victim a visit. While this can be useful, such a programme is dependent on human resources capacity of the police service. However, there should be some policy guidance for mechanisms to relay information and effective communication with victims (or citizens) within justice institutions.

For victims in this study communication was not only related to accessing information on their cases but also relating the trauma of victimization to the decision makers in the process. Laxminarayan (2015) in the examination of victim rights mechanisms and its impact on the victim's trust in the legal system, procedural measures such as victim impact statements (VIS) had an impact on trust. While there is the provision for the use of VISs in Trinidad and Tobago, none of the victims interviewed discussed its use. This lack of use may be due to the lengthy nature of the court process, the low attrition rates that stagnates conflict that cases do not make it to the trial stage of the process or a combination of both. As such there needs to be a focus on the use of VISs and the processes that support the use of such.

Participants of this study also comprised of victim support officers who were part of the policing institution. While these persons were civilians their units formed part of the policing response, however, some victims were not referred to their services. From the interviews it was apparent that advocates believed that they contributed to improved satisfaction in the police and their legitimacy. While these victim advocates working within the police service can interject and reduce institutionalized forms of secondary victimization and change the perceptions of the police, their statutory status can be problematic. Some victims may see them as part of the state institution and issues of trust may arise. However, another issue to consider is resource allocation, as the victim advocates in this study spoke about the lack of resources given to support services. Such an issue is dependent on political will, authorities' views of mixed welfare economies, and culture change that promotes support rather than solely retributive ideologies within the criminal justice system.

Therefore, victims' experiences of access to justice demands that there is the consideration of the victim at every stage and a need to examine the relationship between citizens and the state. Moreover, there is a need to reaffirm and implement where necessary accountability systems across the justice system, such can improve prior perceptions of the system and improve legitimacy.

Future Directions for Research

Following from this research, future endeavours should focus on both victims and justice actors as well as different methodological approaches to the study of victims' access. From this study further research is needed on the role of gender and social capital in access to justice, and how neo-colonialism shapes the postcolonial present in creating dynamics of inequality in the criminal justice system. Future studies can adopt a quantitative approach to understanding victims' access, investigating the nature and prevalence of interpersonal, structural, and systemic obstacles victims encounter and implications of the obstacles on the authority and endorsement of the criminal justice system. Research should also explore justice actors as power holders in the process, their decision-making processes, and their views on the quality and type of police and justice services provided. This present study while providing useful insight into the experiences of some victims within the criminal justice system in Trinidad and Tobago, suggests that there is much more to be learnt.

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APPENDIX I

Manager,
Christian Life Resources Centre
8-14 Ruth Avenue
Les Efforts West
San Fernando

Dear Manager,

I am an external doctoral candidate at the University of Kent at Canterbury, United Kingdom and an Instructor II at the University of Trinidad and Tobago. I am currently working on my PhD thesis entitled '*Access to justice in a Post-Colonial Society: A grounded theory study of victims' access to the criminal justice system in Trinidad and Tobago.*' I was advised by Mrs Mowlah-Baksh at the Coalition Against Domestic Violence to contact your agency as you may be able to assist.

My research project focuses on victims' experiences in accessing criminal justice services and their rights in Trinidad and Tobago. The research aims to identify how the framework of criminal justice in a post-colonial society impacts victims' experiences of accessing justice; and to understand how victims' experiences of accessing justice affects their perceptions of the justice systems legitimacy. The impetus for this research stems from the lack of research literature on issues related to criminal justice in the Caribbean and more importantly victims' access to justice services. It is anticipated that the findings will increase awareness of the issues and provide a clearer understanding of the needs of victims and possibly identify the potential ways of improving the criminal justice system's responses to victims to ensure its legitimacy.

The perspectives and experiences of victims are central to this project; however, the perspective of the service providers and stakeholders will also provide insight. Therefore, I am contacting you and your organisation to request a meeting about my research and the prospects of your organisation facilitating a request for participants.

APPENDIX II -INTERVIEW PROTOCOLS FOR VICTIMS AND VICTIM ADVOCATES

Interview Protocol for Victims

During this interview, you will be asked about your experience as a victim in the criminal justice system. I am interested in knowing about your experiences of reporting a crime, what – if any – access you had to legal representation, your experiences of the agencies you dealt with, how much you were informed about what was going on and your thoughts on the police and other criminal justice representatives.

Some questions may not apply, so please let me know.

Before carrying out this interview, I would like you to read the consent form and sign, where it requests your signature. If there are any questions about the consent form, please feel free to ask for clarification.

Thank you.

A. Background questions

- Tell me a little about your background.
- Tell me about your thoughts on the criminal justice system. Do you think that persons working in the criminal justice system care about victims of crime?
- Having been a victim in the criminal justice system, do you believe victims benefit from engaging in the criminal justice system? What aspects do you believe can benefit the victim?
- What do you understand by the term victim rights?
- How would you define the term justice?
- Do you think that the various aspects of the criminal justice system are accessible to victims?
- What rights do you believe victims should have in criminal justice system? Do you think victims' rights are recognised in Trinidad and Tobago?
- Who do you think has the responsibility to give victims more rights?
- Do you think all victims are treated the same way by persons in the criminal justice system?

B. Reporting the incident to the authorities

- Tell me about the reporting of the incident to the police. What was the process for the reporting of your victimization?
- After reporting the incident to the police, what were the series of events that took place afterwards?
- Do you believe that information and police officers were accessible throughout the process?
- Were you satisfied with the quality of the police investigation?
- Do you believe the police officers did their best to achieve the best possible solution for you?
- Based on your experience do you trust the police? Will you be willing to cooperate with them in the future?

C. Apprehension of suspect

- In your case did the police apprehend the suspect?
- Were you informed about the suspect being apprehended? Who informed you about this?
- What was the timeframe between the report and the apprehension of suspect? Were you satisfied with this?
- Were you kept informed or given an information/ updates related to the suspect? Such as bail, death etc.

D. The criminal trial

I understand that in CJS there is usually a preliminary inquiry where the case goes before the magistrate and represented by a police prosecutor. Once this happens the case may proceed to the High Court and represented by the DPP's Office.

- Did your case go to any of these trial phases?
- Before your case proceeded to these phases were you are/ were you made aware of the process and what the process would involve
- From your experience, was information and prosecutors accessible?
- During any of these phases did anyone ask for your opinion or advice?
- Do you think that decisions made by prosecutors or other officers of the court were beneficial to you?
- Do you think victims should have a say in the trial processes?
- Which agency would you say was most responsible for the outcome of your criminal trial? Were you satisfied with the result of the trial?

E. Ending questions

1. Do you feel the system gave you the support you wanted?
2. What were some of the problems you encountered when accessing the criminal justice system?
3. In the process which institution, by this I am referring to the police, the prosecutors and the courts was most helpful? What did they help you with?
4. At any point in time in the process do you believe that you were treated with compassion and respect by the professionals in the CJS?
5. After having this experience, what advice would you give someone who has been a victim of a crime?
6. As you look back, are there any events that stand out in your mind? Can you describe it/them?
7. How would you describe the criminal justice system after this experience?
8. Is there anything that you might not have thought about before that occurred to you during this interview?
9. Is there anything else you think I should know about your experience?
10. Is there anything you would like to ask me?

Interview Protocol for Victim Advocates, Workers and Clinicians

During this interview, you will be asked to share your experience as a clinician/ advocate treating crime victims. This session will focus on your understanding of victims' experiences in the criminal justice system and not relate to the criminal event/incident victims experience. I will ask questions about the victims' interaction with criminal justice organisations but there will be no questions related to the criminal event.

11. As an advocate, what types of crime victims do you usually work with? What is the predominant age range and gender of crime victims whom engage with your organisation services?
12. Do victims seek your assistance/ the assistance of your agency at the time of the criminal event or after, when they have begun to access criminal justice services such as making the police report?

Reporting the incident to the authorities

13. In your experience of treating victims do they often make reports to the police themselves?
14. Do victims contact your organisation before or after they make a report to the police? Have you observed any differences between victims whom contact your agency before or after the police report?
15. Are there any groups of victims who you would say are hesitant to report their victimization to the police?
16. How does the reporting procedure affect the victim?
17. As an advocate do you meet with members of police/ investigating officers?
18. Do the victims that you encounter participate in the investigation process?
19. Do you believe that police officers treat victims with respect?
20. Do you believe that victims trust the police?
21. Do you believe that victims are provided with the necessary information and feedback?
22. Are there any circumstances in which male victims and female victims treated differently by the police when reporting and investigating crimes?

Apprehension of suspect

23. Are victims notified of the apprehension of the suspect? If so, when and by whom?
24. In your experience how does this notification affect the victim?
25. Do you believe that victims' get adequate support and information from the police during the process of identifying suspects (during line up/ id parades)?

The criminal trial

26. Do the victims that engage your services want their cases to go to trial?
27. In your experience, are victims willing to go to trial?
28. Do you believe that the Courts (judges, prosecutors and other court officials) treat victims with respect?

29. What are some of the issues encountered by your clients when accessing the courts / participating in the court process?
30. In your experience which is more important to the victim participation in the criminal justice process or the outcome of the process?
31. In your experience of engaging victims, so victims believe that the prosecutor (police prosecutor or representative from the DPP) represent their interests?
32. Do you believe that the victim's interests are the primary value of the criminal justice system?

Ending questions

33. Do you feel the criminal justice system gives victims the support they want?
34. In the process of accessing justice which institution/ person is often most helpful to the victim?
35. Understanding the experience of victims, what advice would you given someone who has been a victim of a crime?
36. Does the engagement in the criminal justice process help victims? If so how?
37. Do you believe that victims are afforded sufficient rights?
38. Is there anything else you think I should know about your experience?
39. Is there anything you would like to ask me?

APPENDIX III – INFORMATION SHEET AND CONSENT FORM

INFORMED CONSENT FORM

This informed consent form is for victims who are invited to participate in this research titled ‘Access to justice in a Post-Colonial Society: A grounded theory study of victims’ access to the criminal justice system in Trinidad and Tobago.’

Name of Researcher: Leah Cleghorn

Name of Supervisor: Professor Alex Stevens and Dr Marian Duggan

This informed consent form has two parts:

1. Information sheet
2. Consent Form

You will be given a copy of the full Informed Consent Form.

INFORMATION SHEET

I am Leah Cleghorn, studying at the University of Kent, United Kingdom. I am doing research on the relationship between victims' access to justice and their perceptions of the criminal justice system. This information sheet explains the research and your role in it; if you have questions, please feel free to ask.

This research project examines victim's experiences of accessing justice and any resultant impacts on their perceptions of the criminal justice system. This research will also explore how victims' experiences affects how they perceive the validity and legitimacy of justice organisations in Trinidad and Tobago.

You are being invited to be part in this research because your experience as a victim accessing the justice system can contribute much to the research and its objectives. Your participation is entirely voluntary. You do not have to take part in this research if you do not wish to do so. You may stop participating in the interview at any time you wish. I will give you an opportunity at the end of the interview to make further inquiries as well make remarks on notes taken.

The interview will take up to 90 mins and will focus mainly on your experiences with various aspects of the criminal justice system and your thoughts about the process.

If you do not wish to answer any of the questions during the interview or you think some of the questions may not apply to you and your experience, you may say so and I will move on to the next question. No one else will be present in the interview unless you would like someone else to be there. The information is confidential and will only be accessed by myself. The interview will be recorded for the purposes of transcription, and the recording will be kept on a computer hard drive which is password protected. The recorded information will be destroyed at the end of the research project.

Several victims' organisations have expressed an interest in the results of the study, but all publications arising from this research will ensure that participants are fully anonymised.

If you have any questions, you can ask them now or later. If you wish to ask question later, you may contact any of the following lc532@kent.ac.uk / leah.cleghorn@utt.edu.tt or via phone at 481-2334

The proposal, interview questions and research process has been reviewed and approved by the Ethics Committee at the University of Kent which is a committee whose task is to make sure that the research is conducted in a fair and ethical manner.

CONSENT FORM

I have been invited to participate in research about my experiences of accessing justice and perceptions of the system's legitimacy.

I have read the foregoing information or it has been read to me. I have had the opportunity to ask questions about it and any questions asked have been answered to my satisfaction. I consent voluntarily to be a participant in this study.

Name of Participant (Print) _____

Signature of Participant _____

Date _____

I have accurately read out the information sheet to the potential participant, and to the best of my ability made sure that the participant understands the purpose of the research and all that it entails.

I confirm that the participant was given an opportunity to ask questions about the study, and all the questions asked by the participant has been answered to the best of my ability. I confirm that the individual has not been coerced into giving consent, and the consent has been given freely and voluntarily.

A copy of this Informed Consent Form has been provided to the participant.

Name of Researcher (Print) _____

Signature of the Researcher _____

Date _____