Law & Society REVIEW

Turning the Witness Stand into a Speaker's Platform: Victim Participation in the Norwegian Legal System as Exemplified by the Trial Against Anders Behring Breivik

Solveig Laugerud Åse Langballe

In this article, we investigate how victims pursue legal participation when they are confronted by legal barriers and dilemmas that arise from tensions between legal formality and lay expectations and contributions of legal proceedings. We use the trial against Anders Behring Breivik as a case. Breivik placed a bomb in Norway's Government District before he shot and killed 69 people on a small island. We analyze interviews with 31 victims who testified against Breivik in court. We argue that the circumstances of the trial against Breivik can be characterized as "ideal" in terms of victims' rights. The exceptionality of this case facilitates a focus on unquestioned obstacles to victim participation concerning the professionalization of the legal system. We question the presumption prevalent among some theorists that the professionalization of the legal system excludes lay participation, by arguing that legal formality both alienate and empower lay participation.

In recent decades, the legal status of victims has changed radically. Most of these legal changes have been a result of the efforts of victim advocates, right-wing lobbyists and the women's movement (Gillis & Beloof 2001; Goodey 2005). The degree to which claims for victims' rights have been part of a retributive or restorative movement depends in part upon the political context in which they were operating (Barker 2007). These groups' accomplishments range from the establishment of various victim-support services to services and reforms in the law-enforcement and legal systems. Legal changes include the right to be informed of developments in a case, the right to attend legal proceedings, the right to confer with the prosecutor, the right to sensitive

The authors would like to thank Grete Dyb at NKVTS for facilitating this study and for making useful comments on the manuscript. A special thanks to May-Len Skilbrei at the University of Oslo for all her critical, insightful and constructive comments on this article.

Author Contributions: Laugerud, in collaboration with Langballe, designed the study and conducted the interviews. Laugerud analyzed the data material and drafted the manuscript; Langballe reviewed the manuscript.

Please direct all correspondence to Solveig Laugerud, Centre for Gender Research, University of Oslo, PB 1040, Blindern, N-0315 Oslo, Norway; e-mail: solveig.laugerud@stk.uio.no.

Law & Society Review, Volume 51, Number 2 (2017)

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

treatment during legal proceedings and the right to contribute to the criminal justice decision-making process through a victim impact statement (Goodey 2005; Mastrocinque 2010). The right to provide input into the legal decision-making process has developed differently in different adversarial legal systems. Depending on the country and legal system involved, the victim impact statement can be either oral or written, and it can be delivered at various stages of the legal proceeding. Impact evidence is intended to inform the criminal justice system of the loss, damage and suffering caused by a crime. Reforms also include protective measures, such as rape-shield laws intended to restrict questions regarding a victim's sexual history and reputation, which have often been used to prove consent and attack the victim's credibility (Matoesian 1995).

In light of recent legal changes, it has been argued that victim reforms represent important developments in the era of victims' rights. However it has also been suggested that implementation of victim reforms have created tensions between victims' interests and institutional demands, tensions regarding what is considered victims' subjective input on the one hand, and objective legal values on the other hand (Edwards 2002; Erez & Laster 1999; Erez et al. 2014). Furthermore, it has been argued that we lack a theoretical basis for victim participation (Edwards 2001). However, Christie (1977) and Bourdieu (1986) have theorized on how the professionalization of the legal system excludes victim participation. In this article, we focus on the tensions created between the characteristics of a professionalized legal system on the one hand, and victim's expectations and contribution on the other hand. Moreover, we will argue, contrary to Christie and Bourdieu, that professionalization of the legal system not only excludes, but also includes lay participation. Although previous studies allude to tensions created by implementation of victim reforms, there is little emphasis on how legal formality facilitates or inhibits victims' participation in legal proceedings. Erez and Laster (1999) have focused on how tensions between victims' interests and professional and institutional demands have created skepticism among legal professionals who attempt to minimize victims' influences in legal proceedings, for example by transforming personal accounts into a legal representation of victim harm. However, in a different study, Erez et al. (2014) argue that legal professionals also work to ease possible tensions by attempting to reconcile conflicting interests. Englebrecht (2011) argues that disparate views on victims' role in legal proceedings might create conflicts between victims and legal professionals within the system. Additionally, she argues that victims both appreciate their role in legal proceedings and simultaneously risk having their high hopes

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

transformed into disappointment. Disappointment might occur if there is a gap between the rationale behind victim reforms and victims' expectations to legal participation.

The rationale underlying legal reforms intended to enhance victims' participation in the legal process might emphasize those reforms' benefits for victims. Other rationales for victim reforms might be classified as valuable by virtue of the victim's citizenship or as instrumental to either improving sentencing outcomes or promoting system efficiency and service quality. A lack of information about the rationale for the reforms might result in disappointment and dissatisfaction among victims, who might expect to influence legal decisionmaking when instead, for example, their participatory role is solely expressive in nature, with anticipated therapeutic gains.

Despite legal changes, victim participation is still in the process of development and remains controversial. Nevertheless, it has been suggested that victim reforms have resulted in a new victim role that is associated with a great deal of uncertainty because the aims and justifications of various reforms are sometimes unclear (Edwards 2004). Furthermore, Edwards (2004) argues that victim participation is difficult to define, in part because it is a contested concept. By tracing the concept of victim participation to various civil rights movements, he relates it to the concept of citizenship, which is a relatively abstract term, suggesting that it "may involve being in control, having a say, being listened to, or being treated with dignity and respect" (Edwards 2004: 973). This definition implies that participation not only is a question of participatory rights but also might be a question of recognition. Recognition, as a normative attitude toward others, implies both admitting *and* embracing a person's normative status—for instance, as a citizen, victim, or legal participant (Iser 2013). To be recognized as a citizen in a democracy that rests on an assumption of equality between citizens implies being recognized as an autonomous and equal human being (De Greiff 2006). De Greiff (2006) argues that criminal justice for victims might be interpreted as reestablishing equality between the criminal and his/her victim after a criminal act through which the criminal suggested his superiority over the victim.

In this article, we investigate victim participation in the trial of Anders Behring Breivik as a case study. On July 22, 2011, Breivik placed a bomb in the Government District of Oslo, the capital of Norway. Eight people were killed by the bomb, nine were seriously injured and approximately 200 suffered minor injuries (Oslo District Court 2012). A few hours later, Breivik committed a massacre on the small island of

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

Utøya outside Oslo, where 564 young people were attending the Norwegian Labor Youth summer camp. Breivik shot and killed 69 people and injured 33 more before he was arrested (Oslo District Court 2012). Breivik was wearing a fake police uniform, and he misled people by telling them that he was there to provide information about the bombing in Oslo. Earlier that same day, Breivik had emailed a 1,500-page manifesto to thousands of people explaining his acts and describing how he had planned the Oslo bombing. In the manifesto, he uses anti-Islamic rhetoric and tells a story of political terrorism, but he is silent about the inspiration for and planning of the massacre (Sandberg 2013; Sandberg et al. 2014).

Breivik's trial can be characterized as an exceptional trial that is unlike other trials in the Norwegian courts. Breivik's trial included several hundred victims and bereaved family members who had the right to participate in the legal proceedings (Oslo tingrett 2013). Furthermore, the distinctiveness of the Norwegian criminal justice system, which is based primarily on an inquisitorial model, and recently implemented a victim's-rights reform, might suggest an "ideal" rights situation for victims to participate. According to Doak (2005), the inquisitorial as compared to the adversarial system, has less structural and normative barriers for victims to participate, although there might be a disparity between theory and practice. We will argue that the exceptionality of this case in terms of the involvement of both an "ideal perpetrator" and "ideal victims" (Christie 1986) in an "ideal" rights situation have enabled us to address and emphasize other obstacles to victim participation concerning tensions between lay participation and legal formality. This article investigates how victims pursue legal participation when confronted with the barriers and dilemmas that arise out of tensions between legal formality and lay expectations, and contributions of legal proceedings. We are questioning the presumption prevalent among some theorists, such as Christie (1977) and Bourdieu (1986), that the professionalization of the legal system excludes lay participation. The aim of this article is to achieve knowledge of how victims' lay participation is feasible in a professionalized legal system. We argue that this knowledge makes relevant contributions to the international debate about the rationales for reform and the challenges that victim participation poses for the legal system and vice versa. Previous knowledge production in this area has primarily been based on common law adversarial systems, but we believe knowledge achieved based on an inquisitorial system, which might be considered more compatible with victims' participation, offer new contributions to this field of study.

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

The Legal Status of Crime Victims in Norway

The Norwegian legal system is primarily based on an inquisitorial model but also contains elements of an adversarial model (Robberstad 1999). In the inquisitorial model, the judge has an independent duty to investigate the case, unlike the adversarial model, which is characterized by a withdrawn judge and parties pursuing their own interests. In the Norwegian justice system, the court is responsible for investigating the case and making the right decision, whereas the prosecutor has a duty to be objective. Like the adversarial model, the Norwegian inquisitorial model is based on the *principle of orality*, which means that all evidence must be introduced orally by witnesses who are present in court and available for cross-examination (Goodey 2005; Skyberg 2012). The victim has played a marginal role in legal proceedings ever since Norway changed its system from private to public prosecution as part of the country's centralization of power in the middle of the seventeenth century (Robberstad 1999). Over the years, the Norwegian criminal justice system has been criticized for not being victim-friendly (Dahl 1994; Robberstad 1999). In 2008, the authorities proposed changes to the legal status of victims (Ot.prp. nr. 11 2007–2008). The amendments include the right to have a legal representative in all cases in which the victim suffers serious injury to body or health caused by a criminal act. The legal representative must safeguard the victim's interests during both the investigation and the trial. The amendments also include a strengthening of the right to information at all stages of the criminal proceedings; the right to be present throughout the trial; the right to question the accused, witnesses and expert witnesses; and the opportunity to make an in-court oral impact statement. The victim impact statement is integrated into the testimony if the victim testifies in court, while it is included at the end of the trial if the victim (or bereaved family member) is not called to the stand. Every witness's testimony begins with an invitation to the witness to narrate openly; moreover, it is typical for the witness to be asked questions about the impact of the crime, both by the prosecutor and by the victim's lawyer. The integrated impact statement is thus given orally by the victim during testimony, as part of the open narrative or questioning by legal professionals. The separated impact statement is also given orally in court, but might be written beforehand and read out loud in court. The victim impact statement is supposed to inform the court of the impact of the crime.

In the reform, victim participation is justified on the grounds of victims' legitimate interests in criminal proceedings along with

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

the need to secure trust in, and cooperation with, the legal system (Ot.prp. nr. 11 2007–2008).

The Professionalization of the Legal System

Social legal theorists have suggested that crime serves a positive function in society, not only through how it establishes and makes visible the boundaries between what society considers right and wrong, but also in how it contributes to social cohesion (Christie 1977; Durkheim 1969). Christie (1977) argues that conflicts are valuable because they offer everybody an opportunity to participate in society—that is, to be involved in discussions of right and wrong, to clarify norms and to discuss the law. He argues that conflicts have lost their value in our society—that we have become indifferent to conflicts because we have entrusted the resolution of disputes to professionals. He criticizes the professionalization of the criminal justice system and argues that legal professionals "steal" conflicts by excluding the parties involved and translating their conflict into a legal case. He warns against the professionals' monopolization of conflict resolution and urges us to consider conflicts as property. According to Christie (1977), an ideal case is one in which the defendant and the victim are at the center of the proceedings, the community is actively involved, and the goal is restoration. Duff (2003) is critical of Christie's argument because Christie does not address the wrong of a crime, merely conceptualizing it as a conflict or harm that must be resolved or repaired. Compared to other incidents with potentially harmful consequences, such as natural disasters, crime victims are not only harmed (e.g., materially, psychologically) but also wronged, and the two cannot be separated because being wrongfully attacked constitutes a distinctive form of harm. According to Duff (2003), the wrongness of a crime must be addressed if restoration is to be achieved.

Because of the professionalization of the criminal justice system, Christie sees no real potential for victim participation and restoration in legal cases. Like Christie, Bourdieu (1986) criticizes the professionalization of the legal field, but on slightly different grounds. Whereas Christie is concerned with how professionals monopolize the handling of conflicts, Bourdieu is primarily concerned with how the juridical field creates an impression of power and authority by distancing itself from other social fields in terms of professionalizing and formalizing their activities. A field, in Bourdieu's terms, refers to "an area of structured, socially patterned activity or 'practice'" and a site of struggle (Bourdieu 1986: 805). The professionalization and institutionalization of the

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

juridical field divides those qualified to participate in legal proceedings because of their knowledge of legal language, procedures and methods—the professionals—from lay people, who are excluded because of their lack of competence. According to Bourdieu, the legal field is marked by a rhetoric of impersonality that has both a neutralization effect, referring to passive and impersonal constructions inherent in normative utterances, and a universalization effect, referring to expressions of the factual and general.

We will use Christie and Bourdieu's concepts of the professionalization of the legal system to illustrate the difficulty of participating in an unfamiliar legal situation in which participation is on legal terms, with little room for subjective or personal input. Furthermore, we will question whether the professionalization of the legal system solely creates an inappropriate, rather than appropriate, distancing.

Method

The Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) was appointed by the Norwegian Directorate of Health to conduct studies of the consequences of the July 22, 2011, terror attack. NKVTS conducted a longitudinal study consisting of personal interviews with the survivors of the Utøya massacre. The longitudinal study included both quantitative and qualitative sections. At the time of the shooting incident, the average age of the survivors was 19.4 years old. For further descriptions of the Utøya study, see Dyb et al. (2014).

In this article, we analyze interview transcripts from the longitudinal study concerning legal participation among survivors testifying in court. The prosecution had called 45 survivors to testify in court, and 31 agreed to participate in our study. The interviews were conducted 14–15 months after the incident and approximately two months after the verdict. The interviewees were asked open-ended questions of how they experienced the trial. The interviews were conducted by the authors of this article, along with three other interviewers. The interviewers had preparatory meetings to discuss the interview guide and various aspects of the trial. The interview transcripts filled approximately 265 printed pages.

The authors of this article were present in court and observed the testimony of both Breivik and the survivors. In addition, transcripts of all of the testimonies have been published in the media (Vg 2012).

The interview transcripts are analyzed qualitatively, from a phenomenological perspective in the tradition of hermeneutic interpretation (Kvale et al. 2009). Patterns and phenomena in the

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

data are investigated within and across interviews and combined in a thematic analysis (Braun & Clarke 2006). While reading the transcripts, a range of various themes were initially distinguished before their interrelation was identified and interpreted as legal participation. Subsequently, aspects and meanings of legal participation and their interconnections were unfolded, and this process comprises the analytical sections of this article. The analytical process might be described as an hourglass, starting with a broad view before narrowing the view to identify a main theme and ultimately unfolding various aspects and meanings of the main theme.

The quotes have been translated from Norwegian to English by the authors; moreover, they have been shortened and expletives have been excluded to make the quotes readable without changing their meaning.

The study was approved by the regional committees for medical and health research ethics. Participation in the study was based on informed consent. Consistent with the Personal Data Act and ethical guidelines, measures were taken to secure confidentiality and enhance the participants' anonymity. In this particular case, anonymizing the participants represented a challenge both because the survivors' identities are a matter of public knowledge and because details from both the massacre and the trial have been published in the national and international media. To enhance the anonymity of the participants, the quotes in this article are presented thematically instead of personally with the use of pseudonyms. Gender, age, and other background information, together with details from the incidents, are sometimes altered.

Victims' Rights in Breivik's Trial

Breivik's trial took place in the spring of 2012 in a regular court in the district of Oslo. Breivik acknowledged having committed the acts of which he was accused but pleaded not guilty. The primary question at trial was whether Breivik was sane or insane when he committed the crimes. He was ultimately sentenced to twenty-one years of preventive detention[1] for terrorism, premeditated murder and attempted murder.

The size of the case against Breivik challenged victim participation in important ways. For instance, the prosecution called only 45 of the 495 survivors from Utøya to the witness stand, and three victims gave impact statements representing different

[1] Preventive detention refers to an indeterminate sentence imposed on offenders who are considered a threat to society, with a minimum term of ten years and a maximum term of 21 years. In principle, preventive detention can result in a lifelong prison sentence if the person convicted continues to be considered a threat to society.

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

victims' groups, including the survivors, survivors with bereaved siblings and bereaved parents. The victims called to the witness stand had their impact statements integrated into the testimony, while the additional impact statements were given orally in court on the last day of the trial, just before Breivik was allowed to give his final remarks. The prosecution decided to subpoena 33 survivors who were shot and injured and thus listed in the indictment as attempted murders. In addition, 12 survivors were subpoena, whom, according to the prosecution's list of evidence, were summoned to testify on specific episodes involving murders. The selection of witnesses elicited emotional reactions in the public where some survivors and bereaved family members expressed feelings of exclusion. The trial attracted a large audience, both in court and through the media. Breivik's and the survivors' testimonies attracted the largest crowd in court, whereas the separate impact statements elicited visible emotional expressions in court, such as crying and ovation.

In the case against Breivik, the victims exercised their participatory rights throughout the legal proceedings with assistance from their legal representatives. The victims' legal representatives participated in the cross-examination of the defendant and other witnesses. They filed motions to grant access to all of the documents in the case, but the court decided that they could only have limited access to relevant documents. In addition, the victims' interests were considered when the court decided to appoint two new experts in psychiatry to assess Breivik's sanity and when the court decided whether to broadcast portions of the trial (Oslo tingrett 2012a,b). On these two last issues, the court also referred to the media debates and based its decisions on considerations of public opinion in line with people's conception of justice. The victim witnesses also filed a motion for permission to attend each other's testimonies before giving their own evidence in court (Oslo tingrett 2012c). Their petition was denied, and some of the victims' legal representatives appealed to the supreme court, which anticipated that the witnesses' interactions with Breivik during the massacre could be relevant to establish the question of sanity. To secure uninfluenced testimony related to the question of sanity, victim-witnesses who had neither seen nor heard Breivik during the massacre were allowed to attend each other's testimonies before giving their evidence in court.

These are important examples of how the victims exercised their recently granted participatory rights during the legal proceedings. This study's participants expressed great satisfaction with the work of their legal representative and emphasized how well they were attended to and included in the legal proceeding. However, they did not dwell on these issues; instead, they

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

preferred to talk about the significance of giving testimony in court and related obstacles from the witness stand, which will be the main focus of our forthcoming analysis.

In the remaining portions of this article, we aim to show that the studied victims had high expectations of their legal participation. They assumed that their contribution to the legal decision-making process would matter. However, they problematized divergent expectations of their testimonies, creating dilemmas that made it difficult for them to choose a strategy to fulfill their obligations without disappointing or hurting anyone. In pursuing participation, the interviewees needed to turn the situation in court to their advantage by familiarizing themselves with the court's peculiar, formal character. Once familiar with the legal codes, they could utilize strategies to turn the witness stand into a speaker's platform from which they could put their interests on the agenda. Based on this analysis, we discuss how legal formality creates both an appropriate and an inappropriate distance between lay people and the legal system, which in turn both facilitate and inhibit victims' legal participation.

Giving Testimony in Court: Both a Duty and an Opportunity to Participate

The interviewees reflected differently upon the question of testifying in court. On the one hand, the interviewees characterized giving testimony in court as a task that they were obliged to perform, and they differentiated between two forms of obligations. The first obligation was to provide information to the court that could shed light on the crimes and provide evidence. The second obligation was the commitment to meet the expectations of everyone affected by the crime and of Norwegian society in general. On the other hand, the interviewees perceived testifying in court both as valuable and as an opportunity to participate in the trial.

The study participants were aware of the legal system's demands and conventions, and most of them wanted to conform. However, the participants problematized those demands and conventions because of the way those demands sometimes conflicted with other societal expectations and their perceptions of themselves. They carefully considered what they needed to tell the court as part of their duty, what would be appropriate to say in court out of respect for the audience (other survivors, affected and bereaved family members and others not directly affected) and what they wished to reveal in public. They assumed—and had been told—that the court needed accurate and detailed information. They

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

showed great commitment to the court, and some were anxious about failing, such as the following interviewee:

> Some of the things that I told the police shortly after the incident were absurd. They didn't make any sense at all, and later they were invalidated. So I was a bit nervous that they would be brought up in court, but then I was able to talk to the prosecution to let them know that those parts of my statement to the police were not correct.

In this case, the main course of events and important details were publicly known before the trial; therefore, the witnesses risked appearing unreliable if their testimonies diverged from other accounts. However, they also feared that the obligation to account for details of the killings in court might be devastating for the affected and bereaved family members and horrible to listen to for everyone else. One interviewee said, "I was afraid of giving details about the incident at the island that might hurt anyone. I thought it was uncomfortable to describe all of the dead people because I knew that people were listening." This quote suggests reluctance to provide a public account of the incident despite the expectation that the interviewees should focus on the details of the murders, because the interviewees worried that some might find such an account offensive or harmful. These conflicting expectations seemed to create tensions, resulting in a dilemma for the interviewees about a proper strategy that would fulfill their obligations to the court and to society without disappointing or hurting anyone. In addition, the interviewees felt that some incidents could be embarrassing to discuss, both for themselves and for other survivors, so they preferred to omit these parts of their stories. Examples included how panicking people wet themselves or hid behind each other to escape the bullets. Some of the victims, however, did not have to worry about revealing shameful stories in court.

> I'm lucky because I have a story I don't have to be ashamed of. Because I was shot early, I don't have to be ashamed of not helping other people on the island and that sort of thing. (. . .) And my story gives a lot of credit to other people, so I thought it was nice that my story became public.

The interviewees were concerned about how to represent themselves, other survivors, and the deceased. They did not want to emphasize aspects of the incident that might be unfavorable to anyone. The interviewees carefully considered all of the perceived requirements to provide balanced and thoughtful testimony in

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

court. Their attempt to consider the public interest and to accommodate everybody involved with their stories suggests that they addressed the community from the witness stand.

In addition to fulfilling their duties to the court and meeting various societal expectations, the interviewees considered giving courtroom testimony as an opportunity to participate in the trial. However, the large number of survivors entailed uncertainty in relation to whom the prosecution would call as a witness. Some voiced a concern for being excluded from actively participating in the trial.

> I wanted to testify because I think that I have information that can be useful for the court. Not knowing whether they would let me testify was stressful. It was important for me to testify—both because I wanted to contribute (…) and because I wanted to confront the perpetrator. One thing that I'm critical of, and I hope that you will quote me on this, is that a large number of survivors did not have the opportunity to testify in court. They didn't get a chance to confront the perpetrator. To me, that was very important. It's something about being part of a conflict—at least I feel this way. When you have been victimized in any way, you should be able to explain or put forth your view on the case. It doesn't have to be very emotional; it needs only to ascertain what I perceive as facts.

To be called to the witness stand was considered significant because of a perceived opportunity to contribute to the court's decision. Although being part of the selected group giving testimony in court was highly appreciated, the integrated impact statements attracted little attention among the interviewees. Most of the witnesses answered questions from the prosecutors and victim lawyers about the impact of the crime in court, whereas some chose to elaborate on this issue while others attempted to tune this part of the testimony down, it was hardly addressed in the interviews. This might be interpreted as an expression of taking for granted what works well, but it might also be an indication that they attach less significance to this right. For instance, some find it problematic to expose themselves in such a way in public or in front of the perpetrator, like the following quote suggests: "I didn't want him [Breivik] to think, every time he hears that we struggle, that he has succeeded with his plan. So, why should I talk about not being able to sleep at night, about going to a psychologist and a physiotherapist?" To focus on the impact of crime involves emphasizing the harm of the crime in which they risk revealing their own vulnerability. In addition to considering how to represent others in a favorable manner, they hesitate to reveal

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

any signs of weakness on their own part. This suggests that they might be ambivalent to the impact statement because of its emphasis on the harm of the crime.

One way to avoid disclosing vulnerability is to address the wrongdoing involved in Breivik's acts, as illuminated in the next quote: "There's something about taking the stand in front of the perpetrator. It's a way of making things right, of calling him to account, which is the whole point of a trial, really." Taking the stand in front of the perpetrator is a way to confront him with his actions. It is a place to allocate blame and responsibility for the wrong that has been committed. By emphasizing the wrongdoing of Breivik's acts, they can attract attention away from their own vulnerability.

The reflections of the interviewees suggest that they perceive testifying in court as significant for two reasons: first, it is an obligation to the legal system and to society; second, it is an opportunity to participate in legal proceedings. When witnesses speak in court, they must address different recipients and they speak both on their own behalf and on behalf of others. However, what they experienced as different expectations about their testimony created dilemmas that forced them to choose between which expectations to fulfill. To reconcile all of these expectations, the interviewees carefully considered what to say in court. Being sensitive to the potential harm that their account of the crime might have on the community might be an attempt to nurture and repair social relations and to protect and promote shared values in line with the theories of both Durkheim (1969) and Christie (1977). In addition to representing others in a respectful manner, they wish to display a positive image of themselves. A positive self-representation seems to presuppose less attention on the harm of the crime and its impact on their lives. Therefore, they prefer providing relevant information about the crime to the court, rather than focus on the impact of the crime. The study participants assumed that their testimony mattered, that they "had a say," in line with Edwards's (2004) conceptualization of victim participation. The strategies that the victims used to communicate in court will be elaborated below. First, however, some challenges to participation will be described.

The Formal Character of the Court: Participating in an Unfamiliar Situation

The victim reform granted victims important rights that facilitate their appearance in court by making them both well informed and prepared for court. The interviewees' accounts confirm that they felt well prepared for court because they

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

regularly received information. Furthermore, they had been invited to various preparatory meetings with the legal professionals and had received a guided tour of the courthouse. In spite of the ordinary and extraordinary measures that were initiated in this particular case, there is one particular aspect of the legal system that the interviewees highlighted as something for which they were unprepared. One interviewee said, "I was a bit nervous. I've heard many people say that it's very formal in court, so I was afraid of—I can't find other words for it than—making a fool out of myself in front of the court." The formal character of the legal system made this interviewee uncertain about what to expect in court and how she should behave. In addition to the unfamiliarity of court, this interviewee highlighted another important dimension: the audience. "Making a fool out of herself" implies that she was afraid of "losing face." To "lose face" means to be revealed in front of others as someone who either does not know or has not mastered social codes (Frønes 2001). In this case, the victims feared they would be revealed as ignorant or that they would fail to act in accordance with the legal codes. Their uncertainty is related to perceived unfamiliarity with the legal language, procedures and method. Alienating lay people is part of the exclusionary mechanisms inherent in the professionalization and formalization of the legal field, using the terms of Bourdieu (1986).

The interviewees described various aspects of the legal proceeding that made them uncomfortable in court, including, inter alia, the rituals, particularly taking an oath in front of the judges.

> First, you're supposed to walk up to the witness stand in front of everyone, and then you say your name. Then, you're afraid of doing something wrong in front of the judge; and I didn't know—you know—am I supposed to say 'Your Honor' to the judge?

This interviewee was afraid of making a fool of himself because he did not know how to address the judge. Additionally, the interviewees worried about "everything" that happens in court: "I was a little nervous, like, standing up at the wrong time, or sitting down, or I don't know, doing something wrong, or saying something wrong, or something like that." They seemed to realize that everything is regulated in court, but they were not quite sure about how those regulations work. The uncertainty that they revealed with respect to how to behave in court implied that they were not as prepared for court as might be expected based on all of the information that they had received. Appropriate courtroom behavior might be tacit knowledge that is rarely

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

communicated, which explicitly creates an apparent paradox that might explain why the interviewees referred to television instead of other sources of information, as illustrated in the next quote: "I didn't have a clue about how it would be, except for what I've seen on Ally McBeal, and that's not [he laughs a bit] how it really is." The legal system is a highly organized, ritualized and procedural system that differs considerably from our "lifeworld," as described by Habermas (Lysaker & Aakvaag 2007). In the legal system, the court and the legal professionals control space and time in a manner that limits and shapes participation by manipulating distance and controlling how much time can be used for each aspect of the proceeding (Carlen 1976). Even one's manner of speech in court is different from ordinary speech (Atkinson and Drew 1979). It is structured to enable conflict resolution and to allocate both blame and responsibility. According to Atkinson & Drew (1979), turn-taking in legal conversation is pre-allocated, unlike regular conversations, which are based on a turn-by-turn allocation. Pre-allocation means that courts have special rules about how to speak and about what that speech means. One example relates to how verbal interaction structures all courtroom activities. Pre-allocation is not uncommon when conversation takes place in groups in which more than two people participate. The challenge for "outsiders" or lay people is to know about this custom and to be familiar with how it works. One way to familiarize oneself with legal codes, is to be present in court before testifying, which is an option available to victims pursuant to the legal amendments. In this case, the victims had many opportunities to observe others' performances in court; both the defendant and many other witnesses testified before the victims were summoned. In regular cases, the victims usually must testify before the defendant and other witnesses, limiting their ability to familiarize themselves with the formal character of the legal system.

Another aspect of the formal situation in court that can be perceived as a challenge to the victims is how to behave and represent themselves in terms of emotions and clothing. As one interviewee commented, "I thought it would be a lot more, I don't know, a bit formal—stiff, in a way—where you couldn't show feelings and stuff like that." When the interviewee said "formal" and "stiff," she seemed to be referring to the trial's neutral, impersonal and factual character. The rhetoric of impersonality and neutrality and the process of formalization, in the terms of Bourdieu (1986), contribute to the legitimation of the legal field because it causes the field to be perceived as objective. The separation of law and emotion has traditionally been seen as necessary because of the assumption that law stands for order and

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

reason, whereas emotions stand for disorder and unreason (Dahlberg 2009). Despite the criticism of the legal narrative of a strict dichotomy between reason and emotion, this understanding might remain a dominant perception of the legal system among lay people. Some of the victims in this study seemed to believe that if they were unable to control their feelings—or if they displayed inappropriate emotions—they were doing something wrong. They might fear that such a display could jeopardize either the case or their credibility.

The formal character of the court also created certain expectations on the part of this study's participants about proper clothing. Some complied with those expectations to show others that they had mastered the legal codes and to avoid negative consequences, whereas others challenged these expectations in various ways. The manner in which victims represent themselves in terms of clothing will be further illustrated below.

Although the formal character of the court is unfamiliar to the victims and challenges victim participation, it can work to change victims' perceptions of the balance of power between themselves and the perpetrator. Notwithstanding the fact that the court was determined to complete the trial against Breivik according to regular procedure, it manipulated time and space to limit the interaction between the victims and the defendant. One example of how space was manipulated is that the court moved Breivik away from the witness box during testimony by the survivors of the massacre. The legal system has previously been criticized for working as a power structure that impedes the participation of both the accused and the victims (Carlen 1976). What is interesting in this particular case is that the formal character of the court seemed to empower the victims and disempower the perpetrator. The formalization and neutralization of the "legal field," in Bourdieu's (1986) terms, seems to neutralize the power of the perpetrator, at least in the victims' minds. The interviewees described how the scene changed when they testified in front of Breivik: "He was standing there with handcuffs, and suddenly I realized that I was the one with power over him. He was no longer a threat." Seeing Breivik in court made her realize that in court, the tables were turned. Because in court he was controlled by the police and the court, and he lacked the ability to move around or to speak freely. Conversely, she was both protected and free to go wherever she liked upon the completion of her testimony. She was no longer in his power; in fact, she had the power to convict him.

Even if the formal character of the court is unfamiliar to the victims and challenges victim participation, it can work to change victims' perceptions of the perpetrator by both literally and

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

symbolically disarming him. The formal character of the court makes participation challenging for victims because they must adapt to an unfamiliar situation. When participation is not on their terms, but on legal terms, participation becomes a challenge. This study shows that victim participation requires more than formal rights to overcome legal barriers. Although the formalization and neutralization of the legal system erect barriers to victim participation, once the victims understand the legal codes, they can take advantage of the situation, which we will consider next.

Turning the Witness Stand into a Speaker's Platform

The formal character of the court can make laypeople feel alienated, uncomfortable and uncertain of what to do. This exclusionary mechanism is one of the reasons that Bourdieu (1986) and Christie (1977) criticize the professionalization of the legal system. However, the participants in this study utilized various strategies to achieve their goals.

One strategy frequently used by this study's participants was to communicate with others involved in the case and the public audience by carefully planning what to wear in court. As noted above, the interviewees had an idea of what types of clothes were suitable for court appearances. The manner in which they decided what to wear in court suggests that they used clothing as a method of turning the situation in court to their advantage. "When you think of a trial, you think of suits and that sort of things. I have clothes like that, but I didn't want to wear those. I wanted to wear something that would reveal my scars." Although some chose to wear suits or other formal attire to fit in or to enhance their credibility and authority, a considerable number chose to wear summer clothes, such as T-shirts, shorts, dresses, or tops with low necklines, and they engaged in similar reflections. The clothes had a function: to reveal the injury or the harm caused by the perpetrator. One could say that both the body and the testimony became evidence. The scars also stood in stark contrast to the summer clothes, which symbolize positive things such as warmth, holidays and joy. The summer clothes can be interpreted as symbolizing the summer camp that the youths were attending (and the idyll associated with that camp) when they were attacked. In this case, summer clothes can be interpreted as representing the innocence of the youths. In other cases, especially rape cases, revealing clothes are avoided because they can symbolize the opposite (i.e., either consent or blame). A rape victim wearing an overly revealing dress in court could risk her credibility. Instead, rape victims attempt to cover their bodies

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

and to appear nonsexual by dressing in a manner that is conservative and businesslike (Konradi 1999). They must neutralize their appearance in court both to conform to the formal setting and to conform to the image of an innocent, ideal victim (Christie 1986). Unlike rape victims, the victims in this study did not risk their victim status by failing to conform to the formal environment in court. On the contrary, they lived up to the heroic stories that were created in the media after the massacre. This could be, because unlike rape victims, no one contested their victim status, which gave them more space to experiment with their appearance in court. Once this study's participants comprehended the legal codes, they used their knowledge to develop strategies to better maneuver the situation in court to their advantage. One important strategy was using clothes to create an image of innocence and to communicate a favorable representation of themselves in order to symbolically speak against Breivik's account of the targeted youth as traitors, as well as to attract further support and condemnation of Breivik's acts.

When victim witnesses are granted permission to speak in court, they are required to provide an account of the crime. Most of the interviewees wanted to confront Breivik. One of their strategies is illustrated in the next quote:

> I wanted to show the perpetrator that here, I stand tall: you didn't manage to hurt me. I stand here to confront you with the actual course of events, independently. Some of it is consistent with what you said, and some is not. I can remember the details that you didn't remember in your testimony. And to me, that was a great victory.

During the trial, Breivik showed great interest in the details of the massacre but acknowledged that he could not recall all of the details and that sometimes he was wrong about them. Presenting details about what happened on July 22 was a way to correct Breivik's story and to knock him off his feet. Confronting Breivik's account of the crime might also be an expression of how the victims wanted the court to base its decision on their account and to have it acknowledged as the "right" version of the crimes. Furthermore, when victims tell their stories on their own terms publicly and have them acknowledged by the court, they simultaneously contribute to shaping the public narrative of Breivik's acts. This interviewee also used other persuasive strategies, such as dressing formally to gain authority and respect and speaking in a manner that demonstrated to the perpetrator that he could not win. Most of the survivors of the massacre were politically active youths who understood how a game is won or

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

lost from a speaker's platform, so to speak. According to Breivik's manifesto, he had intended to use the trial as a speaker's platform to spread his ideology. The interviewees' strategy was to beat Breivik at his own game by using the witness stand as a speaker's platform. According to Bourdieu (1986), the judicial situation neutralizes conflicts by converting direct struggles between parties into a dialogue between mediators. In the case against Breivik, the victims wanted to participate in the dialogue. Their experiences in political debates seemed to provide them with some advantages on the witness stand by providing them with an opportunity to fight back on their own terms. Moreover, there is another way to win a political debate: by being "fast-talking," or quick to remark upon, ridicule or dismiss the opponent's arguments. When Breivik commented on the testimony of another interviewee, the interviewee explained that he was tempted to retaliate with a quick remark of his own. The problem was that the victims were not allowed to speak to Breivik directly. Although the interviewee was aware of that restriction, he had the opportunity to make a potentially humiliating remark when one of the victims' legal representatives asked him a question.

At some point during the legal proceedings, the judge intervened to forbid remarks intended to embarrass or ridicule Breivik. The witnesses then used nonverbal strategies to make their points, including the following example:

> When the prosecutor was done asking me questions, I turned to the defender; he [Breivik] was sitting right behind him. So I just stared him in the eyes, and I held my gaze for quite some time. I used the same method that I use on cats, because I grew up with cats, so I used the same method as I do when I'm going to show a cat that I'm angry about something, or that this is not acceptable. I hold their gaze for a long time with an angry look and then suddenly break the gaze. I did exactly that, and the perpetrator looked a bit uncomfortable. That was a great victory to me because I was able to knock him off his feet by saying something without saying it directly.

There seems to be a tendency among the study participants to construct the meeting with Breivik as a struggle or a war. Confronting Breivik in court seems to have been a question of winning or losing. In addition to "victory," they used words such as "crush," "destroy," "win," and "defeat." When the victims confronted, ridiculed and embarrassed Breivik from the witness stand while presenting themselves as active, strong antagonists, they might have been responding both to how they were treated

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

by Breivik on the island and to how they were presented in the public after the massacre. On the island, they were treated as a depersonalized enemy without any value when Breivik attempted to establish superiority over his victims. In public, they were presented as vulnerable and in need of rescue. The strategies that they used in court can be interpreted as attempts to correct their public image as helpless, vulnerable, and traumatized. By retelling their story in a public forum such as the court, they could nuance the public's image of themselves and of Breivik. The victims in this study used the court as an arena to tell stories of heroic actions to reclaim equality between themselves and Breivik and the rest of society.

Although the formal character of the court might prevent victim participation, it might also neutralize the perpetrator's power. Once the victims receive support and an opportunity to familiarize themselves with the legal system, they can utilize strategies to turn the courtroom situation to their advantage. In this study, the victims managed to turn the witness stand into a speaker's platform. They communicate with the perpetrator, everyone involved in the case and the surrounding world. There is one particular message that they attempt to communicate: an image of themselves, other survivors and the deceased as equal human beings. The efforts of the victims were most likely supported by Norwegian society's tendency to idealize the survivors of the massacre by honoring their political achievements and their courage on the island. With allies both in society and in the legal system, the survivors had a fair opportunity to successfully promote themselves as actors.

The Duality of Legal Formality

In this article, we wanted to investigate how crime victims pursue legal participation when confronted by the legal barriers and dilemmas that arise out of tensions between legal formality and lay expectations, and contributions of legal proceedings. The study participants pursued legal participation by actively seeking information through their legal representatives, influencing crucial parts of the court's decisions such as the appointment of new psychiatric experts, and challenging Breivik's account of the crime through their testimonies and cross-examination of the defendant and other witnesses. In addition, they pursued legal participation by familiarizing themselves with the formal character of the court both to overcome legal barriers and to develop strategies to transform the witness stand into a speaker's platform. They assume that their testimony matters and that it is a contribution to restoring social relations in the community.

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

Although this study's participants managed to transform the witness stand into a speaker's platform, they experienced a dilemma because of divergent expectations of their testimonies. To accommodate everyone, the interviewees chose to tell stories of heroism that emphasized their own agency and heroic acts. Some also problematized the integrated impact statements because by focusing on harm, they risk disclosing their own vulnerability. Their emphasis on agency might be interpreted, in line with De Greiff (2006), as an effort to reestablish equality with Breivik after Breivik suggested his superiority over his victims through his criminal acts. By choosing this strategy, the interviewees wanted to regain their dignity because agency is valued positively in our culture (Dunn 2010). This strategy was feasible in part because legal formality creates an appropriate distance between the victims and the perpetrator. The ambivalence expressed in relation to the integrated impact statements, suggest that some prefer to contribute with information about the crime, rather than how the crime has had an impact on their lives.

This study suggests that victim participation is still conducted on terms established by the legal system despite the recent victim reform. Exploring victim participation in an "ideal" rights situation, which we claim is represented by Breivik's trial, has made us aware of the significance of being familiar with the legal language, procedures and method to be a real participant. Legal formality as such, creates an inappropriate distance which interferes with lay people's participation. Although the participants in this study managed to overcome most of the difficulties associated with the professionalization of the legal system, they described the experience of being a stranger in court as their biggest challenge. We argue that lacking knowledge of the legal language, procedures and method—that is, being a layperson—will interfere in any attempts at legal participation. We further believe that this constitutes a common challenge to victim participation in professionalized and formalized criminal justice systems based on both an inquisitorial as well as an adversarial model. Victim participation questions the division between lay and professional in the legal context, a division thoroughly described by Bourdieu (1986). This division is why Christie (1977) argues that we need alternative models of conflict resolution if we want to fulfill the potential for victim participation. However, we argue that victim participation is feasible in the traditional criminal justice system, especially when it is facilitated by legal rights and legal representation. Although theories of restorative justice largely reject the role of professionals, legal representation might facilitate and enhance victims' participation in court. Olson and Dzur (2004)

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

have previously emphasized the role of legal professionals in achieving restorative justice goals.

In this study, legal participation has primarily been studied in relation to victim witnesses' testimony in court, which includes an integrated impact statement. Although we have not explicitly analyzed the additional impact statements given separately in court, we still want to offer some reflections on how the two models figured in the trial. The testimonies and integrated impact statements were experienced as an opportunity given or taken away from the victims, an opportunity that was both challenging and rewarding. Although ambivalence was associated with emphasizing the harm of the crime, integrating the impact statement into the testimony allows the victims to balance their contribution by focusing on both the wrong and harm of the crime. By integrating the impact statement into the testimony, information regarding the impact of a crime is channeled into traditional legal procedure supposed to inform the court of all aspects of the crime. Furthermore, the testimonies and integrated impact statements attracted a large audience and were explicitly referenced in the verdict. This might suggest that the testimonies and integrated impact statements were perceived as relevant information during the trial. Whereas the additional impact statements at the end of the trial elicited more visible emotional expressions in court, such as crying and ovation. Few affected by the crime, voiced any discontent with not being chosen to give an impact statement even though only three of them had an opportunity to give an impact statement. In our opinion, the two models functioned differently, whereas the integrated model seemed to have a primarily informative role while the separated model seemed to have a ceremonial touch that risk being perceived as "a stranger" in court. The ceremonial touch, created in part by the impact statements as well as the obituaries[2], has evoked a comparison between this trial and other ceremonies such as funerals (Skyberg 2012) and South Africa's Truth and Reconciliation Commission (Vold 2012). By separating impact statements from the traditional channels of information, it might be perceived as solely an expression of emotions and at odds with the formal legal procedure. Furthermore, promoting a primary focus on the harmful consequences of crimes might result in an overemphasis on reparation and restorative justice and individual healing processes, in which justice is conflated with therapy (McGarry & Walklate 2015).

[2] Along with the autopsy reports, the bereaved families were given an opportunity both to let their lawyer read some words and to show a photo of the deceased on the big screens in court.

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press

Concluding Remarks

In this article, we have claimed that Breivik's trial represents an "ideal" case in terms of victims' rights and have argued that in this trial, the victims who testified against Breivik managed both to participate meaningfully and to reclaim equality. We have claimed that it is precisely the particularities of this case that allow an exploration of previously unquestioned knowledge regarding lay participation in the legal system.

Previous studies do allude to tensions created between the victims' interests and professional and institutional demands, however there is little emphasis on how legal formality plays a role in victims' legal participation. Although theorists like Christie and Bourdieu have argued that legal formality creates an inappropriate distance between lay people (victims) and legal professionals, or the legal "field" in which victims and their participation are excluded, which is partly supported in this study, this study also suggests that legal formality might create an appropriate distance in which victims' legal participation might be promoted. Legal formality both alienates lay people as well as neutralizes power differentials between victim and perpetrator. One might ask whether legal formality may alienate specific measures intended to promote victim participation such as victim impact statements, especially whenever the measures promote overtly emotional expressions or are given a ceremonial touch. We suggest that further theorizing of victims' legal participation would benefit from taking into account how legal formality creates both an appropriate and an inappropriate distance between lay people and the legal system.

References

Atkinson, J. Maxwell & Paul Drew (1979) *Order in Court: The Organisation of Verbal Interaction in Judicial Settings*. London, UK: Macmillan.

Barker, Vanessa (2007) "The Politics of Pain: A Political Institutionalist Analysis of Crime Victims' Moral Protests," 41 *Law & Society Rev.* 619–64.

Bourdieu, Pierre (1986) "The Force of Law: Toward a Sociology of the Juridical Field," 38 *Hastings Law J.* 805.

Braun, Virginia & Victoria Clarke (2006) "Using Thematic Analysis in Psychology," 3 *Qualitative Research in Psychology* 77–101.

Carlen, Pat (1976) "The Staging of Magistrates' Justice," 16 *British J. of Criminology* 48–55.

Christie, Nils (1977) "Conflicts as Property," 17 *British J. of Criminology* 1–15.

——— (1986) "The Ideal Victim," in Fattah, E. A., ed. *From Crime Policy to Victim Policy: Reorienting the Justice System*. London, UK: Macmillan.

Dahl, Tove Stang (1994) *Pene Piker Haiker Ikke*. Oslo: Universitetsforlaget.

Dahlberg, Leif (2009) "Emotional Tropes in the Courtroom: On Representation of Affect and Emotion in Legal Court Proceedings," 3 *Law and Humanities* 175–205.

De Greiff, Pablo (2006) *The Handbook of Reparations*. New York: Oxford Univ. Press.
Doak, Jonathan (2005) "Victims' Rights in Criminal Trials: Prospects for Participation," 32 *J. of Law and Society* 294–316.
Duff, Antony (2003) "Restoration and Retribution," in Hirsch, A. V., et al., eds., *Restorative Justice and Criminal Justice. Competing or Reconcilable Paradigms?* Oxford: Hart Publishing.
Dunn, Jennifer L (2010) *Judging Victims: Why We Stigmatize Survivors, and How They Reclaim Respect*. Boulder, CO: Lynne Rienner Publishers.
Durkheim, Emile (1969) "Emile Durkheim. Types of Law in Relation to Types of Social Solidarity," in Aubert, V. ed., *Sociology of Law. Selected Readings*. Harmondsworth, UK: Penguin books.
Dyb, Grete, et al. (2014) "Post-traumatic stress reactions in survivors of the 2011 massacre on Utøya Island, Norway," 204 *The British J. of Psychiatry* 361–367.
Edwards, Ian (2001) "Victim Participation in Sentencing: The Problems of Incoherence," 40 *The Howard J. of Criminal Justice* 39–54.
——— (2002) "The Place of Victims' Preferences in the Sentencing of "Their" Offenders," 2002 *Criminal Law Rev.* 689–702.
——— (2004) "An Ambiguous Participant: The Crime Victim and Criminal Justice Decision-Making," 44 *British J. of Criminology* 967–82.
Englebrecht, Christine M. (2011) "The Struggle for "Ownership of Conflict": An Exploration of Victim Participation and Voice in the Criminal Justice System," 36 *Criminal Justice Rev.* 129–51.
Erez, Edna, Julie L. Globokar, & Peter R. Ibarra. (2014) "Outsiders Inside: Victim Management in an Era of Participatory Reforms," 20 *International Rev. of Victimology* 169–88.
Erez, Edna & Kathy Laster (1999) "Neutralizing Victim Reform: Legal Professionals' Perspectives on Victims and Impact Statements," 45 *Crime & Delinquency* 530–53.
Frønes, Ivar (2001) "Skam, skyld og ære i det moderne," in Wyller, T., ed. *Skam. Perspektiver På Skam, Ære Og Skamløshet i Det Moderne*. Bergen: Fagbokforlaget.
Gillis, John W & Douglas E. Beloof (2001) "Next Step for a Maturing Victim Rights Movement: Enforcing Crime Victim Rights in the Courts," 33 *McGeorge Law Rev.* 689.
Goodey, Jo (2005) *Victims and Victimology Research, Policy and Practice*. Harlow, UK: Pearson Longman.
Iser, Mattias (2013) "Recognition," *The Stanford Encyclopedia of Philosophy.* Accessed March 7, 2017.
Konradi, Amanda (1999) "I Don't Have to be Afraid of You": Rape Survivors' Emotion Management in Court," 22 *Symbolic Interaction* 45–77.
Kvale, Steinar, et al. (2009) *Det Kvalitative Forskningsintervju*. Oslo: Gyldendal akademisk.
Lysaker, Odin & Gunnar C. Aakvaag (2007) *Habermas: kritiske Lesninger*. Oslo: Pax.
Mastrocinque, Jeanna M. (2010) "An Overview of the Victims' Rights Movement: Historical, Legislative, and Research Developments†," 4 *Sociology Compass* 95–110.
Matoesian, Gregory M. (1995) "Language, Law, and Society: Policy Implications of the Kennedy Smith Rape Trial," 29 *Law & Society Rev.* 669–701.
Mcgarry, Ross & Sandra Walklate (2015) *Victims: Trauma, Testimony and Justice*. Abingdon, UK: Routledge.
Olson, Susan M. & Albert W. Dzur (2004) "Revisiting Informal Justice: Restorative Justice and Democratic Professionalism," 38 *Law & Society Rev.* 139–76.
Oslo District Court (2012) "Judgement - TOSLO-2011-188627-24E."
Oslo Tingrett (2012a) "TOSLO-2011-188627-1. Beslutning om oppnevning av nye sakkyndige," Oslo tingrett.
——— (2012b) "TOSLO-2011-188627-3. Beslutning om kringkasting av og fotografering under hovedforhandlingen."
——— (2012c) "TOSLO-2011-188627-14. Beslutning om vitners tilstedeværelse."
——— (2013) Erfaringsrapport. Domstolsarbeidet i 22. juli-saken Oslo tingrett: Instituion.

Ot.prp. nr. 11 (2007–2008) *Om lov om endringer i straffeprosessloven mv. (styrket stilling for fornærmede og etterlatte)*. Oslo.

Robberstad, Anne (1999) *Mellom Tvekamp Og Inkvisisjon. Straffeprosessens Grunnstruktur Belyst Ved Fornærmedes Stilling*. Oslo: Universitetsforlaget.

Sandberg, Sveinung (2013) "Are self-narratives strategic or determined, unified or fragmented? Reading Breivik's Manifesto in light of narrative criminology," 56 *Acta Sociologica* 69–83.

Sandberg, Sveinung, et al. (2014) "Stories in action: the cultural influences of school shootings on the terrorist attacks in Norway," 7 *Critical Studies on Terrorism* 1–20.

Skyberg, Lisbeth Fullu (2012) "Nærværets metode," *Samtiden* 74–85.

Vg (2012) "22/7 - Rettssaken dag for dag," Available at: http://direkte.vg.no/studio/rettssak-dag-1 (accessed 28 March 2016).

Vold, Tonje (2012) "Å holde fast 22. juli. Rettssaken, traumet og de personlige fortellingene," *Samtiden* 5–19.

Solveig Laugerud *is a PhD candidate in Sociology of Law, working at the Centre for Gender Research, at the University of Oslo, Norway. She was previously working at the Norwegian Centre for Violence and Traumatic Stress Studies where she was involved in research regarding Breivik's terrorist attack. Her current research revolves around the topics of law and science in relation to rape. In her dissertation, she investigates the constitution of legal evidence in legal decisionmakings regarding rape.*

Åse Langballe *is an educational psychologist and has a PhD from The University of Oslo, Department of Special Needs Education. Research topics are about communication with children and youth about sensitive topics, especially police investigative interviews of children who are exposed to traumatic events. She is working as a senior researcher at the Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS).*

https://doi.org/10.1111/lasr.12268 Published online by Cambridge University Press