



The Norwegian Victim Lawyer in a Nordic Context: Professional Boundaries, Legal Hierarchies and Purification Processes

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Abstract

The victim lawyer has become a common feature in Nordic jurisdictions. Designed to enable victims to participate effectively in the criminal justice system, victim lawyers emerged largely due to the advocacy of the women's movements and their concern for survivors of rape and other forms of sexual violence. In this paper, we conduct a thematic analysis of interviews and courtroom observations, focusing on how the role and professional status of the Norwegian victim lawyer are perceived. Against the backdrop of the other Nordic jurisdictions, we draw on Bourdieu's idea of the legal field as a site of struggle to identify perceived legal hierarchies from the perspective of victim lawyers. The findings indicate that the introduction of the victim lawyer in Norway has created tensions and contestations that revolve around both professional and political concerns. These include concerns about the relationship between legal and non-legal work, boundaries of the victim lawyer role and tensions between professional and political loyalties.

Keywords Victim lawyer · Legal representation · Sexual violence · Profession · Purification · Nordic countries

Introduction

The legal system is known for its technical and sometimes complicated abstractions, making it difficult to navigate for laypeople (Laugerud & Langballe, 2017). For crime victims, especially survivors of gender-based violence, this can be particularly daunting, and victim rights advocates have argued that if victims are to utilise their rights and participate in the criminal justice process without revictimization, access to a victim lawyer is fundamentally important (Garvin & Beloof, 2015; Gillis & Beloof, 2001; Kirchengast, 2013).

In this regard, the Nordic countries have emphasised the importance of legal representation for certain groups of victims. An analysis of the position of the crime victim in 22 European criminal justice systems found the right of

victims of serious sexual and other violent offences to a lawyer whose services are paid by the state to be a characteristic of Nordic jurisdictions: 'a construction not found (on the same scale) in other jurisdictions' (Brienen & Hoegen, 2000, p. 3). Of the Nordic countries, Denmark was the first to enact legislation in 1980, when complainants in cases of rape were afforded their own state-paid lawyers. Norway followed suit in 1981, followed by Sweden in 1988, Finland in 1997, and Iceland in 1999. Since then, the Nordic countries have enacted legislative changes, most of which expanded the rights of the victim and the role of the victim lawyer. However, apart from legal and policy documents, the literature on the victim lawyer role in the Nordic context remains limited. To date, most academic and policy analyses have focused on the experiences of criminal justice, in which victims may benefit from a lawyer or legal reform. Little is known about who these victim lawyers are, what they do and how they (and other lawyers) experience the role.

In this article, we address this gap by exploring the victim lawyer role. While much has been written about the legal profession (Abel et al., 2022), we draw on Bourdieu's (1986) theorisation of the legal field as a site of struggle in which a hierarchical system of professional prestige and power is created. Further, we utilize the conceptualisation of the relationship between knowledge systems and internal divisions

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of labour by Abbott (1988) to consider victim lawyers within a disciplinary context. Given that the current victim lawyer role is a relatively new legal construct, our interest here is to explore some of the professional tensions that characterise this role. We do this by investigating how victim lawyers reflect on and enact their roles. Against the backdrop of the other Nordic jurisdictions, we begin by describing the origin of the Norwegian victim lawyer and its current role and function.¹ Second, we analyse interviews with six Norwegian victim lawyers conducted between April and June 2016, as well as nine courtroom observations of cases of sexual violence in Norway conducted in 2020 and 2021. Norway is of particular interest in examining the development of the victim lawyer, given the expansion of its role in 2008 from limited beginnings.

Introducing the Victim Lawyer

Origins of the Victim Lawyer in Nordic Countries

The victim lawyer was first introduced in Denmark in 1980 (Robberstad, 1994), when much debate about controversial verdicts in rape cases was going on in Danish society, which had received considerable media attention. Led by the women's movement, criticism was being raised of how such cases were being handled by the police, the prosecution authorities, and the courts (Betænknng, 1983). However, the law instating the victim lawyer was related to legislative proposals tabled in the late 1970s by the Conservative People's Party (Det Konservative Folkeparti).² The aim of the proposition was to "stem the widespread increase of serious cases of violence, including rape cases" by making the criminal justice response more expeditious (Bill No L 232/1978). First, the proposal suggested increased use of custody in such cases to take suspects off the streets, and second, appointing a lawyer to represent the interests of the victim, both during the police investigation stage and in court.

In relation to parliament's consideration of the proposal, the Ministry of Justice, which was governed by the Social Democratic Party, initiated a discussion on the victim lawyer question with representatives from the courts, the Council of the Danish Bar and Law Society, the Ministry of Social Affairs, the prosecution authorities and the police. Based on these discussions, the Ministry of Justice proposed a legislative amendment to the Act on Criminal Procedure, according

to which only victims of rape and some other sexual offences would be afforded a victim lawyer. In the explanatory notes accompanying the bill, it is argued that there are special circumstances that come up in the handling of such cases because the suspect's action is a crime only if the complainant did not want to take part in it and did not welcome it. Hence, establishing a crime requires a thorough interrogation and cross-examination of the complainant, which might become intrusive and burdensome. For this reason, rape victims need legal representation more than other victims of violence. It was further argued that affording victims of all types of violent offences a lawyer would be too expensive for the state (Danish Bill no. L 45/1979). Therefore, the law on legal representation for victims applied to complainants of rape and some other sexual offences.

Shortly after Denmark, in 1981, Norway implemented similar legislative changes introducing the victim lawyer for rape victims. The reason for only affording complainants in cases of rape the services of a lawyer was based on the understanding that the special character of rape cases could prompt a particularly aggressive interrogation of the complainant's credibility that could become a reason for survivors not to report rapes (Robberstad, 1994). The initial legislative proposal was prepared by the Ministry of Justice with the involvement of a group of women's rights activists led by Asta Magni Lykkjen, who had authored a book titled *Rape. A Book about the Oppression of Women* (1976). Around that time, an Italian documentary was aired on Norwegian television about a woman's rape by several men and the subsequent trial process. This documentary increased the public's awareness of the level of hostility women were subjected to in the criminal justice system (Robberstad, 1994).

Before the law was enacted, the legislative proposal was disseminated for public deliberations, and 41 consultative bodies responded with comments, including a number of women's groups and organisations. Only the Bar Association opposed it, based on the rationale that the complainant's lawyer could become complicit in the complainant's private, emotional vendettas, and the victim lawyer could start acting like a second prosecutor in rape cases. However, the other consultative bodies (including the Higher Prosecution Office, police districts and women's organisations), which supported the amendments, argued in line with the proposed legislation (Robberstad, 1994).

In Sweden, policy discussions on the question of a victim lawyer for plaintiffs have been deliberated since the 1970s (SOU 2007, p. 6). In 1981, at the first national meeting of women's shelters in Sweden, the list of demands included legal support for women who had been raped and subjected to domestic violence (Thomsson, 2000). However, the law instating a victim lawyer paid for by the state was not enacted until 1988, and it included victims of serious

¹ Due to our lack of proficiency in the Finnish language, we are unable to access much of the literature on how the victim lawyer role has developed in Finland.

² Bill No L 232 from 9 May 1978 and Bill No L 70 from 2 November 1978, amending the Danish Administration of Justice Act.

sexual offences, domestic violence and other serious violations (SOU 2007, p. 6).

In Iceland, the policy recommendation of providing complainants in rape cases with legal representation was initially introduced in the Report of the Committee on Rape, which was published in 1989 (Icelandic Ministry of Justice, 1989). The Committee on Rape was appointed by the Minister of Justice following a parliamentary resolution tabled in 1984 by the Women's List, a feminist political party in Iceland. However, the victim lawyer was not introduced into the Icelandic Criminal Procedure Act (No 19/1991) with legislative amendments no. 36/1999 until 1999. The law stipulated that complainants in investigated cases under the Sexual Offences Chapter of the Penal Code had a right to a lawyer and, based on police assessment, complainants in other serious offences could also be appointed a lawyer (Law no. 36/1999).

The impetus for introducing the victim lawyer in Nordic countries stemmed predominantly from concerns raised by the women's movement about the treatment of women as victim-survivors of rape and other forms of sexual violence in the criminal justice system. The right to a victim lawyer has since been expanded to other victims of violent crimes considered particularly serious.

The Evolution of the Norwegian Victim Lawyer

In 2008, the rights of victims and the role of the victim lawyer were expanded considerably in Norway based on the work of Anne Robberstad (1999, 2002), a legal scholar who was active in the women's movement and had previously worked as a victim lawyer. The new legislation (Norwegian Bill no. 11/2007–2008) was presented by the government as a gift to women in Norway on 8 March, 2008—International Women's Day.

The legislative changes first clearly spelt out certain rights, such as access to case documents during police investigations, that were previously implied only by the complainants' legal standing in terms of civil claims. Second, victim lawyers were afforded the right to comment on evidence presented in court, submit supplementary evidence and ask supplementary questions of defendants, witnesses and experts in court once the prosecutor and the defence lawyer have concluded their questioning. Third, the complainants obtained the right to address the court at the end of the trial, similar to a victim impact statement. In addition, the new law expanded the group of victims who had the right to the services of a state-paid lawyer. Based on the court's discretion, now these include complainants in cases such as gender-based violence, bereaved family members of homicide victims and other forms of serious violence and violations of integrity (Robberstad, 2014). However, complainants were not afforded full party rights, such as the right

to appeal. On this issue, the majority of the members of the commission charged with preparing preparatory works on the legislation found that complainants should not be given rights that would allow them to influence the question of guilt and penalties, as they felt that such rights should solely be in the hands of the state (NOU 2006, p. 10).

An evaluative study of the effects of the reform found a high degree of support for the victim lawyer role in Norway (Dullum, 2016). It stated that complainants were better represented and prepared than before. The new rights were understood as supporting complainants' restoration of self-respect and healing, and criminal cases had acquired a more humane character (Dullum, 2016). Commissioned by the Norwegian Ministry of Justice, a more recent evaluation also concluded that the framework worked well and served its objectives, that is, strengthening the victim's legal position and contributing to shedding light on the case (Oxford Research, 2019).

The Legal Status and Rights of Victims in Nordic Countries

In general, the public prosecutor is charged with the prosecution of criminal cases in all the Nordic countries, and complainants have the right to file a civil claim for pecuniary and non-pecuniary damages in conjunction with the criminal case (the so-called adhesion procedure), which is common in civil law jurisdictions. Victims in cases of sexual violence and other serious crimes have the right to a victim lawyer. However, as victims' status and rights differ somewhat between the countries, the role of the lawyer differs as well. Historically, the legal status of complainants has been the strongest in the so-called East Nordic countries, that is, Finland and Sweden. In Finland, complainants are generally understood as parties to the criminal case and can obtain accompanying party rights, including access to documentation during the police investigation stage, full participation rights in court and the right to appeal the case (Finnish Criminal Procedure Act 689/1997; Antonsdóttir, 2018). However, the victim lawyer was not introduced until 1997 in Finland, and although the legal position of victims is considered strong, very little information exists about how these rights are exercised in practice (Kainulainen et al., 2021).

Complainants' rights in Sweden are similar to those in Finland; however, according to the Swedish Code of Judicial Procedure (1942, p. 740), they can become parties to the criminal case only if and when charges have been issued by the prosecutor. Complainants' access to case documents during the police investigation stage is more limited in Sweden than that in Finland (Antonsdóttir, 2018). It is also important to note that even though complainants can appeal the criminal case, the Swedish Act on Victims' Legal Counsel (1988, p. 609) was amended in 2018, in which complainants' access

Table 1 Complainants' legal status and rights in the Nordic countries

	Legal status	Rights during investigation stage	Rights to participation in court	Right to appeal
Finland	Party	Access to case documents	Submit evidence, ask questions and address the court	Yes
Sweden	Party, if charges are issued	Limited access to case documents	Submit evidence, ask questions and address the court	Yes
Norway	Witness	Access to case documents	Legal counsel can submit additional evidence and ask additional questions. Complainants can address the court	No
Iceland	Witness	Access to case documents	Legal counsel can submit additional evidence and ask additional questions. Complainants can address the court	No
Denmark	Witness	Limited access to case documents	Legal counsel can verbally address the civil claim	No

Modified from a policy report on strengthening the legal status and rights of complainants in sexual offences cases in Iceland (Antonsdóttir, 2019b)

to a state-paid lawyer was changed. Now, the main rule is that complainants no longer have the right to the services of a state-paid lawyer in the Court of Appeal.³

In the so-called West Nordic countries, that is, Denmark, Norway and Iceland, complainants are afforded the legal status of a witness in the criminal case and cannot obtain party status (Antonsdóttir, 2018). However, their rights somewhat differ between jurisdictions as complainants' rights in Norway were strengthened considerably in 2008 (Norwegian Bill no. 22/2008) and Iceland largely followed suit in 2022 (Act no. 61/2022). This entails that, in Norway and Iceland, complainants, in principle, have access to case documents, and if the prosecutor does not issue charges, they have the right to have the prosecutor's decisions reviewed. In addition, their lawyer has the right to submit additional evidence and ask additional questions in court, and complainants have the right to address the court shortly. However, they do not have the right to appeal the acquittal or conviction. In the case of Denmark, however, the legal rights of complainants have not expanded significantly over time which also applies to the role of the victim lawyer (Danish Administration of Justice Act; Antonsdóttir, 2019a).

Table 1 highlights some of the defining characteristics of complainants' legal status and rights and provides a general understanding of some of the main similarities and differences between the Nordic jurisdictions that shape the role of legal counsels.

The Victim Lawyer in Practice

Today, the Norwegian Criminal Procedure Act (1981), Section 107c, states that the victim lawyer "shall safeguard the legal interests of the victim and bereaved family in connection with the investigation and the main hearing of the case. The counsel shall also provide such other assistance and support, as is natural and reasonable in connection with the case." This definition has been observed to allow for different interpretations of the victim lawyer's tasks and role (Oxford Research, 2019). The challenge seems to be connected to the rather vague formulation of "other assistance and support". The above-mentioned evaluation describes the main task of the victim lawyer, as perceived by the lawyers themselves, as being an intermediary between the complainant and the police/prosecuting authority, both in terms of explaining the legal procedure to the client and ensuring information between the parties. In this context, the evaluation highlights the difficulty of drawing a clear distinction between tasks of a legal nature and other types of support. The evaluation found that the victim lawyer role was in a state of flux and recommended that these be limited to legal tasks (Oxford Research, 2019).

A similar challenge was found in Sweden. The preparatory works accompanying the Swedish law on victims' legal counsel (1988, p. 609) set out the role of the victim lawyer. This stipulated that the support provided should be both legal and curative. A later report from the Swedish National Council for Crime Prevention (Brå, 2016) considered the question of what constitutes a "good" victim lawyer. The report emphasised that, according to the law, it was not entirely clear what a victim lawyer was supposed to do. The report problematised the vagueness of the definition of the victim lawyer role, as it allowed for variation in how to conduct the victim lawyer's tasks. This could be a problem, it argues, because it might result in unequal quality in the services offered. While some victim lawyers were found to

³ According to the bill (2017/18:86), complainants are seldom present in the Court of Appeal as the questioning in the district courts are recorded and, generally, no new questioning of complainants, defendants and witnesses takes place. Therefore, the complainant's need for a victim lawyer was considered to have diminished.

perform a minimum of what was expected, others did more than they were supposed to do (Brå, 2016). In a study based on interviews with Swedish criminal justice professionals, Carroll (2021) found that while a general awareness of the need for empathetic and sensitive victim lawyers existed, this might not always be the case in practice. The process can be a “lottery” for victim-survivors, as some lawyers are dedicated to victim-centred interactions, while others are dismissive and hostile.

According to the Swedish Crime Survey 2023, 60% of victims had been allocated a victim lawyer. Of those, 64% reported having a positive experience with the lawyer, 52% reported that the information they had received before the trial had been sufficient and 65% thought that the trial process had been easy to understand (Brå, 2023). However, the allocation appears to be different for different victims. An analysis by the Swedish Police and Prosecution Authorities (2019) showed that 15% of rape victims were not appointed a victim lawyer. Only 16% of rape victims were appointed a victim lawyer at the initial report and, in 49% of the cases, a victim lawyer was appointed later during the police investigation stage. In only about one-third of the cases had the victim lawyer been present with their client at all hearings and interrogations. Indications that rape complainants in Sweden are not always informed of their rights to a lawyer exist (Rudolfsson, 2023), which can be detrimental to the investigation (Carroll, 2022). In addition, it is noteworthy that even if complainants in Sweden have the right to obtain party status if charges are issued and thereby party rights, not all of them do so. While some courts have reported that this is unusual, others have reported that it happens relatively often (SOU, 2013, p. 17). This indicates that victim lawyers do not always recommend party status to their clients.

This variation in practice was also identified in research using courtroom observations of 18 rape cases in Sweden, interviews with legal professionals and analysis of written judgments in these cases (Bladini et al., 2023). The authors found that victim lawyers and defence lawyers were often aware of the empathy work they do in the courtroom and their contribution as interpreters of everyday life that can influence verdicts in rape cases. However, not all victim lawyers advised their clients to become parties to criminal cases. Victim lawyers could either choose to “do nothing” or join the case and be active (Bladini et al., 2023, p. 7). The researchers observed that other legal professionals operate under different rules. For example, prosecutors are bound by the objectivity principle and work under the assumption that the facts speak for themselves and judges interpret the evidence. The authors conclude that, given the emotional work that victim lawyers do in interpreting the experiences and actions of the victims for the court, the lack of presence by victim lawyers in the Court of Appeal can be detrimental

to the case from the perspective of the complainants (Bladini et al., 2023).

Research on victim lawyers in Iceland similarly found high use but variation in practice. According to Icelandic law on criminal procedure (88/2008), the role of the victim lawyer is to defend the interests of his or her client and render him or her assistance in the case, including help with submitting civil law claims. One study found that 80% of victim-survivors of rape who gave their testimony to the police had a lawyer present, and in cases in which the survivor was under the age of 18, a victim lawyer was almost always present during the police testimony (Antonsdóttir & Gunnlaugsdóttir, 2013). The findings of a study on the views of 26 justice system professionals who handle rape cases within the Icelandic criminal justice system indicate a general agreement that the introduction of the victim lawyer has been an important improvement for victim-survivors (Antonsdóttir, 2014).⁴ However, the services they provide were also found to differ in terms of communication, decision-making and support to the victim-survivors. Indications of victim-survivors not always being adequately prepared by victim lawyers before giving their testimonies in court also exist (Antonsdóttir, 2014). These problems were also identified in interviews with victim-survivors of sexual violence in Iceland (Antonsdóttir, 2018). While some described that victim lawyers had been in regular communication with them and kept them updated, others found it difficult to get in contact with their lawyers or had not received replies to calls and emails.

This empirical literature suggests persistent variability in the way in which victim lawyers perform their roles. This is partly attributed to the vagueness of the definition of the role of the victim lawyer, both in terms of the actual legal tasks of the lawyer and whether the role should also include emotional work. However, it is important to bear two key points in mind. First, the victim lawyer is a relative newcomer in the legal field compared to the roles exercised by prosecutors and defence lawyers. Second, the role of the victim lawyer has been in development, both in relation to the rights of their clients and in terms of the use of those rights. The victim lawyer can be understood as a sociolegal response to the sustained critique of the criminal justice system levelled by feminist activists in cases of gender-based violence. However, apart from legal and policy documents, research on the role of the victim lawyer in Norway and the Nordic context remains limited.

⁴ The study is based on interviews with nurses, psychologists, police investigators, victim lawyers, defence lawyers, prosecutors and judges (Antonsdóttir 2014).

Theoretical Framework

The literature on the victim lawyer is primarily focused on the victim's rights and experiences with the criminal justice system. Research on the legal profession within criminal justice has focused on lawyers, judges and prosecutors but it is hard to find studies on the victim lawyer's professional role. For this reason, this study focuses on the professional role of victim lawyers.

To understand the victim lawyer role, the way it was introduced and developed and its contextual tensions, Bourdieu's (1986) concept of the legal field is helpful. The legal field is a site of struggle in which a hierarchical system of professional prestige and power is created. This hierarchy manifests itself in a division of juridical labour in which legal professionals are pitted against each other. According to Bourdieu (1986), practices within this field are permeated by tradition, customs and habit. Internal protocols, assumptions, characteristic behaviours and self-sustaining values form the patterned behaviour and politics of the legal profession. This struggle for control in the legal field is also related to the kind of work done by different legal professionals.

To further enquire into the struggle for control in the legal field, looking at theories on professions and professional status is useful. Abbott (1988) discusses the division of labour between professions, the internal differentiation of professions, and their relation to power. He points to how a division of labour exists both between and within a profession. A profession is based on an asymmetry of knowledge in which a profession has access to a particular type of knowledge that is not generally available or constituting a part of other profession's work (Molander et al., 2008). This means that only one profession can offer a particular type of service. Monopolising knowledge and services in this way makes every profession necessary and attractive to people who need their expertise. Furthermore, it means that professionals are both mediators and interpreters of their knowledge base and the way they communicate and reflect on this knowledge contributes to the clarification of their role and tasks.

According to Abbott (1988), internal divisions of labour within a profession are organised around the knowledge system it applies. These are typically vertical and manifest as a hierarchy, as pointed out by Bourdieu (1986). Here, professional status reflects the degree of involvement with the knowledge system applied by the profession. Therefore, professional status is connected to the degree of purity of one's work, meaning that the professionals working in the purest branch of a profession enjoy the highest level of respect. Abbott (1988) showed that the highest-status professionals are those who work in environments that

are understood as purely professional. These are professionals "who do not sully their work with nonprofessional matters" (Abbott, 1988, p. 118).

Abbott's (1988) work suggests that professionals at the margin of a profession have to negotiate their role to firmly place it within the profession to earn recognition and respect and be able to identify with their own profession. This involves distancing themselves from other professions and non-professional work and defining what they do as being as pure as possible. These practices of negotiation to position themselves firmly within the profession may be called purification practices, which refer to practices of categorisation in which the idea is to separate what appears not to belong together in order to make pure categories (Douglas, 2002; Latour, 1993). The classic work of Douglas (2002, p. 36) on symbolic boundary maintenance, in which "matter out of place" creates pollution or disorder, suggested that rules of purity must be followed to avoid contaminating professional work with non-professional matters. According to Latour (1993), creating distinctions through purifying practices and investing in these distinctions are characteristic of modernity. In the forthcoming analysis, we will use the concepts of purification practices to make sense of the ways in which the victim lawyers perceive, understand and invest in their profession.

Methodology

In this article, we use two sets of data. First, we analyse transcriptions of interviews with six victim lawyers in Oslo which were conducted between April and June 2016, as a part of Antonsdóttir's (2020) Ph.D. research. Participants were selected by contacting the Committee on Legal Assistance at the Norwegian Bar Association and using the snowball sampling method (Parker et al., 2019) with a view to talk to lawyers who had experience as victim lawyers both before and after the 2008 legal reform in Norway. In the interviews, the lawyers were asked about how their roles had changed after the legislative changes. The interviews were designed to gain knowledge of the victim lawyer's reflections on formal and informal norms, institutionalised practices and subject positions. Statements made in interviews often have normative implications, as people tend to reflect on and problematise their own and others' conduct in relation to established norms (Bacchi & Bonham, 2016). The interviews were conducted in English.

Second, we analyse nine courtroom observation notes in cases of sexual violence in the Court of Appeal in Oslo,

the capital of Norway, which were conducted in 2020 and 2021. The courtroom observations were carried out by Laugerud in a court ethnography conducted as part of a research project titled “Evidently Rape” at Oslo University.⁵ A court ethnography is an excellent way of studying *law in action*, that is, how law is enacted, interpreted and brought to life in both unique and routine ways (Barrett, 2018). The researcher attended the trials to become familiar with the daily routine of the court actors, their terminology and their assumptions and perspectives. The researcher further examined interactions, demeanour and formal and informal conversations among legal and lay actors.

We used thematic analysis to analyse both sets of data (Braun & Clarke, 2006; Clarke & Braun, 2013). Three themes concerning the victim lawyer’s professional role were evident in the material. They all pertained to how victim lawyers interpret and provide support and assistance to victims within the field of the legal system and the legal profession. The themes illustrated some tensions created by the division of tasks and responsibilities, both within and between professional occupations. We named the themes: (1) professional identification and disciplinary boundary keeping; (2) negotiating professional boundaries and legal hierarchies; and (3) where do loyalties lie? Political conviction, vocation and profession. These themes pointed to two purification processes in the “legal field”. One purification process concerned how to achieve professional purity in acting out the role of the victim lawyer (i.e. legal purification), and the other concerned loyalty to client groups and is connected to advocacy (i.e. political purification).

Professional Identification and Disciplinary Boundary Keeping

When analysing the tensions related to the role of the victim lawyer, the first theme concerned the division of labour between professional roles, that is, how the perception of the victim lawyer role is shaped by the practices of separating legal tasks from non-legal tasks. In the interviews, some of the victim lawyers emphasised that their role was not to offer psychological counselling to their clients but rather to offer legal services.

One Norwegian victim lawyer said:

They don’t need to cry to me and get comfort from me; that is not my role, in my opinion. Well, it’s inevitable to do that sometimes, you know, they need understanding with me, but I think my role is to basically try to explain to them, you know, ‘I’m here to give you legal advice and I understand that there are a lot of other things you would like me to answer yes or no to, but I can’t help you with that’.

This victim lawyer is clear on what does not constitute her professional role. In this way, she participates in an ongoing negotiation of the division of labour, both within the judicial field and between social fields and their professions (Bourdieu, 1986). The only support she can offer as a victim lawyer is legal support, implying that other professions must deal with clients’ other needs.

In one of the interviews, the lawyer criticised the lack of psychological support provided to survivors of sexual violence. He said:

I think the legal system today is very good, but I think that we need a better health care system to follow up on (...) the clients through the system because we should not... I mean, it is not my task ... I cannot do it... I will not be paid... I’m not like a crylady or a cryperson (Interviewer: Psychological advisor?) yeah.

In the aforementioned case, the lawyer complains that if complainants do not get enough psychological support from health care services, this role is likely to fall on him, and he makes it clear that it is not his role to provide such psychological support. He shows how it is not his responsibility and how he is not qualified to offer this kind of support. He also clarifies that he will not be compensated for by the state. His spontaneous mention and clear stand on this issue suggests that the allocation of tasks between health care and (victim) lawyering is not necessarily obvious to everyone, and he needs to position himself clearly outside the realm of health care to avoid being associated with it and to be able to identify with his own (legal) profession.

The emphasis made by victim lawyers on the division of labour between professions is also evident in the early literature on victim lawyers. Before the legislative changes in Norway in 2008 and Iceland in 2022, the role of the victim lawyer was minimal, and it reflected the limited rights of their clients in criminal procedures. In an opinion piece published in the *Lögmannablaðið*, a journal published by the Icelandic Bar Association, three years after the victim lawyer was introduced into Icelandic law in 1999, a lawyer critically discussed how the victim lawyer is charged with protecting their client’s interests and is expected to be present when the police take the complainant’s testimony and in all court hearings “but generally without the right to speak” (Svavarsdóttir, 2002, p. 13). She further stated:

⁵ Evidently Rape (Medical, legal and lay understandings of physical evidence in rape cases) is funded by UIO: Life Science at the University of Oslo, Norway. <https://www.uio.no/english/research/strategic-research-areas/life-science/research/convergence-environments/evidently-rape/>

In my opinion, the position of the legal counsel is, in many respects, very unclear, and more often than not, it is basically a role of pastoral care. I doubt that lawyers are particularly well suited to fulfil this role and suggest that it would be better to provide complainants with spokespersons belonging to educational backgrounds in psychology. (Svavarsdóttir, 2002, p. 13).

The lawyer's writings reflect a sense of frustration as she explains how the role of the victim lawyer is so limited – even muted – that it hardly qualifies as legal work. The apparent non-legal legal-role or the muted victim lawyer appears as an oxymoronic figure, that is, a figure that manifests contradictory or opposite elements. A lawyer is a professional who is supposed to speak on behalf of a layperson in the legal system (Bourdieu, 1986; Christie, 1977). Then, who is a muted lawyer?

In Norway, Grøndahl (2012) had similarly expressed that there is something awkward with a lawyer who is protecting people's rights when these rights have a limited scope. Moreover, the quoted victim lawyer expressed the opinion that the role lacks legal clarification and, in practice, is more about providing pastoral care or psychological support, which lawyers are not qualified to do. Bohinen (2004) in Norway also voiced the association of victim lawyers with religious or psychological support. In an article written before the victim reform in 2008, she cautions victim lawyers to become a spiritual adviser ("sjelesørger") or a quasi-psychologist ("hobbypsykolog").

Efforts to dissociate the role of the victim lawyer from other professions or even non-professional care can be interpreted as an attempt to manifest a division of labour among professions (Abbott, 1988; Bourdieu, 1986). These efforts may be conceived as necessary because the victim lawyer role contains the ambiguity of both safeguarding the legal interests of clients and offering what is vaguely formulated as "other assistance and support". When the role is further associated with limited legal responsibilities because of the restricted rights victims have in the legal system, victim lawyers need to clarify their role by distancing themselves from non-legal tasks. In this way, we see the legal purification process solidify meaning that the perception of the victim lawyer role is shaped by the practice of separating legal tasks from non-legal tasks. Considering how a profession is organised around the knowledge system it applies, victim lawyers need to engage in purification processes in which they attempt to avoid sully their work with non-professional matters (Abbott, 1988; Latour, 1993) to be able to identify with their profession and maintain disciplinary boundaries.

Negotiating Professional Boundaries and Legal Hierarchies

Another theme identified in the data was how professional respect for victim lawyers within the legal system increases as their clients obtain more rights. After the 2008 legal reform in Norway, participants described how increased legal rights for their clients entailed more legal work for lawyers, which allowed them to negotiate and claim a greater professional space. One Norwegian victim lawyer said:

When I started, it seemed that sometimes (...) the court didn't even notice us, you know, when the court hearing was (...) They didn't have, like a system in which we were kind of a part of the case. And sometimes, when you came there, they didn't You didn't always get as much respect from the defence lawyers, the district attorney and the judges. So, I feel that now it's much more. Of course, it comes with experience also, but, especially among the judges, they more respect that this is a part of our profession you know and we are entitled to ask questions, also to the defendant and so on. But all these years, I have felt that it's been like a position in development and that, all this time, I have tried to push the borders just to take more space, you know. (...) If we have debates about our role, I say we can enlighten the case because we can; sometimes we know the case better than the district attorneys because we know the clients and we know maybe things that are not in the interviews or other stuff. So we are trying to push the borders to be able to ask questions and... also to claim damages and so on.

As this victim lawyer pointed out, before the legislative changes, the victim lawyers were, in a sense, invisible to the court. They were frequently overlooked and unintegrated into existing structures and routines. Salomon (2014) and Bohinen (2004), both of whom worked as victim lawyers, provided examples of how the courts would often not inform the victim lawyer of the date of the trial. Bohinen (2004) further noted that she never knew beforehand whether the courts had made the necessary arrangements to allow her client to sit next to her in the courtroom during trial. She argued that these examples of overlooking the complainant and the victim lawyer are ways of making them invisible or marginalising them. In this sense, the level of perceived legal work performed by victim lawyers is tied to the level of respect and status they hold within the legal profession. In this way, the hierarchy among legal professionals manifests itself (Bourdieu, 1986).

Another interviewed Norwegian victim lawyer talked about how his experience of the criminal justice system

changed after the 2008 legislative changes. He said, “Their task is much clearer, so it is easier to act like a lawyer, and it is given more weight.” This was also emphasised by Salomon (2015) who argued that the work of the victim lawyer became clearer and better defined after the implementation of the reform.

After the legislative reform in Norway in 2008, more effort can be put into pushing the boundaries of the role of the victim lawyer as a way of claiming space in the legal field. Boundary pushing might be an attempt to gain more tasks and responsibilities for greater respect and status (Bourdieu, 1986). However, pushing boundaries is a delicate task because it can create tensions in the system. During one of the court observations, the victim lawyer was particularly active. He was asking many questions throughout the procedure, and in the end, his closing arguments were extensive. In Laugerud’s notes from her observations, she wrote:

This is the longest closing argument speech I’ve heard from a victim lawyer and the one that has been mostly about evidence requirements in relation to the incident. They have the opportunity to do so, I would think, but no one ever does. Most victim lawyers tend to just bring up issues concerning harm/injury in relation to compensation claims. He made many arguments about case law on evidence requirements in sexual assault cases. He asked the prosecutor afterwards, ‘Was it too much? I tried to balance.’ She replied, ‘No’. I think it was pretty good, but it’s definitely a balancing act. Judges can easily get annoyed by things like that. (Field notes 20-095163AST-BORG/02).

Considering the limited role of the victim lawyer, some push the boundaries to have a more fulfilling job. However, others opt to act as defence lawyers, or as one victim lawyer said, “It’s more fun to be a defence lawyer, because it has a more active role in most cases”.

The victim lawyer role is not only shaped by formal norms but also informal norms. How victim lawyers perform their tasks and carry out their responsibilities is also shaped by how they and other legal actors interpret their role. The legal field is a highly ritualised and routinised space (Bourdieu, 1986) in which habits and customs shape case work, case flows, institutionalised practices and daily routines of legal actors. The adaptation of the relatively new role of victim lawyer in the existing structure and customary practices of the criminal justice system entails a process of pushing and negotiating professional boundaries.

By contrast, victims’ legal rights are the most restrictive in Denmark out of the Nordic countries, which means that the victim lawyer role in Denmark is very limited and similar to the role of the victim lawyer in Norway and Iceland before the aforementioned legislative changes. Recently, the Danish Ministry of Justice acknowledged the low status of

the victim lawyer and initiated measures to mitigate the situation. However, instead of strengthening the legal status of the victim, they asked the lawyers themselves to sort this out, as indicated in the Ministry’s recommendations:

In addition, it is recommended that the legal profession investigate whether it can be made more attractive to be a victim lawyer so that the number of victim lawyers increases and victims receive more qualified assistance. (Danish Ministry of Justice, 2023).

The limited number of tasks and responsibilities makes the victim lawyer’s job less attractive, at least among lawyers pursuing legal challenges. The passivity associated with the victim lawyer’s role provides it with less status than other legal professionals. The internal division of labour existing within the legal profession is hierarchised in terms of not only the purity of work but also its innovativeness (Abbott, 1988; Bourdieu, 1986). The more habitual it is, the less attractive it is. The negotiation of the boundaries of the profession to attain respect from other legal professionals concerns another aspect of the legal purification process in which legal work is separated from non-legal work.

An example of how the victim lawyer role can be both innovative and boundary pushing is the so-called Balcony Case (Balkongfallet) in Sweden (NJA 2015s. 702). This was a case of serious domestic violence in which the defendant had been acquitted in the Court of Appeal. The prosecutor decided not to appeal the case to the Swedish Supreme Court because, according to traditional legal doctrine, legal questions concerning the evaluation of evidence were not taken up in the Supreme Court. However, the complainant and her lawyer decided to appeal the case to the Supreme Court and, to the surprise of many, the Court decided to take the case and subsequently found the accused guilty of attempted murder (Diesen, 2015). This is an example of the extensive rights complainants can obtain in the Swedish criminal justice system, which includes the right to appeal. Furthermore, this is an example of how the role of the victim lawyer can be expanded and utilised to conduct high-level legal work that has redefined Swedish criminal law. However, after the legislative changes in 2018 in Sweden, the main rule was that complainants no longer had the right to the services of a state-paid lawyer to appeal the case.

Where Do Loyalties Lie? Political Conviction, Vocation and Profession

The final theme identified in the data is that of the loyalties of victim lawyers; that is, do their loyalties lie with their client group or their profession? As already discussed, the political impetus for introducing the role of the victim lawyer in the Nordic countries was primarily driven by concern for complainants in cases of rape, which had been a key concern

within feminist politics in the Nordic countries (Antonsdotir, 2020; Laugerud, 2020b; Tham et al., 2011). The political importance given to this group of clients was also an evident driving force in the legislative changes in Norway, as survivor advocates and feminists were involved in initiating and/or developing legislation (Niemi-Kiesiläinen, 2001; Robberstad, 1999). The data indicate that the gendered politics that have shaped the development of the victim lawyer role influence lawyers' perceptions of the role.

During Laugerud's court observations, she talked to legal professionals during breaks. She would usually ask the victim lawyer whether they also acted as defence lawyers. It was quite common for the victim lawyer to state that they did not do so, as the following field note illustrates:

I talk to the victim lawyer during lunch. I introduce myself and my project, and then we talk a bit in general about legal education and work. She says that she does not work as a defence lawyer. She also says that she works in a firm that has taken a principle stand against doing defence lawyering. She seems young and newly graduated. (Field notes 20-097188AST-BORG/03).

Although taking on clients as both victim lawyers and defence lawyers appears to be increasingly common, some lawyers and firms still exist that have taken a clear stand against this practice. This is a political stand that expresses a partisan attitude of loyalty to the victim's side in criminal justice processes. Switching between clients can pollute the partiality inherent in this political stand.

Moreover, some organisations might expect certain victim lawyers to take a clear stand on this political issue. In an interview with a Norwegian victim lawyer, a member of a group of lawyers connected to a support centre for survivors of sexual violence, he said, "They don't want us to defend those accused of rape, of course, and it is not good for my clients to see me on television as a defence lawyer". The victim lawyers' clients and their organisations might disapprove of a lawyer who switches sides. This suggests that it is not only the political beliefs of the lawyer that count in choosing clients but also others' expectations. In this sense, the victim lawyer role can be associated with partiality that needs to be negotiated within the legal field. The practice of separating client groups from each other to show loyalty to a specific client group can be understood as a type of purification process (Douglas, 2002; Latour, 1993). Arguably, this form of purification is related to taking a stand with a specific client group based on political rather than professional inclinations. This we have identified as another type of purification process which we call a "political purification" process. However, another Norwegian victim lawyer also talked about taking cases as a defence lawyer. She said:

I think it's a good thing that I have been on both sides of the table, because my experience is that when I talk to, especially, victims who are really nervous (...) you know 'what is this lawyer going to ask me, are they going to tear me apart', then I am able to say something about what I think will be the defence lawyers' strategy (...). 'So probably he's going to ask you this and she is going to be interested in this testimony, and this is what they have to play with in your testimony'. So, I can prepare them in a better way.

Here, the quoted victim lawyer promotes the practice of taking on both client groups and argues that this does not present a conflict of interest; rather, it can make you a better victim lawyer. Working on both sides gives you better insights into the legal work itself. In other words, it makes you more professional in your role. Here, we can see an aspect of the legal purification process at work in which the lawyer's loyalties lay with the profession, as opposed to their client group.

Looking at who performs the roles of victim lawyers and defence lawyers, a clear gendered pattern emerges. It is quite common for victim lawyers to be women, although they can somewhat differ among the Nordic countries. In Norway, most defence lawyers have been claimed to be men and most victim lawyers have been claimed to be women (Robberstad, 1994). According to the official list of victim lawyers in Norway, there are now a total of 174 lawyers listed, of whom 115 (66%) are women.⁶ In addition, an official list for defence lawyers in Norway includes 201 lawyers, with 51 (25%) women.⁷

A similar gendered pattern is evident in Iceland. Using the search engine of the district courts in Iceland, we looked up the last 20 verdicts in rape cases. They span from 6 November, 2019, until 11 April, 2023. In these 20 verdicts, a total of 23 defence lawyers and 21 victim lawyers were present. Only one of the defence lawyers was a woman and five of the victim lawyers were men. These five male victim lawyers were, in fact, four, as one of them had two separate cases. Of these four male victim lawyers, three had also been defence lawyers in other cases. Therefore, based on these 20 rape cases, nearly all defence lawyers in Iceland were men during this period, and most victim lawyers were women. While male victim lawyers may seem to have a greater tendency to take on criminal defence, this does not seem to be the case for female victim lawyers.

⁶ See link to the list of victim lawyers on the Courts of Norway webpage: <https://www.domstol.no/se/roller-og-aktorer-i-retten/bistandsadvokat/> accessed 22 June 2023.

⁷ See link to the list of defence lawyers on the Courts of Norway webpage: <https://www.domstol.no/no/roller-og-aktorer-i-retten/forsvarer/> accessed June 22 June 2023.

Although the victim lawyer role does not have a high status within the legal profession, people who choose it as a vocation exist. An example of this is a former prosecutor and judge who is well known for prosecuting high-profile cases of sexual violence in Sweden. However, in 2014, she quit her position as prosecutor to work primarily as a victim lawyer (Expressen, 2014). She currently works as a victim lawyer with a focus on violence against children, sexual violence, violence in close relationships and honour-based violence (Rättsområden, n.d.).

Abbott (1988) noted how client status affects the status of professionals working within the same profession. Serving high-status clients reflects positively on professionals, while servicing low-status clients reflects poorly on professionals, thereby affecting their status. Abbott (1988) noted that criminal courts generally have low status, as their clients' issues are associated with "the morass of human affairs, with a consequent loss of intraprofessional status" (p. 121). When contextualising the status of complainants in cases of sexual violence within the criminal justice system, at least two factors are important. First, as previously mentioned, a low level of legal work usually accompanies the role of the victim lawyer – as opposed to the prosecutor, defence lawyer, and judges – which is associated with lower intra-professional status. Second, even though sexual violence can be committed by all genders against all genders, cases of sexual violence are generally characterised by female victim-survivors and male perpetrators. The previous discussion shows that this gendered pattern reflects in the gender of the lawyers who take on the roles of victim lawyers and defence lawyers, at least in Norway and Iceland. We can only speculate as to why this is the case; however, as Bourdieu (1986, p. 834) noted, even though lawyers as a profession are guided by financial interests, they "are also guided by their ethical or political inclinations, which form the basis of their social affinities with their clients". Therefore, the politics of gender-based violence can be more important to many victim lawyers than intra-professional status, and it can be a vocation for some lawyers.

Concluding Discussion

The victim lawyer role is a relatively new legal role in Nordic law compared to the roles of the prosecutor and the defence lawyer. The victim lawyer largely comes about due to concerns by the women's movement about the treatment of complainants in cases of sexual violence, particularly in cases of rape, within the criminal justice system. The right to a victim lawyer has since been expanded to include other groups of victims of serious offences. Given the complex and technical nature of the law, it remains impossible for

victims to exercise their participatory rights without legal support.

Although Denmark was the first country to enact legislation introducing the victim lawyer, its development has been restricted due to the limited expansion of its clients' rights. While the role of the victim lawyer in Norway and Iceland was limited in the beginning, the rights of victims and the role of the lawyer have since expanded. Victims' procedural and participatory rights have historically been strong in Sweden; however, the victim can only obtain party status in the criminal case if the prosecutor decides to issue charges. Indications exist that victim lawyers do not always recommend party status to their clients, which limits the rights of victims and the role of the victim lawyer. Of the Nordic countries, the legal position and procedural rights of victims are strongest in Finland; however, little is known about how these rights work in practice.

As previously noted, Norwegian legislation emphasises that the victim lawyer is supposed to safeguard the legal interests of the victim and provide *other* assistance and support. As the Nordic literature and our analysis suggest, the definition of the role of the victim lawyer is often understood as rather vague, especially when it comes to the meaning of support, that is, if that only entails legal work or if it includes emotional work as well (Brå, 2016; Oxford Research, 2019). The analysis of this study shows that victim lawyers engage in symbolic boundary maintenance (Douglas, 2002) when they negotiate their professional role through reflections on their work and the ways in which they enact their role. They do this by creating a distinction between legal and non-legal work through purifying practices. We have identified two purification processes. The first is a legal purification process of separating legal tasks from psycho-social tasks to affirm professional boundaries and problematise the limited involvement of the victim lawyer in the legal knowledge system, affecting their professional status. The second is a political purification process of separating client groups from each other to show loyalty to a specific client group, which is related to political conviction. The flip side of the political purification process is that of the legal purification process, that is, serving both client groups to enhance work satisfaction and develop their professional skills. Based on these processes, three points of tensions can be highlighted that characterises the role of victim lawyers in Norway.

First, this study shows that the lack of clarity associated with aspects of the victim lawyer role undermines the status of Norwegian victim lawyers. The perceived lack of legal work characterising the role of the victim lawyer, in comparison to the prosecutor and the defence lawyer, puts them lower in the hierarchy of professional status (Abbott, 1988). A lack of legal work coupled with being tasked with providing non-legal support to their client suggests

that the victim lawyer is contaminated within the legal profession and makes it hard to professionally identify with the role.

Second, the introduction of a new legal role into the highly ritualised and routinised field of criminal legal procedure, and the subsequent expansion of that role has not been without its challenges. The analysis of this study indicates that victim lawyers, along with other legal actors, are in an ongoing process of adapting to and negotiating the boundaries of this professional role. Before the 2008 reform in Norway, victim lawyers experienced themselves as being overlooked and marginalised within the criminal justice system. However, their stronger legal role enhances the professional purity of their work and increases their intra-professional status and respect (Abbott, 1988). In acting to protect victims' rights, the victim lawyers become proper lawyers.

Third, in addition to the relatively low intra-professional status of the victim lawyer, this role is more often performed by female lawyers. Although levels of gender equality are considered the highest in the world in Nordic societies, a gendered division of labour is characteristic of these countries (Mustosmäki et al., 2021). On one hand, the high percentage of females fulfilling the role of victim lawyers can indicate that the role is ghettoised within the profession. On the other hand, in many Nordic countries, the advancement of gender equality is of political importance. Given the politicisation of the gendered nature of sexual violence and the subsequent injustice many survivors experience from the criminal justice system, taking on the role of the victim lawyer can be a vocational choice that is deemed to have greater ethical and political importance than intra-professional status (Bourdieu, 1986).

The findings of this study indicate that the professional status of the victim lawyer role is tied to the legal status and rights of their clients in criminal justice procedures. This can influence lawyers' motivations for taking on the victim lawyer role. However, given how the origins and development of the victim lawyer role are tied to the gender politics of sexual violence, the motivation for lawyers to take on this role can also be found outside the legal profession. Finally, we suggest that future research on the professional status of victim lawyers should also include a greater focus on their role in claiming compensation on behalf of their clients and the economic aspect of victim lawyering vis-à-vis other legal professionals.

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Conflict of interest On behalf of both authors, the corresponding author states that there is no conflict of interest.

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Danish Administration of Justice Act

Danish Bill No. L 45/1979 (on legal counsel for complainants)

Danish Bill No L 232/1978 (amending the Administration of Justice Act)

Danish Bill No L 70/1978 (amending the Administration of Justice Act)

Finnish Criminal Procedure Act 689/1997

Icelandic Criminal Procedure Act no. 19/1991 (replaced by Criminal Procedure Act no. 88/2008)

Icelandic Act No. 61/2022 (on increased rights for victims)

Icelandic Act No. 36/1999 (on victims' legal position)

Norwegian Criminal Procedure Act (1981)

Norwegian Bill No. 22/2008 (amending the Penal Code)

Norwegian Bill No. 11/2007–2008 (on a strengthened position for the aggrieved and bereaved person)

Swedish Act on Victims' Legal Counsel No. 1988:609

Swedish Bill No. 2017/18:86 (on changes to legal support)