

Kaleidoscopic Justice: Sexual Violence and Victim-Survivors' Perceptions of Justice

Social & Legal Studies

2019, Vol. 28(2) 179–201

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DOI: 10.1177/0964663918761200

journals.sagepub.com/home/sls

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Abstract

This article proposes a more multifaceted way of thinking about victim-survivors' perceptions of justice; what we have termed 'kaleidoscopic justice'. Developed from an empirical investigation with 20 victim-survivors of sexual violence, kaleidoscopic justice understands justice as a constantly shifting pattern; justice constantly refracted through new experiences or understandings; justice as an ever-evolving, nuanced and lived experience. Within this framework, a number of justice themes emerged, namely justice as consequences, recognition, dignity, voice, prevention and connectedness. This approach develops current understandings, in particular by emphasizing the fluidity of justice, as well as the centrality of prevention and connectedness in sexual violence survivors' understandings of justice. We suggest that it is only by better understanding victim-survivor perspectives on justice, and embedding the concept of kaleidoscopic justice, that we can begin to address the sexual violence 'justice gap'.

Keywords

Dignity, justice, justice gap, kaleidoscopic justice, recognition, sexual violence, transformative justice, victim-survivors

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Introduction

Securing justice for victim-survivors is the rallying cry from politicians, campaigners, scholars and the public around the world as we all work towards ending sexual violence. Consequently, recent decades have seen an extensive range of law and policy interventions designed to address what is commonly known as the sexual violence ‘justice gap’. But the gap persists, substantiated by a constant stream of reports and studies (Hohl and Stanko, 2015; Kelly et al., 2005; Lonsway and Archambault, 2012; Temkin and Krahe, 2008). In this article, we suggest that one of the reasons why the sexual violence ‘justice gap’ remains is because we have yet to fully understand the justice interests of victim-survivors of sexual violence. Only when we appreciate, and then act on, how victim-survivors themselves conceptualize justice will we begin to address the failings of current approaches and – most importantly – be able to envision new ways of securing justice.

Accordingly, we undertook this study, the first in the United Kingdom and one of few internationally, to investigate sexual violence victim-survivors’ understandings of justice. Utilizing an empirical methodology, we undertook workshops and follow-up interviews with 20 victim-survivors of sexual violence, including those who had not engaged with the conventional criminal justice system. What emerged is a different way of thinking about justice from the perspective of victim-survivors that we have termed ‘kaleidoscopic justice’. This is justice as a constantly shifting pattern, justice constantly refracted through new experiences or understandings; an ever-evolving, lived experience. Within this framework, a number of key themes emerged, namely justice as consequences, recognition, dignity, voice, prevention and connectedness. This approach advances our current understandings of justice from the perspective of sexual violence victim-survivors. In particular, it emphasizes the fluidity of justice, as well as the centrality of prevention and connectedness in sexual violence survivors’ perceptions of justice.

In part one, we develop the overarching idea of kaleidoscopic justice, setting it in the context of common assumptions about justice and particularly the conventional criminal justice system. Part two outlines our empirical methodology and sample. In part three, we examine the justice themes which surfaced in the study and which together embody kaleidoscopic justice. The final part concludes by emphasizing that kaleidoscopic justice is the precursor, the conceptual underpinning, for the vital work of making real a commitment to justice from the perspective of victim-survivors.

Sexual Violence and Conceptions of Justice

Justice in the context of sexual violence is most commonly equated with ‘positive outcomes’ (usually a conviction and punitive sentence) from conventional criminal justice systems.¹ Conventional here is used synonymously with state-run criminal justice systems, premised on procedures and mechanisms of formal legality in a clearly structured pattern, from police investigations, to prosecutions, to judgment and punishment. This is justice as a linear, one-directional, process: there is a clear beginning, the ‘event’ or ‘incident’ which sparks off the search for justice, followed by an understood sequence of

processes through the criminal justice system. There is also a finite end. Justice is dichotomous: you either get it or you don't; a conviction or not. Further, in conventional justice processes, and in most debates over what justice means, the person defining justice is rarely (if ever) the victim-survivor of the harm or abuse (Goodmark, 2015).

This conventional, linear, dichotomous and incident-based approach to justice represents the dominant understanding of justice in public and policy discourse around sexual violence. It frames reform debates and is culturally embedded as to what justice is and should be. As Dianne Martin has argued, this dominant approach 'equates recognition of harm with length of prison sentence' (Martin, 1998: 170). The effect is that 'criminal justice responses which are not punitive are seen to be unresponsive to victims'/women's harms' (Martin, 1998: 170). This 'taken-for-granted' assumption of what constitutes justice has become what Asher Flynn describes as a 'recognisable rape narrative' (Flynn, 2015: 94). It does not represent all justice processes, even within the conventional criminal justice systems. There is no strict separation between conventional and other systems; we fully recognize the long-standing view that formal and informal approaches are not dichotomous but on a continuum (Daly, 2017; Matthews, 1988). Indeed, there is a growing range of 'innovative' mechanisms and processes that seek to dilute and/or transform conventional criminal justice systems (Joyce-Wojtas and Keenan, 2016). However, the more innovative approaches are commonly viewed as exceptions, on the margins, and often subject to considerable challenge. As a result, reform debates continue to take place in the shadow of the conventional criminal justice system, with its understandings of justice dominating debate.

Nonetheless, there have been important attempts to shift debate, to focus better on victim-survivors' perspectives of justice. A significant body of work, across a wide range of disciplines, has developed detailed and sophisticated understandings of victims' interests, outlining implications for law, policy and practice (Fileborn, 2016; Strang, 2002; Wolhuter et al., 2009; Zehr, 1990). Within the context of sexual violence, there are many studies examining the development of innovative and alternative justice mechanisms, such as restorative justice and transitional justice (Daly, 2006; Fineman and Zinstagg, 2013; Henry, 2015; Keenan, 2014; McGlynn et al., 2012; Ptacek, 2010). Looking specifically at victim-survivors' justice interests, Kathleen Daly has categorized the empirical and conceptual literature identifying the justice interests of victim-survivors, covering a variety of offence types (not just sexual or gendered violence) and in a range of fora (Daly, 2017). Distilling these findings, Daly suggests that the main justice interests of victim-survivors are participation, voice, validation, vindication and 'offender accountability-taking responsibility' (Daly, 2017). This work provides a valuable foundation from which to consider what might be the specific interests of sexual violence victim-survivors, in the particular context of individual experiences in Western liberal democracies.

A small number of empirical studies have engaged with this question, taking a step back from the specificities of a particular process or intervention, to examine more open ideas of justice with victim-survivors. Two foundational studies, undertaken in the early 2000s, addressed this topic. In the United States, Judith Lewis Herman interviewed 20 victim-survivors of domestic and sexual violence regarding their efforts to seek redress (Herman, 2005). As Herman describes, her informants' view of justice was 'neither

restorative nor retributive in the conventional sense' (Herman, 2005: 597). Their vision 'combined both elements in the service of healing a damaged relationship, not between the victim and offender but between the victim and his or her community' (Herman, 2005: 597). In New Zealand, Shirley Jülich interviewed 21 adult survivors of child sexual abuse regarding their perceptions of justice (2006). Jülich found that a common theme was a desire to 'tell their story in a safe forum', address underlying causes of offending and while victim-survivors wanted to de-emphasize punishment, they still wanted consequences for the perpetrator (Jülich, 2006: 129–132).

More recent work in Australia has developed these earlier studies. Robyn Holder examined the justice perspectives of 27 women survivors of domestic abuse who had been through the criminal justice system (Holder, 2015). Holder found that conventional theories of justice 'were insufficient to capture the complexity' of the 'contextualised thinking' underpinning their understandings of justice (Holder, 2015: 205). Justice was a 'vibrant experience' that was 'layered, nuanced and contingent' (Holder, 2015: 195). Further, the understandings of justice went beyond conventionally expected 'personal and private' gains or interests, but expanded to involve value judgments about the civic role of justice processes (Holder, 2015: 195). While Holder's study focused on domestic abuse survivors, Haley Clark, also in Australia, interviewed 22 sexual assault victim-survivors (including 4 men) in 2009–2010, two-thirds having engaged with the conventional criminal justice system (Clark, 2015). She found that meanings of justice had 'considerable variation' for her participants, and challenge conventional understandings of justice which privilege universal preferences over 'meaningful responses' for victim-survivors of sexual violence (Clark, 2015: 32–33).

Taken together, these studies reveal that victim-survivors' understandings of justice were neither driven by, nor reflective of, conventional criminal justice. What stands out is the emphasis on complexity and nuance; on the variability of the justice interests; and on the challenge to commonly held assumptions that victim-survivors seek personal justice and punitive outcomes. This overview also reveals that empirical work with victim-survivors of sexual violence about ideas of justice beyond experiences of specific mechanisms or processes is limited, mostly undertaken over 10 years ago and none with victim-survivors in the United Kingdom.

Investigating Justice Perspectives of Victim-Survivors of Sexual Violence

In seeking to understand justice in the context of sexual violence, the experiences and insights of victim-survivors must be foundational. As Frank Haldemann suggests, engaging victim-survivors is a matter of 'moral and political urgency' when considering ideas of justice (Haldemann, 2008: 678). Similarly, Judith Shklar argues that no 'theory of either justice or injustice can be complete if it does not take into account the subjective sense of injustice' (Shklar, 1990: 49). In this work, we are not putting forward a 'pure' or 'ideal' definition or theory of justice (Sen, 2009). As Amartya Sen makes clear, an 'approach to justice can be both entirely acceptable in theory and eminently usable in practice, even without its being able to identify the demands of justice in perfect societies' (Sen, 2009: 401). Similarly, Holder explains this form of work as being part of

what Skitka has termed ‘real world justice research’ (Holder, 2015: 205; Skitka, 2009): namely, research understanding how people describe justice as part of everyday social interactions.

Accordingly, we designed a project seeking to encourage an open dialogue on justice and its meanings. Our approach was developed from previous projects working with survivors of violence and abuse, particularly the desire to frame research with survivors in a more positive and empowering light. In particular, a previous project involving one of the authors developed an ethical approach to working with survivors termed a Positive Empowerment Approach (PEA; Downes et al., 2014). PEA positions victim-survivors as active agents and stakeholders in generating new knowledge on subjects with their experiential expertise. The current project built upon this ethical approach and piloted it within an educational arena: we have termed this approach Educational Empowerment Research (EER; Westmarland et al., 2014).

A participant information poster was circulated that invited women survivors of sexual violence to one of two workshops to hear an introductory talk from two academics about theories of justice and then to share their own views on justice and sexual violence. Potential participants were also informed that this was part of a research study and that the data would be used for academic presentations and papers. The invitation asked them if they would like to participate in the workshop only, the workshop and a follow-up interview, or just an interview. The workshops consisted of the facilitators giving a 30-min presentation on ideas of punishment, as one core aspect of conventional notions of justice, followed by a facilitated discussion. The workshop presentation was intentionally broad and did not put forward any ‘ideal’ notion of justice, briefly introducing concepts such as ‘retributive justice’ and ‘restorative justice’. The interviews were used to explore ideas of justice in light of participants’ experiences of sexual violence and any form of formal and informal justice. In general, we found that participants used the workshop discussions to draw upon their own experiences to contribute towards the discussion, but not to ‘tell their story’. They used the interviews to more fully ground their views in ‘their story’ (although this was purposefully not one of the interview questions – allowing interviewees to choose what level of information they were comfortable disclosing.) We had counsellors in attendance from local violence and abuse services in case any participants required support, and ethical approval was given by Durham University School of Applied Social Sciences’ research ethics committee.

The workshops and interviews were audio recorded and transcribed with the participants’ consent.² The workshop and interview data were analysed using thematic analysis. An initial coding frame was developed by one researcher, following which a team meeting was used to discuss and develop the initial coding frame before it was applied to the data. The justice themes that are described below are the result of a ‘high’ level conceptual analysis of the inductively developed codes.

Participants were recruited using purposive sampling, primarily via local violence and abuse support services, who then cascaded this by word of mouth and their social media channels. We held one workshop in an urban and one in a rural location in order to expand the range of experiences. Twenty women who had experienced sexual violence at least once in their lives participated in the research. Thirteen participants took part in both the workshop and an interview and six took part only in the interview stage.

Participants were aged between 16 and 74 (modal age group being 35–44), with the youngest participants (two 16-year olds) accompanied by a youth support worker. All participants described themselves as White, and they had varied educational backgrounds, from having no formal qualifications to having a degree or above.³ There was a spread of current occupations, with just under half of the participant group currently students, one quarter in paid employment, two participants unable to work, and one quarter selecting ‘other’, with some of these participants noting multiple occupations. Seven of the participants had experienced sexual violence ‘once or twice’ in their lives, five ‘quite a few times’, and six ‘too many to count’; two participants did not specify how many times they had experienced sexual violence. For some, their experience of sexual violence was in the context of an intimate relationship. When asked about whether they had reported any instance(s) of sexual violence to the police, of 19 women who responded to this question, 11 had reported at least one incident. The inclusion of participants who had chosen not to pursue conventional ‘justice’ options enabled the project to engage with victim-survivors who are often not involved in research of this nature which predominantly focuses on the criminal justice system.

This methodological approach had two key advantages. First, we found participant recruitment straightforward. Previous research had demonstrated how survivors of sexual violence have called for access to a higher quality and quantity of information about the criminal justice system (Payne, 2009). Indeed, we filled the 20 places (10 on each workshop) within days of recruiting, and received requests for more workshops to be put on in the future. Given that survivors of violence and abuse are usually considered to be a ‘hard to reach’ group, it is our contention that offering something ‘back’ – in this case the opportunity to hear a talk by academics and discuss justice with other survivors – gained the attention and interest of participants more than other more conventional research methods. Indeed, rather than sexual violence survivors being a ‘hard to reach’ group, it could be that the methods used in research to date have been underdeveloped and self-reinforcing (by treating a group as ‘hard to reach’ or inherently ‘vulnerable’, limited methods and higher ethical standards are developed, which then reinforces the group as being ‘hard to reach’).

Second, we suggest that EER may be potentially more empowering than other methods because of the ‘bringing together’ of experiences rather than their individualization. Bringing a group of 10 survivors together into one space, and not being afraid of talking about sexual violence, has overlaps with the ‘consciousness-raising’ methods of the United States and United Kingdom in the 1960s and 1970s that first revealed the widespread, political, rather than individual, personal experiences of survivors. Indeed, one of our participants reported that she had never (knowingly) met another woman who had been sexually abused until attending the workshop and that she found this an incredibly powerful experience in itself. Every one of the survivors attending the workshops said they were ‘likely’ or ‘very likely’ to attend another workshop if available, and many talked in their evaluation forms about how participation had enabled them to better understand their own experiences.

Our EER method, therefore, also intersects with Participatory Action Research approaches rooted in the legacies of emancipatory education and critical consciousness raising and social change (Freire, 1996; hooks, 1994, 2003). The educational aspect of

EER overlaps with the wider legacy of popular education projects to empower marginalized groups by gaining literacy and numeracy skills and a better understanding of human and legal rights, and to feed their own expertise into the process of knowledge production (Singhal and Rattine-Flaherty, 2006; Torre and Fine, 2006). In this context, group discussions, rather than individual interviews, are essential and their benefits may exceed those of focus groups (Alexander et al., 2007). These benefits include learning from each other, debating and developing collective accounts, greater participant control in determining the direction of debates and interactions with the researcher, a less intrusive way to discuss sensitive topics that do not require the disclosure of personal information, and an ability to produce 'deeper' insights about 'high-involvement topics' with 'troubled, traditionally unheard groups' (Jowett and O'Toole, 2006; Kindon et al., 2010).

The limitations of our approach include our sample size – although this is comparable to the other international studies discussed earlier. Although we recruited from a rural and urban location, these were within the same geographical part of the United Kingdom, and we had no diversity in terms of ethnicity within our sample. It is possible that our participants were so forthcoming in participating because they held particularly strong views on justice, or were survivor-activists. This seemed to be the case for a small number of our participants, but certainly not the majority who talked about being involved because they wanted to see change and for others to have a better experience than their own. Finally, although we were successful in gaining a mixed sample in terms of whether they had engaged with the criminal justice system – an important factor for our study as many research studies only examine survivors who have experienced the criminal justice system – our sample was over-represented in terms of participants who had used a support service. This was due to using violence and abuse support services as the springboard for recruitment of participants – a requirement for ethical approval. Future studies should run separate workshops specifically for Black, Asian and other minority ethnic women. Separate workshops for refugees and asylum seekers could also be held. Greater geographical diversity is needed in future studies, as are the voices of women who are often missing from studies of violence and abuse, including women for whom English is not their first language and women who use British Sign Language.

The Emergence of the 'Kaleidoscopic Justice' Lens

Contrary to assumptions that justice is straightforwardly equated with increasing convictions and prison sentences, when asked to explain justice or identify words associated with justice, our participants hesitated. In their uncertainty, victim-survivors did not automatically go to the tropes of convictions and punishment which would have been the 'easy' response. Instead, what arose from discussions were myriad perceptions, ideas and suggestions which might, in some shape or combination, provide – for some – a sense of justice. We have termed this vision of justice 'kaleidoscopic justice'.

Often produced as a children's toy, a kaleidoscope is an optical instrument with two or more reflecting surfaces (usually mirrors) inclined to each other in an angle. Rotation of the kaleidoscope produces an ever-changing viewed pattern; each viewing being unpredictable in outcome. This resonates with how victim-survivors articulate their ideas of

justice. Kaleidoscopic justice is justice as a continually shifting pattern, constantly refracted through new circumstances and understandings. The variety of patterning resonates with victim-survivors' sense that justice is not linear, but has multiple beginnings and possible endings. Justice is complex, nuanced and a difficult to (pre)determine feeling. Justice is a lived, ongoing and ever-evolving experience and process, rather than an ending or result. Within this pluralistic conception of justice, a number of key justice themes, elements of the kaleidoscope, emerged: namely consequences, recognition, voice, dignity, prevention and connectedness.

Consequences as Justice

I really do think it [justice] is about consequences because punishing people just doesn't work. (Grace)

When asked about what justice meant to her, one victim-survivor emphatically stated: 'meaningful consequences' (Grace). This phrasing neatly summed up the approach of the participants in general who expressed their interest in seeing all manner of consequences for the perpetrator as a result of the offending behaviour. In this context, consequences means there must be an effect or result flowing from the conduct at issue; something must happen to the perpetrator because of their actions. This idea of consequences includes the common public understanding of justice as the punishment of a convicted perpetrator through the conventional criminal justice system, usually by means of a (long) prison sentence. Importantly, it also goes beyond such a conception. As Grace continued: 'I really do think it [justice] is about consequences because punishing people just doesn't work'.

Indeed, studies of victim-survivor perspectives have moved beyond a punishment-focused approach to justice, with some identifying 'accountability' of offenders as a key theme. Daly emphasizes 'offender accountability-taking responsibility', requiring offenders to be 'called to account and held to account for their actions' and taking 'active responsibility' for their wrongful behaviour (Daly, 2017: 119). Jülich and Landon describe 'accountability' as the offender accepting or demonstrating 'responsibility', as well as making 'amends or attempt to put things right' (Jülich and Landon, 2017: 202).

We use the term 'consequences'; it being the expressed voice of our participants. We also suggest it as a preferred term, potentially conveying a broader concept than accountability, the latter having greater resonance with formal decision-making processes. However, the emphasis on 'responsibility' of perpetrators is essential, ensuring that consequences are indeed 'meaningful'. The common ground, whether it be conceptualized as consequences or accountability, is that the perpetrator be subject to specific actions following the offending for there to be a sense of justice, and these actions – consequences – are varied.

The *consequences* for the perpetrator include conventional punishment and imprisonment. One participant, who chose to be known by the pseudonym 'Anonymous', was clear that 'justice is a guilty conviction'; albeit that for her the conviction was related to prevention. Her aim was 'not to see him rot in prison or anything like that, it was just for

it not to happen again'. Discussion included the death penalty and for Sue the 'only kind of justice is prison', adding that this was 'not for revenge, it's for my own piece of mind that I wanted things put right'.

Nevertheless, the perceived limitations of the conventional criminal justice system were evident. Charlotte wondered that 'even if you received justice kind of through [the criminal justice system], is it the kind of justice that you wanted? Like maybe not necessarily'. Similarly, Amber explained: 'You still wake up every morning with it hanging over you for as long as it takes for you to have that healing process, and that doesn't change whether they're convicted or not'. Emma reflected that even if 'there was a conviction, then that would still, like you're still facing injustice because you are a survivor'.

There was similar reluctance to label financial compensation as constituting justice, it being thought of as nominal. General agreement greeted Audrey's comment in one workshop that: 'I would have liked him to have been exposed for what he was and I would like the opportunity to know that he wasn't able to perpetrate any more offences against anyone'. For Pam, admission of guilt is what she wanted most: 'I would never ever say putting somebody like that into jail would make things right, like I say, it's admitting . . . them to admit'. She also recognized that each woman may want different things, including 'they want to go and speak to the perpetrator and vent their anger, if they want them to be banged up in prison for the rest of their lives then they should be able to get it'.

Consequences for the offending actions were sought in order to underline, symbolically and emphatically, the significance and harm of the behaviour. The particular consequences which victim-survivors seek varies over time, with Alice commenting that retribution and a 'typical idea of justice' was her initial feeling, but that this sense has changed over the years. For the woman chosen to be known as Anonymous, a positive consequence would have been if her perpetrator had had access to counselling, so that she 'knew it wasn't going to happen again'. In relation to prison, she said: 'I wasn't bothered about that at all'. Consequences are key: not just punishment or imprisonment.

This echoes the experience of Project Restore, which undertakes restorative justice conferences in cases of sexual violence, that survivors are 'not always seeking imprisonment as an outcome of reporting sexual abuse', particularly those who have experienced abuse in a family setting (Jülich and Landon, 2017: 202). Similarly, Holder found that a 'good outcome' was 'unlikely to include a punitive sentence' (Holder, 2008: 276), with one of Clark's participants stating that she 'didn't want the perpetrator to go to jail or anything like that': what she wanted was 'an acknowledgement or *something*' (Clark, 2015: 23). These perspectives chime with Nicola Lacey and Hanna Pickard's suggestion that punishment be reconceived as a form of institutional forgiving involving the 'imposition of *consequences* in response to *responsibility* for crime': to 'punish with forgiveness' (Lacey and Pickard, 2015: 668, 678).

In sum, victim-survivors of sexual violence conceive of justice as involving meaningful consequences for perpetrators that can take a variety of forms, including and beyond the conventional criminal justice system, and differing according to the perspective of each victim-survivor. Importantly, even where the conventional justice system 'works' by producing a conviction, this may not of itself secure justice. Victim-survivors

are often seeking more, or different, ways of experiencing a sense of justice. These approaches to justice – securing *consequences* – require us to revisit the challenge identified by Barbara Hudson nearly 20 years ago: ‘How does one move away from punitive reactions, which – even when enforced – further brutalize perpetrators, without, by leniency of reaction, giving the impression that sexualized . . . violence is acceptable behaviour?’ (Hudson, 1998: 245).

Recognition as Justice

I think it’s that recognition of hurt that would mean or does mean justice to me personally.
(Sophie)

Any sense of justice for victim-survivors is predicated on ‘recognition’. Recognition is the perception of something as existing or true: they have been harmed and victimized. Recognition also entails an expectation or entitlement to consideration; it is a form of acknowledgement, conveying support. Recognition, in this sense, therefore, is more than ‘being believed’. It encompasses the significance of the experience being acknowledged; of its power and importance for the victim-survivor and in society more generally. Fundamental is the recognition not just of the significance of this experience, but of the significance of the victim-survivor herself/himself.⁴

In the context of transitional justice, and drawing on the work of Honneth (1995), Frank Haldemann has suggested justice ‘as recognition’ as this gives ‘due recognition to the pain and humiliation experienced by victims’ (Haldemann, 2008: 678). He argues that moral injury is experienced as the denial of recognition and occurs where a physical harm is accompanied by forms of disrespect and humiliation (2008). Recognition has a symbolic dimension, drawing on the harm suffered by victims beyond the physical and betokened by a ‘profound lack of concern’ (Haldemann, 2008: 678). Recognition, therefore, is a communicative response, acknowledging the truth of someone else’s perspective: it is the ‘adoption of a stance that grants recognition to another person’s reality’ (Haldemann, 2008: 698). This echoes Holder’s reference to the centrality of survivors’ ‘status’ in society; their ‘recognition of standing’ as central to understandings of justice (Holder, 2015: 196–198).

Recognition can come from the responses of perpetrators. Winnie said that ‘you want them to be punished, but I think more, just acknowledge that it’s wrong and not to do it again’. ‘Anonymous’ talked about different justice processes including restorative justice and said that ‘for me it was more about him understanding the severity of what he’d done and acknowledging it’. In considering what outcomes or options would be welcome in the absence of a criminal justice process, there was general agreement that acknowledgement from the perpetrator would be important. Pam expressed her wish that her perpetrator would ‘admit what he has done because that is all you want . . . is for them to turn around and say “Yes, I did it”’. Acceptance by the perpetrator is how Winnie described this: ‘acceptance of what they did and them to accept that it’s wrong’.

But recognition is not solely focused on the offender; a sense of justice is predicated on family, friends, the public and authorities *recognizing* – being ‘taken seriously’ to use

Charlotte's words. Alice suggested that 'in the short term', receiving some form of 'validation' was crucial to a feeling of justice. For her, not 'being believed and not being validated initially was very, very damaging'. Rachel says that she wanted 'my family to believe me'. Sophie explained that 'justice for me is having not only the perpetrator but also different sections of society as a whole understanding that I was really hurt and . . . be able to see and appreciate that actually that must have been awful'.

Our concept of 'recognition' develops and brings together the ideas of vindication and validation emphasized in other research. This is encompassed in 'recognition'; acknowledgement that something has happened, *recognition* of its significance and *recognition* of the victim-survivor as a worthy member of society.⁵ We can also see the echoes in Nancy Fraser's argument that recognition has an important collective dimension; challenging the injustice of 'misrecognition' of harms and experiences (Fraser, 1998; Henry, 2015). Fraser argues that viewing misrecognition as a form of injustice helps to focus solutions on effecting broader social change (Fraser, 1998: 26).

Recognition, therefore, is central to survivors' sense of justice and conveys more than 'being believed', to encompass acknowledgement of the significance and nature of the harm, and an attempt to remedy the injury to self-respect. This is why outcomes of the conventional criminal justice system do not necessarily equate to a sense of justice. Such outcomes do not necessarily address the issues of humiliation, lack of respect, moral injury. Further, recognition is more than the relationship between citizens and the state, vital though that is: it is also about the actions and responses of individual perpetrators, friends, families and communities.

Dignity as Justice

It just wasn't very sensitive. (Jill)

Recognition must be experienced with dignity. Dignity is the further embodiment of the need for recognition of the victim-survivor as a person of worth. With weary understatement, Jill described her experience of the criminal justice system: 'It just wasn't very sensitive'. Emma was similarly straightforward: 'if there was better treatment then people would be more likely to report', summing up justice as simply 'good treatment'. Charlotte's experience was of being treated 'like a bit of evidence' rather than as a human being. In one case, the Crown Prosecution Service admitted that their prosecuting barrister had failed to watch the victim-survivor's video statement before the trial, resulting in a number of errors which were likely to have contributed to the subsequent acquittal. This admission came at the end of a process which was characterized by a lack of consultation and which began with investigatory failings. Frances was only told half an hour before giving evidence whether she would be able to speak via a video link which, not surprisingly, 'panicked' her.

On experiences reporting to healthcare workers, Charlotte described the 'constant disbelief' she faced, compounded by 'insensitive treatment' in 'having to describe over and over again' what had happened (even though there are protocols to reduce this). For Cali, the indecision, and forever changing decisions on the process towards

prosecution and trial made the experience extremely challenging. She explains that she 'didn't want to go to court and they told me that I had . . . like they wanted me there. So then I prepared for that and then they told me they didn't want me there. So then I was like well . . . and then they told me that they did want me there' and they changed their mind again. In the end, it was 'so up and down and they took all the power away from me because I didn't know what I was meant to be doing'. She also found the lack of communication from prosecutors and police deeply insensitive. She would contact them to find out about progress, to be told 'we'll ring you back' and 'then they wouldn't ring back'. This was then followed by 'three days later "oh we forgot" but that doesn't make you feel very important and just makes you feel like you're just another person added to the bottom of the list'.

Amber had a similar experience commenting that the prosecutors were 'quite bad at sort of keeping in contact' and letting her know what was happening because, she thought, they just expected her to understand the whole process. Nor was she consulted about important decisions on the case. Other participants recounted a myriad of experiences mostly involving criminal justice personnel failing to see the person behind the number or name: failing to call when they said they would; failing to give warning of specific court procedures; failing to follow protocol and therefore asking for experiences to be recounted again and again. Beyond the criminal justice system, 'good treatment' was also sought from family, friends, other professionals, and society more generally.

These experiences and expectations point to a simple, yet seemingly intractable, means of securing justice: treating victim-survivors with dignity. When victim-survivors describe system failures, or personal interactions, rectifying them is not just about better policies or procedures, important though these are. It is about *how* survivors are treated. Justice here 'only' requires sensitive, respectful, dignified treatment; yet this appears to be so difficult to achieve. As Herman suggested when emphasizing the significance of 'honor' for victim-survivors, while this may appear a 'modest' aim, it is actually 'profoundly radical' (Herman, 2005: 599). So too the related idea of a 'decent' society advanced by Avishai Margalit; that is, a society 'whose institutions do not humiliate people' (Margalit, 1996, in Haldemann, 2008: 687). This has parallels to the justice expectations of victims-survivors and why 'dignity' is more than 'procedural justice'.

The importance of procedural justice for victim-survivors has been increasingly recognized (Kelly et al., 2005; Pemberton et al., 2017; Skitka et al., 2011). Holder explains that the 'fairness of the procedures used by the decision-maker and the fairness with which they treat the person(s) subject to the decisions' were found to be important concerns for victims-survivors (Holder, 2015: 188). Further, and as Skitka et al. identify, procedural justice is also about 'people's needs for status, standing and belonging' (Skitka et al., 2011: 101).

This is why the concept of dignity more accurately reflects the justice interests of victim-survivors than 'procedural justice' (albeit that procedural justice can be interpreted in different ways). One of the most commonly cited understandings of dignity comes from Kant, with dignity being the embodiment of his belief that individuals should be treated as ends and not means. Jeremy Waldron develops this conception, advancing dignity as being about each individual's basic social standing in society,

generating demands for recognition and treatment that accord with that status (Waldron, 2010). Further, while we may say that dignity is inherent in the individual, it has to be ‘nourished and maintained by society and the law’; at the ‘very least’, Waldron suggests, ‘we are required in our public dealings not to act in a way that undermines one another’s dignity’ (Waldron, 2010: 1611–1612). This is dignity as imposing obligations on all of us, not just representatives of the state such as criminal justice personnel. It also reinforces the links between victim-survivors’ conceptions of justice and the ways they experience harm. Sexual violence is about treating someone as a means to an end: justice is reaffirming her status as a subject – as an end in itself.

Nonetheless, dignity is not being proposed here as a legal principle, though it is the foundation for many human rights instruments and international obligations. Rather, we are using it as a ‘value or principle embedded in a political argument’ (Waldron, 2012: 138), emphasizing that justice for victim-survivors is not just following the rules (though that is obviously essential). It entails a ‘decent’ society which treats its citizens, and that we treat each other, with dignity, with respect. Dignity is the embodiment of the social standing of all of us in society, and ties into the emphasis on justice as connectedness.

Voice as Justice

Freedom to talk . . . you’re able to talk openly and honestly about what happened to yourself.
(Sue)

Voice has long been central to understandings of justice for sexual violence victim-survivors. Many victim-survivors wish to give voice to the harms they have suffered and for this to be recognized and this is more than simply ‘having a say’. Research with victim-survivors has demonstrated more deeply-held and nuanced approaches to ‘voice’. Holder found voice as constitutive of demonstrations of ‘respect’ and a meaningful ‘dialogue’ between victims and justice officials, as well as about influencing decision-making (Holder, 2015: 202–204). Voice, in varying forms, has also been suggested as a possible means of taking ownership of justice processes (Daly and Stubbs, 2006; Keenan, 2014; McGlynn et al., 2012). In our discussions with victim-survivors, voice became a metaphor encompassing a number of different justice interests. The first of these elements is voice as *active participation* in the decisions and direction of justice processes (McGlynn et al., 2017).

A sense of marginalization was evident from our participants, with Charlotte explaining how she felt like ‘a bit of evidence’, embodying the peripheral role of the ‘victim’ within the criminal justice process. Victim-survivors also spoke about how they wanted to be more in control of the justice process: Charlotte stressed the need for victim-survivors to ‘have a say in the investigation in their case’. This emphasizes the link to recognition; to the justified desire to be seen as *someone* not just *something*. Cali reported that the first reform that could be launched would be to ensure that ‘any decision that’s going to be made . . . consult the victim first’. This resonated with another whose experience was of a judge making decisions which he ostensibly thought were in her interests, but without consulting her (Anonymous). Charlotte suggests that ‘being able to

have a voice' in discussions around a case would perhaps make it more likely for women to report to the police and take cases through to court. Voice, therefore, is as much a metaphor for power; power to make and shape your future. It was clear from those who had engaged with the conventional criminal justice system that they often felt powerless, compounding their already depleted feelings of power as a result of the sexual assaults they had experienced.

Closely related to active participation is voice as a process of *speaking out* and making sense of the harm experienced in a way that is truly heard by perpetrators, family members and friends. For some victim-survivors, a forum to voice their harm has enabled them to better understand what happened, offload the weight of the crime and redress power imbalances (Koss, 2014). For some, restorative justice conferences in which victim-survivors can ask questions and receive answers can help to lift the burden of blame, restore self-respect and enable survivors to move on (Keenan, 2014; Koss, 2014; McGlynn et al., 2012).

In this study, some victim-survivors wished for the perpetrator to directly bear witness to their story, answer their questions and recognize the harm they had caused. Pam described how she 'would love so much to be able to get the chance, for somebody to . . . for me to sit in front of that man, and say "Do you know what you've done to me?" and for him to admit what he has done because that is all you want . . . is for them to turn around and say "Yes, I did it"'. Gaining a more comprehensive understanding of the act by knowing the perpetrator's perspective was important to some victim-survivors: 'the hardest part is trying to work out for yourself why they've done it because you can never put yourself in their mind' (Elaine). For Fiona, the option of dialogue with her perpetrator outweighed the benefits of imprisonment in terms of the value this would add to her own process of understanding: 'if I was given the option whether to do the restorative process or just send someone to jail I would rather sit down and understand why than send someone away and [be] left with unanswered questions and have to try and figure out what's going on'.

Nonetheless, active participation and/or speaking out are not suitable or desired by all victim-survivors (Fileborn, 2016; Henry, 2010; Stubbs, 1997). The ability and willingness of victim-survivors to participate in justice processes, and engage in dialogue of some form with perpetrators, will vary among victim-survivors and will be dependent on a wide variety of factors. In our study, different lengths of time had elapsed since participants' most recent experience of sexual violence, and it is likely that their perspectives and ability to speak in their own interests vary depending on this and other individual circumstances (e.g. support from family and friends). This underlines the individualized, nuanced and variegated nature of justice for victim-survivors.

Voice, therefore, is not necessarily a straightforward idea as it encompasses more than simply being consulted or telling one's story. Holder identifies in these claims to voice a shift from the subject as 'victim' towards the critically informed 'citizen': the 'victim-citizen' (Holder, 2015: 204). This is in contrast to assumptions that victim-survivors' desire for voice is subjective, therapeutic and emotional, though it might also be those things. Victim-survivors are 'knowers' whose perspective 'added to the quality and meaningfulness of decision-making' (Holder, 2015: 206). Their perspectives are not just being received, but being 'heard' in a meaningful sense and acted upon. Having a voice,

and being heard, is both as a means of securing recognition of harm and of bringing about social and cultural change, including prevention, through a better understanding of sexual violence. In this way, the interrelationship between different justice elements can be identified. Justice as recognition, for example, is closely related to justice as voice. Victim-survivors play a necessary role in ensuring recognition of the harms of sexual violence by giving voice to their specific experiences and injustices. In turn, this can enable recognition. This is justice as an iterative process.

Prevention as Justice

I think the only way you could get justice is for it not to happen really, that's the only justice that I can see in a broad sense. (Emma)

For our victim-survivors, prevention of sexual violence and education for change were fundamental to their sense of justice. In essence, they are seeking little less than a transformation of society; towards a society that recognizes the harms of sexual violence and actively seeks to reduce its prevalence. To an extent, this is not surprising. Prevention is known to be linked to victim-survivors' decisions to report to the police (Taylor and Norma, 2012) and deterrence and rehabilitation are important aims of the conventional criminal justice system.

However, for victim-survivors, the prevention focus is more than the rehabilitation or deterrence of an individual, but encompasses a clear (re)educative ambition beyond the conventional criminal justice system. Work aimed at preventing sexual violence, from campaigns, to education in schools, to challenging media representations, to taking part in research studies such as this one, were viewed by many of the participants as central to their sense of what justice might feel like. Gayle was clear that 'rather than punishing exactly . . . I'd rather no-one go through it' (Gayle). Punishment, she continued, is 'very defendant focussed, very after the event and it's not about the victim or stopping it at all'.

As another explained, because conventional punishment is so limited in scope: 'I can only think that the only real answer is to try and stop it happening in the first place and to maybe concentrate our efforts on that' (Lisa); echoed by Emma identifying 'preventative education' as key to preventing injustices into the future. Ilona emphasized that: 'I don't think any type of punishment will be enough for somebody that's gone through it because it can't get that time back. It can't heal the wounds you can't see. So there has to be some kind of education, safety, something put in place because of the society we live in. Apart from education, what else can we do?' Lisa reported that she would 'feel better if I knew that we were sort of tackling some of the root causes', not just 'fire-fighting' as she described the current approach. Describing victim-blaming as the most 'extreme form of injustice', Alice advocated (re)education as signifying society's efforts to change. Karen pointed to the high cost of imprisonment and suggested that 'putting money into education and those sorts of things . . . and rehabilitation' is money 'better spent quite honestly' than imprisonment.

This is a vision for the (re)education of children and young people in schools, of criminal justice personnel, of perpetrators, of politicians and those in the media, of all of

society including therefore friends, families and communities. Many victim-survivors spoke of the difficulty of being on the receiving end of rape myths and victim-blaming attitudes. Others voiced the fear that their pain would not be understood, rendering them silent; with prevention here having a close association with justice as voice. Prevention could be seen as a necessary precursor to securing other elements of justice, particularly recognition. As Lisa explained, if family and friends ‘don’t have that education or level of understanding [of sexual violence] you might not get that level of validation or acknowledgement’.

This emphasis on prevention and change has echoes with earlier research where Herman described how her participants ‘preferred to prevent offenders from committing future crimes, rather than to punish them for those already committed’ (Herman, 2005: 597). Jülich similarly found that survivors indicated that ‘addressing the underlying causes of offending’ would ‘contribute to providing them with a sense of justice’ (Jülich, 2006: 130). Clark’s study noted that for some respondents ‘individual justice was not a key priority’ (Clark, 2015: 30). Engaging the community and state to prevent sexual offending was a ‘high priority’, with most participants considering that preventing sexual violence ought to be a key function of the criminal justice system (Clark, 2015: 30; Powell et al., 2015).

In sharing an emphasis on prevention, this element of kaleidoscopic justice shifts the focus of conventional criminal justice from the individual ‘incident’, to broader notions of social and transformative justice. This is prevention beyond (though still including) the rehabilitation of individual offenders. It is prevention as enabling a feeling of justice through education and social change to reduce harm and prevalence. In essence, many victim-survivors will only feel a sense of justice when we live in a more just society.

Connectedness as Justice

Making the victim of sexual violence whole again. (Alice)

All aspects of justice, Alice explained, should be about ‘making the victim of sexual violence whole again’. She continued: ‘I think it depends upon the individual but . . . but for me I think that justice is being able to live a normal life and a happy life despite perhaps a past history of sexual violence’. This is connectedness as justice; as being valued as a whole person in society, not just as a victim, survivor or piece of evidence. Connectedness is about belonging in society, being recognized, being treated with dignity, having a voice. It is about receiving societal support in the aftermath of trauma, including financial assistance. It is about being *recognized*. Fundamentally, connectedness as justice is about redressing a victim-survivor’s shattered sense of belonging; the justice interests thereby reflecting the harms and impacts of sexual violence.

This is justice beyond individual interactions or perpetrator consequences. It is about society’s material expression of empathy, support and dignity, with the aim of enabling a victim-survivor to regain a sense of belonging and connection with society and feel a sense of justice. This develops Holder’s emphasis on the importance of recognizing ‘victims as citizens’ (Holder, 2015). Our approach also resonates with Susan Herman’s

idea of 'parallel justice' which aims to 'provide justice to victims by helping them to rebuild their lives' (Herman, 2010: 75). Rebuilding lives can entail a wide range of support, from material needs (such as compensation) for the purposes of housing, employment, health and support, advice through the criminal justice system and the sorts of assistance offered by many women's support services. Emphasizing the importance of redistribution of resources as key to social justice, Nancy Fraser has argued that what is necessary are 'social arrangements that permit all (adult) members of society to interact with one another as peers' (Fraser, 1998: 30; Henry, 2015: 209). Our victim-survivors emphasized this collective dimension of justice, of the need for support, as fundamental to their conceptions of justice. In this way, realizing justice is about reconnecting the victim-survivor with society.

For example, having a support worker throughout the court process provided 'peace of mind' for Amber; 'it makes you feel cared about' said Cali. Frances said that: 'I think all the support systems should be put in place, for longer, because it's not just going through court, it's the outreach support as well'. In her experience, she eventually found an organization which allows 'you to have your own choices, they allow you to make decisions, they empower women and walk side by side'. If it had not been for that organization, Frances reported: 'I wouldn't be sat here now having this conversation with you'. For Anonymous, accessing support through rape crisis 'has been the best thing for me' because 'that has got me through everything'. Others stressed how important support was following on from interactions with the criminal justice system.

It is not a surprise that survivors expressed their wish for various forms of material and practical support.⁶ However, such aspirations are often characterized as 'needs' for 'survival', elements of support commonly separated from other justice *interests* such as voice, consequences and recognition (Daly, 2017). Nadia Wager, alternatively, combines 'healing and justice needs' in view of the 'synergies and similarities' between different elements (Wager, 2013). We suggest that 'justice as connectedness' embodies society's material expression of recognition of the harms and personhood of a victim-survivor and encompasses material and practical support. While the idea does encompass support such as counselling, a sense of justice as connectedness is independent of the 'healing' of a victim-survivor.⁷ The focus is not on benefitting well-being per se, but this as a means by which victim-survivors may experience a sense of justice. The justice interest is connectedness and action is needed by society to enable this sense of connectedness as justice to be realized.

In this way, connectedness is a vital part of the justice interests of victim-survivors for two main reasons: it is both a means and an end. It is a critical enabler: the means by which other interests such as dignity and voice can be realized. But it is also an end in itself: it is the material expression, and recognition, of society's commitment to ensuring victim-survivors are full members of society and feel a sense of justice. This is connectedness as belonging in society: the victim-survivor as a 'victim-citizen' (Holder, 2015: 204): Justice is felt: an embodied feeling of justice, created and sustained by active support in society. Conversely, a lack of connectedness and belonging reinforces victim-survivors' sense of an absence of recognition, dignity, voice; and ultimately a keenly felt sense of injustice.

Justice Beyond the Individual 'Case'

Collectively, these justice themes emphasize that for victim-survivors of sexual violence, justice has multiple meanings including, but also beyond, conventional, state-sanctioned or imposed notions of justice. In particular, while justice is conventionally viewed and assessed through the prism of the individual 'case', incident or experience, this does not encapsulate the totality of victim-survivors' perspectives. For many, justice is sensed beyond their individual experiences and is about broader patterns of social justice, including, for example, prevention and (re)education.

Kaleidoscopic justice, therefore, has a broader notion of social justice, beyond the individual 'case' or experience of victim-survivors, at its heart. It is about envisioning a world free of violence against women. Justice, therefore, is not the preserve of the conventional criminal justice system or the state, vital though these responses are for all forms of sexual violence. It is not only about convicting an individual offender, but also about preventing attacks on victim-survivors' sisters, mothers, daughters and friends. Justice, here, is a 'collective, rather than individual, pursuit'.⁸ Justice is also felt through a myriad of often small, cumulative and interconnected events and responses, across families, communities, criminal justice agencies and public or state authorities. A sense of justice may begin to be felt when women begin to experience freedom to live their lives, to regain a sense of power. This collective, societal vision of justice resonates with experiences of justice in societies in transition (Burns and Daly, 2014), as well as with ideas of transformative justice where Angela Harris states that 'each incidence of personal violence should be understood in a larger context of structural violence' (Harris, 2011: 38). This approach also emphasizes that even were the conventional criminal justice system to improve, to better meet the interests and expectations of victim-survivors, it would not in itself be sufficient to generate a sense of justice. It is not just the failures of the criminal justice system that currently produce a 'justice gap'.

Unpredictability and Complexity

Perhaps because kaleidoscopic justice looks beyond an individual case, and encompasses broader notions of social justice, it is also unpredictable and complex. It has a variegated feel, differing for each victim-survivor over time. This variety and nuance reflects the lived, ongoing experiences of victim-survivors of sexual violence and the harms experienced. As Asher Flynn suggests, sexual violence as a phenomenon is 'un-coded': it is not a recognizable event and does not fit into one specific narrative (Flynn, 2015). This helps to explain why victim-survivors' conceptions of justice are so multifarious and therefore beyond a dominant 'rape narrative'. Because there is no one way to experience sexual violence, there can be no singular justice solution: because victimization is a process, so too is justice (Daly, 2014). Victim-survivors' understanding of justice is not 'static but rather change, develop and evolve' (Clark, 2015: 21). A challenge presented by kaleidoscopic justice, therefore, is that justice is unpredictable. Different elements of the kaleidoscope will have greater significance and resonance for each victim-survivor. As Alice explained: 'what justice is in the immediate timeframe, right after like an

assault, will be different from what that person might think of justice down the road [in] a few years’.

Conclusions

This article has examined the justice perspectives of victim-survivors who have experienced sexual violence in individual contexts, in a Western liberal democracy. What emerged is a more multifaceted way of thinking about justice from the perspective of sexual violence survivors, namely ‘kaleidoscopic justice’. This framing aims to capture the breadth, variety, complexity and dynamism of sexual violence victim-survivors’ understandings of justice. Kaleidoscopic justice is justice as a constantly shifting pattern, continually refracted through new experiences and perspectives, with multiple beginnings and no finite ending. Justice as a pluralistic, lived, evolving experience. Embedded within this approach are various justice themes – consequences, recognition, dignity, voice, prevention and connectedness – which embody and exemplify the constantly changing pattern of kaleidoscopic justice. Understanding these themes enables us to see the variety of ways in which kaleidoscopic justice is understood and experienced. In particular, we have emphasized the dynamism of justice, and the centrality of prevention and connectedness. The different justice themes are also interactive, often dependent on each other, underlining that justice is an iterative process.

We suggest that it will only be by recognizing and embedding the implications of kaleidoscopic justice into our reform efforts that we may begin to address the sexual violence ‘justice gap’. This will involve not just reform of the conventional criminal justice system, but being open to the variety of ways in which victim-survivors may experience a sense of justice. In this context, it is important to recognize that kaleidoscopic justice is a different way of thinking about victim-survivors’ and justice; a new lens through which to consider and examine potential new reforms, processes and practices. It is not therefore a new ‘model’ of justice, or ‘justice mechanism’, providing a competing structure or process (Daly, 2016). Kaleidoscopic justice is the precursor, the conceptual underpinning and a new framework, for the vital work of making real a commitment to justice from the perspective of victim-survivors of sexual violence.

Acknowledgements

The authors would like to acknowledge the strength and openness of the women who participated in this research project and thank them for their contributions. The authors also appreciate the support of a number of organizations that worked with them on this project and supported the women involved. In addition, the authors would like to thank Judith Evans and Julia Downes for their research assistance, and Fiona Vera-Gray, Hildur Fjólá Antonsdóttir, Ian Ward and the anonymous reviewers for their valuable insights on earlier drafts of this article. This research was first presented at Leuven University in 2014, and the authors have subsequently benefitted from many helpful comments following presentations at the universities of Monash, Lund, Edinburgh, Leicester and the Institute of Advanced Study at Durham University.

Declaration of Conflicting Interests

The author(s) declared no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

Funding

The author(s) received no financial support for the research, authorship, and/or publication of this article.

Notes

1. Our focus is on sexual violence as predominantly experienced in Western liberal democracies. Justice interests and experiences differ significantly in different contexts such as in countries in conflict (Daly, 2017).
2. The names used in this work are those chosen either by the participant where they decided to do so (including one who wished to be known as Anonymous) or by the research team.
3. That the group were all White women necessarily limits the findings and identifies the need for further research. The sample was drawn from the north-east of England which is one of the least diverse areas of England and Wales, with the highest proportion of 'White British'. Office for National Statistics data: <https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11#ethnicity-across-the-english-regions-and-wales>.
4. Thanks to Fiona Vera-Gray for adding this important latter point on recognition of the victim-survivor herself/himself as a person.
5. Thanks to Fiona Vera-Gray for drawing out this latter element of recognition.
6. There are parallels here with the payment of reparations, particularly in the aftermath of conflict, with Naomi Roht-Arriaza suggesting that reparations serve as the 'physical embodiment of a society's recognition of, and remorse and atonement for, harms inflicted' (2004: 122).
7. This is not a version of 'therapeutic justice' (Erez et al., 2011) which is arguably limited in its framing of survivor interests (Daly, 2014: 387). As Jülich and Landon have suggested, justice can be therapeutic, but justice interests remain distinct from healing (2017: 196).
8. As Fileborn identified in relation to victim-survivors of street harassment (2016).

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