

What does justice mean to survivors of sexual violence?

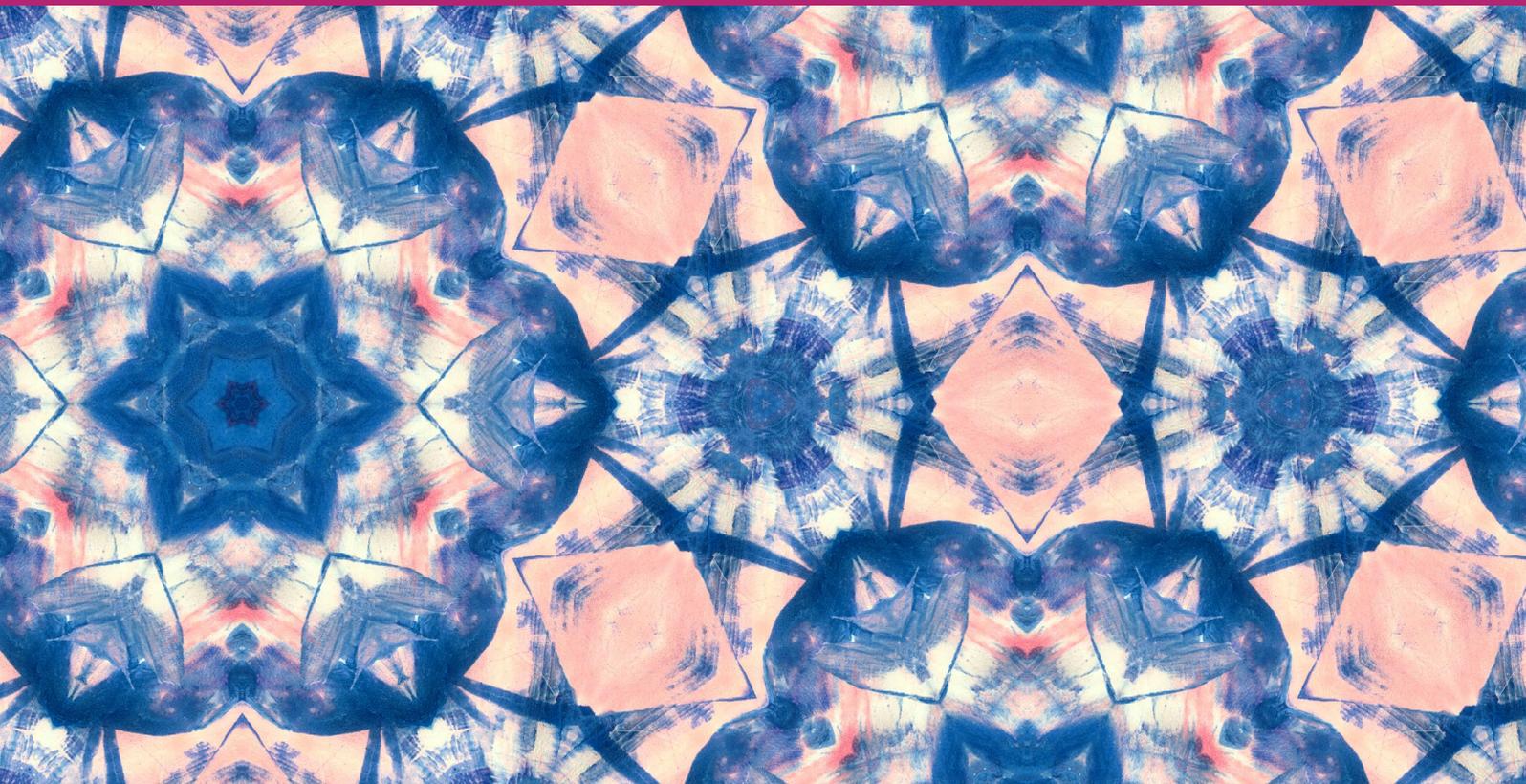
Professor Clare McGlynn and Professor Nicole Westmarland

We know that the criminal justice system largely fails survivors of sexual violence. Few see their perpetrators ‘brought to justice’ due to low conviction rates and survivors’ experiences of the justice system are often negative.

Despite many new laws and policies over decades, this ‘justice gap’ remains. We suggest this is because we know surprisingly little about survivors’ own ideas of justice. If survivors were to redesign our justice system, what would it look like? We talked with survivors about their ideas and perceptions of justice and what emerged is a new

understanding of justice that we have termed ‘kaleidoscopic justice’.

Kaleidoscopic justice is justice as a constantly shifting pattern; an ever-evolving, lived experience. Justice is far more than a conviction in the conventional criminal justice system. Justice is about consequences, recognition, dignity, voice, prevention and citizenship. Only by better understanding survivor perspectives on justice, and embedding the concept of kaleidoscopic justice in our laws and policies, can we begin to address the sexual violence ‘justice gap’.



About our study

A few studies in Australia and the US have asked sexual violence survivors about their broad ideas of justice, but none so far in the UK. We designed a project with the aim of encouraging an open dialogue on justice and its meanings. We held workshops (in rural and urban areas) and follow-up interviews with twenty female survivors of sexual violence. We recruited via opportunity sampling through local charities, universities, relevant social media groups and by word of mouth. The sample was drawn from the north east of England, with women aged from 16 up to 74 (average age being 35-44).

All participants described themselves as white, and they had varied educational backgrounds, from having no formal qualifications to having a degree or above. 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 (or could not) specify how many times they

had experienced sexual violence. Just over half of the women had reported at least one incident to the police. This means that our sample, unusual compared with others, includes survivors who have not engaged with the criminal justice system in response to their victimization. The names used in this study were either chosen by the women themselves or given by the researchers. Ethical approval was granted by Durham University School of Applied Social Sciences.

What is conventional justice?

Justice is most commonly equated with convictions and long prison sentences through the conventional criminal justice system. This is justice as a linear, one-directional, process: there is a clear beginning, the 'incident' which sparks off the search for justice, followed by a clearly structured pattern, from police investigations, to prosecutions, to judgment and punishment. Justice is dichotomous: you either get it or you don't; a conviction or not. In these conventional justice processes, the person defining justice is rarely (if ever) the survivor of the abuse.

What is kaleidoscopic justice?

We found that the survivors we spoke to did not straightforwardly equate justice with increasing convictions. Instead, we found a myriad of thoughts, 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'.

Kaleidoscopic justice is justice as a continually shifting pattern; justice constantly refracted through new circumstances, experiences and understandings. 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, on-going and ever-evolving experience and process, rather than an ending or result. Within this overarching concept of kaleidoscopic justice, a number of key justice themes - elements of the kaleidoscope - emerged: namely consequences, recognition, voice, dignity, prevention and citizenship.

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 survivor emphatically stated: 'meaningful consequences' (Grace). Consequences go beyond the conviction and imprisonment of a perpetrator, though that remains important for some. One participant 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'.

However, conventional punishment and imprisonment only went so far. Charlotte wondered whether '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'. For Pam, an admission of guilt is what she wanted most, but she also recognised that each woman may want different things.

The particular consequences which survivors seek may vary over time, with Alice commenting that retribution and a 'typical idea of justice' was her initial feeling, but that this sense has changed as the years have passed. A good consequence would have been if her perpetrator had had access to counselling or rehabilitation, so that she 'knew it wasn't going to happen again'.

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 survivors is based on 'recognition'; acknowledgement that something has happened, recognition of its significance and recognition of the survivor as a worthy member of society.

From this perspective, perpetrators need to recognise the harm of their actions. 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'. Recognition also includes family, friends, the public and authorities. Alice suggested that 'in the short term', receiving some form of 'validation' was crucial to a feeling of justice. 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'.

VOICE AS JUSTICE

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

For survivors, having a voice means being able to share their experiences in their own words. Faye explained: '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'. Voice is also about being an active participant in decisions. Many of our participants felt marginalised by the criminal justice system, with Charlotte explaining how she just was treated like 'a bit of evidence'.

Voice, therefore, can be seen as a metaphor for power; power to make and shape your future, to ensure decisions are taken with the survivor's input.

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)

Prevention of sexual violence was fundamental to our survivors' sense of justice. Prevention means more than the rehabilitation or deterrence of an individual, but encompasses a clear (re) educative ambition. Work aimed at preventing sexual violence, from campaigns, to education in schools, to challenging media representations, are viewed by many as central to their sense of what justice might feel like. As Gayle said: 'rather than punishing exactly... I'd rather no-one go through it'. This was echoed by Lisa who explained: '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'.

DIGNITY AS JUSTICE

'It just wasn't very sensitive.' (Jill)

We know procedural justice is important for survivors and in our study we heard of many examples of procedural injustice. Survivors recounted a myriad of experiences mostly involving criminal justice personnel failing to see the person behind the number. Beyond the criminal justice system, 'good treatment' was also sought from family, friends, other professionals, and society more generally. With weary understatement, Jill described her experience of the criminal justice system: 'It just wasn't very sensitive.'

Survivors want more than adherence to process and procedures: they want to be treated with dignity. Survivors want to be met with empathy; being recognised as someone who has been harmed. Therefore, this is not just about better policies or procedures, important though these are. It is about *how* survivors are treated. It is about being informed, being heard and being taken seriously. Justice here 'only' requires sensitive, respectful, dignified treatment; yet this appears to be so difficult to achieve.

CITIZENSHIP AS JUSTICE

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

Justice, Alice explained, should be about 'making the victim of sexual violence whole again' and 'enabling them to have a life again that is devoid of having that constantly playing out in their heads'. Alice continued: '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'. It is vital that the victim is valued as a whole person in society - as a citizen - not simply a survivor, victim, piece of evidence.

Citizenship is about belonging in society, being recognised, being treated with dignity, having a voice. It is about receiving societal support – including financial support such as counselling – in the aftermath of trauma and victimization. Fundamentally, citizenship as justice is about redressing a survivor's shattered sense of belonging;

kaleidoscope

(noun)

- 1 a continually changing pattern of shapes and colours
- 2 a complicated set of circumstances
- 3 a tubular optical instrument in which loose bits of coloured glass display ever-changing symmetrical patterns.

What next?

Kaleidoscopic justice is a new framework; a new lens through which to consider and examine new reforms, processes and practices. Reforming the conventional criminal justice system, to reduce attrition and increase conviction rates, remains vital and will go some way towards meeting survivors' expectations of justice.

But we must also look beyond conventional approaches to justice if we are to address the 'justice gap':

- We must recognise the variety of consequences survivors are seeking.
- The harms and experiences of survivors must be better recognised.
- Greater emphasis must be given to preventing sexual violence.
- Survivors must be heard and have an active voice in any justice process.
- Survivors must be treated with dignity and respect if they are to experience justice.
- Survivors are citizens: they require material support.

Further research is needed with a diverse group of survivors to take forward these ideas and to develop recommendations for reform.

References and Further Reading

Clare McGlynn and Nicole Westmarland (2017)

'Kaleidoscopic Justice: Sexual Violence, Survivors and Shifting Perceptions of Justice' forthcoming

Clare McGlynn, Julia Downes & Nicole Westmarland (2017)

Seeking Justice for Survivors of Sexual Violence: recognition, voice and consequences in Estelle Zinsstag, Marie Keenan (eds) Restorative Responses to Sexual Violence: Legal, Social and Therapeutic Dimensions (Routledge)

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About the Researchers

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