



Contents lists available at ScienceDirect

International Journal of Law, Crime and Justice

journal homepage: www.elsevier.com/locate/ijlcrj

INTERNATIONAL
JOURNAL OF
LAW
CRIME
AND
JUSTICE

Victims of child sexual abuse: Understanding their need for justice

Josep M. Tamarit Sumalla*, Patricia Hernández-Hidalgo

Department of Law and Political Science, Universitat Oberta de Catalunya, Barcelona, Spain

ARTICLE INFO

Keywords:

Victimology
 Child sexual abuse
 Qualitative study
 Victims' needs
 Victim's feelings
 Criminal justice system
 Restorative justice

ABSTRACT

This study examined, via 23 in-depth interviews, how victims express their expectations concerning the criminal justice system (CJS), focusing on adults who suffered sexual abuse as children. Previous research has rarely studied how sexual assault victims and, particularly, victims of child sexual abuse, perceive CJS. In this study the perceptions of both victims who had contact with the CJS and those who had not reported the crime were examined. We found that victims' expectations are highly focused on the verdict imposing a prison sentence, but the demand for punishment can be viewed as a symbolic subrogation of a desire for justice, largely associated with the need for recognition and validation, which the CJS is able to satisfy only in a very limited way. The study confirms the importance of properly implement the provisions of EU Directive 29/2012, according to which victims should be given support irrespective of whether they have reported the crime.

1. Introduction

Understanding the needs of victims of crime is a contribution that victimology research can make to improve the criminal justice system (CJS), implement alternative forms of justice, such as restorative justice, or assess the quality of the justice service. One of the basic needs of those suffering from the effects of a criminal offence is the desire for justice. Research can help us understand what lies behind this need, which specific expectations are involved and to what extent society and institutions can meet these expectations.

The notion that the CJS is an expression of the punitive power of the State and that it only serves aims associated with an abstract idea of justice or the social goal of preventing future offences, is now becoming outdated, or at least qualified, with acceptance of the fact that it can also meet the need for justice on the part of the victims of crime. Additionally, in the last decades, the plight of victims has received increased attention at a legal and institutional level in most countries. The Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, links “doing justice” with victims' rights and their respectful treatment (Section 34 of the Preamble). It also acknowledges that child victims should be regarded as “full bearers” of the rights set out in the Directive and require special protection, in accordance with the principle of the children's best interests (Section 14).

This study aimed to examine, via in-depth interviews, how adult victims express their expectations concerning the CJS, focusing on those who suffered sexual abuse as children. Previous research has provided information to give us an understanding of this particular type of victims' idea of justice. With this study, we hope to make a contribution that will help assess the extent to which the CJS can meet the needs of these victims. We furthermore hope to determine whether this can help their recovery or if the desire for justice, resulting from their traumatic experience, is simply a sublimation of socially repressed instincts or an expression of powerlessness and, therefore, to a large degree, represents a desire that is destined to remain unfulfilled.

To this end, we have first reviewed existing literature, then set forth the methodology and results of the study and, finally, reached

* Corresponding author.

E-mail addresses: jtamarit@uoc.edu (J.M. Tamarit Sumalla), phernandezhi@uoc.edu (P. Hernández-Hidalgo).<https://doi.org/10.1016/j.ijlcrj.2018.06.003>

Received 13 June 2017; Received in revised form 19 June 2018; Accepted 21 June 2018

1756-0616/© 2018 Elsevier Ltd. All rights reserved.

some conclusions analysing the victims' discourse, making comparisons with other studies' findings and offering some recommendations.

2. A review of the literature

There is limited research on how children develop expectations of delivery of justice by the CJS. Therefore we initially gathered information by examining research on adult victims in general and on sexual assault victims in particular.

2.1. Justice as a human need

There are indications that, behind the recognition of a victim's right to justice, lies a basic human need. Nevertheless, published studies do not provide a clear view of the basis of this need. It is not expressly included in Maslow's (1943) hierarchy of basic human needs, although some authors have more recently cautioned that Maslow's famed classification is not exhaustive, and that the obtaining of justice can be regarded as a basic need. For some, it would be linked to the need for safety. In a systematic review of 33 empirical studies on the needs of victims of crime, Ten Boom and Kuijpers (2012) concluded that the victims of violent and serious crimes (including sexual and domestic ones) express needs associated with safety, which appear linked with justice and, specifically, with a judicial decision. This kind of expectation normally includes the need for punishment, for perception of the community's condemnation of the offence and for the obtaining of material or immaterial redress.

Basis for the need for justice can also be found in Lerner's (1980) theory and his affirmation that, above and beyond individual differences, belief in justice is something natural and inevitable in human beings, which goes beyond the mere need for control and predictability. Thus, in the face of an offence viewed as a threat to this minimum necessary confidence in the justice of the world, there is a need for a social response that is given value as a means of re-establishing trust. The progress of civilisation entails leaving behind vindictive responses and refining punitive reactions and even an effort to avoid punitive aspects. Nevertheless, faced with deeds capable of destabilising the fundamental bases of trust and that are viewed as unjust, there is an expectation on the part of victims and society as a whole of compensatory or restorative action (Tamarit Sumalla, 2013). The different expected responses to injustice have in common the search for restoration of the moral balance upset by the crime, that the offender suffer in proportion to the harm caused and that the victims may receive redress (Gromet et al., 2012).

These needs for justice have found their most conventional voice in retributive and preventive justice, but have also been channelled towards more innovative theoretical formulations or more refined mechanisms, as suggested by the ideas of restorative, therapeutic or procedural justice (Tamarit Sumalla and Luque Reina, 2016). However, Holder (2013) and Daly (2017) have called into question that researchers have placed too much emphasis on achieving therapeutic outcomes for victims instead of putting the focus "on the prior moral and political matters of what victims as citizens should expect in seeking justice". From this consideration Daly proposes the term victims' interests, no more victims' needs, defining what victims as citizens can reasonably expect from offenders and from the state. According to her view, the five elements of victims' justice interests are participation, voice, validation, vindication and offender accountability-taking responsibility.

2.2. Expectations of the CJS

Several studies have revealed that victims often have elevated expectations of the CJS, especially regarding the extent to which their input will influence the process. This entails negative consequences for the victims when they see that those expectations are not met. A study by Erez and Tontodonato (1992) concluded that victims' satisfaction with the CJS as a whole is strongly influenced by their satisfaction with the sentence passed. This study was not particularly focused on victims of sexual crimes, but it revealed that those who have been victimised by relatives are not easily satisfied by sentences. Research has often validated the Assumption that, from the point of view of victims, the quality of the outcome is linked to retributive justice. In this context, punishment is an effective means of overcoming the disruption in the moral balance produced by the crime. In a study of a sample of victims of sexual assault and physical assault, Felson and Paré (2008) concluded that a higher level of satisfaction with the court process was associated with punitive outcomes, such as arrest of the offender or longer incarceration.

In another study (Orth, 2003), examined sentencing expectations in a sample of 174 adult victims of sexual and non-sexual assault, on a scale based on a list of 18 items. The criminal punishment goals most highly valued by victims were those of retaliation, recognition of their status as victim, confirmation of social values, and the safety of the victim and that of society. Using this same sample, the author analysed the extent to which punishment of the perpetrator impacted upon victims' vengeful feelings (Orth, 2004), gauging their perception of the severity of the punishment imposed upon their aggressor. According to these findings, complemented by a longitudinal study of 31 victims, the severity of the punishment provides a meaningful pointer to a reduction in the desire for revenge, albeit not in a pronounced way. Additionally, given the intra-individual and inter-individual stability of the results, punishment of the perpetrator entails only partial and transitory satisfaction of victims' desire for vengeance, leading to a warning that this result does not provide support for demands for increased sentencing.

Beyond punishment, other studies have pointed out that feelings of justice are to a large extent associated to recognition. According to McGlynn et al. (2017), a sense of recognition, conceived as "the shared perception of something as existing or true", is fundamental to survivors' senses of justice. Recognition is not only admission of guilt by the perpetrator, but also the declaration that harm and victimisation occurred, being family members or other bystanders actors in the recognition process. As Herman (2005) revealed, what generally mattered most for victims of domestic abuse was validation from those closest to them. However, such a

Download English Version:

<https://daneshyari.com/en/article/7531924>

Download Persian Version:

<https://daneshyari.com/article/7531924>

[Daneshyari.com](https://daneshyari.com)