Sexual Violence and Justice: How and Why Context Matters

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Introduction

Sexual violence is ubiquitous. It occurs everywhere: in all the places we live, work, sleep, travel, play, and pray. Victims range from infants to the elderly.[1] Victim-offender relations are highly varied: among and by family members, peers and associates, and those unknown to each other; by those in positions of occupational and organisational authority; and by war combatants against civilians and each other. Sexual violence is committed by those in professional and working capacities as doctors, dentists, nurses, priests, nuns, teachers, government officials, managers, counsellors, lawyers, police officers, prison guards, soldiers, bus drivers, agricultural workers—indeed, no occupation is likely to be exempt. It can be 'ordinary' and 'extraordinary', referring respectively, to everyday forms of sexual violence, and genocidal and mass atrocity violence. Sexual violence occurs everywhere imaginable, but depending on context and interpretation, it may not be considered a 'crime'. Sexual activity can be transactional: an exchange for money, protection, affection, and gratification, although the parties may have unequal status and their circumstances range along a continuum from consenting to coercive. Thus, it may not be clear when sexual activity as transaction shades into sexual violence, or when 'agency' or 'choice' stops and coercion begins. The wrong of sexual violence is not absolute, but gradational and often ambiguous (see Roffee, this volume).[2]

The term 'rape' does not sufficiently capture the ubiquity, variability, and ambiguity of sexual violence. When scholars or advocates use the term, they are typically referring to a particular victim-offender relationship, that is, adult females victimised by adult males. What, then, of boys or girls, who are sexually victimised by family members, including other children, youth, or adults? Typically, this is called 'child sexual abuse', not rape. What of boys or girls (now adult survivors), who are sexually victimised by adults (or peers) while in residential care? Today, this is called 'historical institutional abuse of children', not rape.[3] When discussing responses to sexual violence, scholars and advocates often have in mind an *individual* context of violence, that is, an individual acting alone (or perhaps with several others), who victimises a family member, peer, acquaintance, or person unknown. In doing

so, other contexts of violence are overlooked, such as when individuals use positions of occupational or organisational power, or when sexual victimisation occurs in closed institutions or symbolically closed communities, or when it is carried out by loosely or well-organised groups. Furthermore, despite the extraordinary growth of research on sexual violence in conflict and post-conflict zones and in the developing world, the weight of research remains on responding to and preventing sexual violence in affluent democratic countries that have a strong rule of law and the capacity to enforce it.

In this chapter, I call for a reconceptualisation of sexual victimisation and justice, which widens the scope of inquiry beyond an individual context of victimisation in affluent democratic countries. When widening the scope, we see that the standard advice to victims, 'call the police' and engage criminal justice, may not be possible or realistic in most contexts of victimisation. Even in affluent democratic countries at peace and individual contexts of sexual violence, a low share (14 per cent) calls the police (Daly & Bouhours, 2010). Thus, even here, other responses and forms of justice need to be considered.

My chapter has three sections. The first sketches the components of my Victimisation and Justice Model: contexts of victimisation, justice mechanisms, and victims' justice interests. In the second, I focus on contexts by presenting my Sexual Victimisation and Justice Matrix, which arrays country contexts (developed, developing, at war/post-conflict) by victimisation contexts (individual, occupational-organisational, institutional, institutional-symbolic, and collective). The Matrix has 15 cells (or contexts); and within each, we can identify the distinctive problems victim-survivors face in seeking justice, the different types of justice mechanisms available, and victims' experiences with them. In the third section, I present case studies in two Matrix cells: intra-familial sexual violence (A1) and historical institutional abuse (A3). These examples challenge conventional ways of thinking about 'rape' and justice.

Victimisation and justice model

The Model's three components are contexts of victimisation, justice mechanisms, and victims' justice interests. *Contexts of victimisation* will be described in the second section. *Justice mechanisms* reside on a continuum from conventional to innovative; the two categories are not mutually exclusive and can be combined in hybrid forms (see Daly, 2011; 2014a). Conventional mechanisms may be part of the legal process or work alongside of it; most assume reliance on formal legality, with a focus on criminal prosecution, trial, and

sentencing, and supports for victims in these legal contexts.[4] Innovative justice mechanisms may work alongside of or be integrated with criminal justice, be part of non-judicial (or administrative) procedures, or operate in civil society. They include mediated meetings or conferences with victims and offenders, other types of informal justice mechanisms, truth-telling or truth-seeking, and redress schemes or reparations packages that have material and symbolic elements.[5]
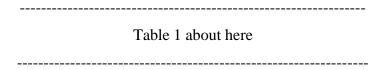
Importantly, to assess responses to sexual victimisation, we should focus on justice mechanisms, not on 'types of justice'. By the latter I mean analyses that compare restorative justice, therapeutic jurisprudence, or non-adversarial justice to standard or conventional police and court processes.[6] A 'types of justice' approach poorly specifies what actually occurs on the ground in justice practices. Moreover, responses to a single case of sexual violence may include a mix of conventional and innovative justice mechanisms (for example, criminal prosecution, civil litigation, and a post-sentence conference). We need to understand how each is perceived and relates to the other, from the perspective of victim-survivors. Although I would encourage the use of innovative justice mechanisms, conventional justice mechanisms are important and cannot be disparaged as the 'punitive' justice, as often happens when researchers compare (what they inaccurately term) 'retributive and restorative justice'. Instead, the task should be to determine the degree to which a range of conventional and innovative justice mechanisms can address one or more victims' justice interests in the aftermath of sexual victimisation.[7]

I devised the construct of *victims' justice interests* to address a deficit in research on victims' experiences of justice practices. The dominant focus of this research is on the extent to which victims are 'satisfied'. However, the 'satisfaction variable' is overly simplified and largely uninterpretable (Pemberton & Reynaers, 2011, pp. 238-9). Recent research has also examined the socio-psychological benefits of justice practices to help victims recover from crime. Discussed elsewhere (Daly, 2014a, pp. 386-9), measures of satisfaction or recovery alone are limited. Better, I argue, to identify a set of reasonable expectations that victims as citizens have in seeking justice. Based on my research and that of others (see Herman, 2005; Koss, 2006), these interests are for participation, voice, validation, vindication, and offender accountability.[8] To build a credible and useful body of research on effective responses to sexual violence, I propose that we *not* simply ask victims, 'are you satisfied?' with a justice activity. We should also ask, does a justice mechanism have the capacity to address one or more victims' justice interests and to what extent does this occur? By applying the construct of victims' justice interests across a range of justice mechanisms, we can assess and compare

them using a common metric. Another point should be made here: in the immediate or longer term aftermath of sexual victimisation, many victim-survivors choose not to engage or participate in any justice activities at all; or they may initiate an activity and abandon it. This latter group forms the largest share of victim-survivors, and understanding their experiences is as important as understanding those who have participated in justice activities in some way.

Sexual violence and justice matrix

The Matrix depicts a broad sweep of places, positions, and relationships. It arrays country contexts (developed, developing, at peace or conflict/post-conflict) and offending-victimisation contexts of violence (Table 1).[9] The country categories reflect differing legal, economic, and political capacities to respond to sexual victimisation, along with differences in social organisation and cohesion for countries in conflict or relative peace. The offending-victimisation contexts are *individual* (row 1); *organisational-occupational*, that is, a person using a position of organisational or occupational power in a community setting (row 2); *institutional*, that is, a person using their position of power in a closed institution (this includes peer relations) (row 3); victimisation in a *symbolically closed community* such as geographically remote communities or segregated urban enclaves, based on race-ethnicity, nation, or religion (row 4); and *collective*, that is, by loosely organised gangs or by state and quasi-state combatants (row 5). Thus, each cell in the Matrix identifies different social relations and place elements in a particular country context of violence. Of course, the Matrix's rows and columns could be expanded, or sub-divided further, as researchers identify specific contexts relevant to their research. Furthermore, a person can experience multiple contexts of victimisation in a day or over a short period of time; and still further, a person may be victimised one day and offend the next.

Table 1 about here

The ubiquity and variability of sexual violence is such that we should not expect a two-dimensional Matrix to accurately represent all forms of sexual victimisation and offending that occur (or have occurred) in human society. Rather, my aims in creating the Matrix are empirical and critical. Empirically, I am interested to devise a systematic way to name and compare victim-survivors' experiences of sexual victimisation and the distinctive

problems they face in seeking justice. In addition, I wish to identify the justice mechanisms available and victim-survivors' experiences with them. Finally, by depicting a large canvass of sexual violence, I can identify similarities and differences across the varied contexts of victimisation, by comparing what is learned in each Matrix cell.

My critical impulse is two-fold. First, although sexual violence is ubiquitous, one matrix cell, A1—an individual context in a developed country at peace—dominates the landscape of thought. In this context, an individual victimises another outside an institution or without using a position of occupational or organisational power. If you are sexually victimised in an A1 context, the standard advice is to 'call the police' and mobilise criminal law and criminal justice, although as we know, most victim-survivors do not do so. Virtually all efforts to reform rape laws in affluent democratic societies have focussed exclusively on, or have assumed, an A1 context of victimisation. Other contexts of victimisation and other abusive relationships (even within an A1 context) are side-lined. Second, the legal or policy template forged from an A1 context of victimisation is often assumed to be relevant to other contexts, when this may not be so. Consider for example assaults in closed (or 'total') institutions such as detention centres, prisons, training schools, orphanages, immigration centres, or military organisations (row 3); in symbolically closed communities such as racially or religiously segregated enclaves in urban areas or geographically remote Indigenous settlements (row 4); or in war and conflict zones (column C). Reflect on being a victim in these contexts. What are your options? Calling the police and mobilising criminal law may not be optimal, feasible, or desirable. Thus, we need to pay attention to what is optimal and feasible in these contexts, and not assume there is just one (or a handful) of desirable justice responses.

A growing body of research has focused on C country contexts, and especially C5. Here, the work of international law and transitional justice scholars is relevant. Some are now challenging a 'top-down' rule-of-law perspective, which proposes particular recommendations and often sets unrealistic goals. Although international criminal justice responses may be appropriate, scholars are also calling for 'localizing' transitional justice (Shaw & Waldorf, 2010). In part, the problem is that those victimised may have few options, little or no voice, or limited participation in setting an agenda for justice and nation rebuilding; and in part, human rights advocates and organisations have used a highly westernised, individualised concept of crime and justice, with a focus on 'legal justice' (Weinstein et al., 2010, p. 47). Translating this into the vernacular of the Sexual Violence and

Justice Matrix, criminal justice responses that may be appropriate for A1 contexts are often thought to be the preferred or optimal mechanisms for C5.

Case studies of victimisation and justice

Each case study departs from what is assumed to be the standard sexual violence scenario in an A1 context. This scenario assumes that an adult male sexually victimises a female (adult or younger). In reflecting on how each case differs from the standard sexual violence scenario, the following words and images come to mind. Victims are in the shadows, on the periphery, or largely excluded from research or policy discussions on experiences of sexual victimisation and optimal responses. Or, they may be recognised, but placed in a separate category, which is not considered part of a 'general' analysis of victim-survivors. In presenting the case studies, my aim is to illustrate how and why context matters for justice. Context structures how (or whether) a person can report sexual victimisation to an authority, what justice mechanisms are available, and how they might be engaged.

Sibling sexual abuse (A1 context)

I begin in an A1 context (or arguably, an A4 context), [10] by discussing sibling sexual abuse, an intra-familial abuse relationship that is infrequently considered. Victims of sibling sexual abuse are at the periphery in the following ways: compared to the standard scenario, they are very young, more likely to be male, and are victimised by family members who are themselves children or adolescents. All analyses of rape and legal reform focus on questions of consent, specifically, on ways of changing evidentiary standards or burdens for proving consent (or lack of consent). However, and with reference to laws in Australia, 'children cannot legally consent to sexual activity if they are under the age of 10 to 13', depending on the jurisdiction and the age differentials of the parties (Stathopoulos, 2012, p. 12). Data from South Australia (Daly & Wade, 2012) and the United States (Krienert & Walsh, 2011), show that the average age of sibling sexual abuse victims is 8 years. Thus, consent is not legally relevant in most of these cases.[11]

Although the prevalence of sibling sexual abuse is unknown (a problem compounded by different definitions used), it is believed to be the most common form of intra-familial sexual abuse, occurring three to five times more often than parental (father-to-daughter) sexual abuse (Ballantine, 2012). Although sibling sexual abuse is termed 'opportunistic' because of the physical proximity of siblings (Stathopoulos, 2012, p. 1), it is secretive, on-

going, and can continue for many years; in this respect, it shares commonalities with adult partner violence and adult sexual abuse of children. Abused siblings worry about the consequences of disclosing victimisation to their parents or carers: they may be disbelieved, blamed, or punished by their parents. Parents or carers, in turn, may deny, minimize, or trivialize the abuse. They may be reluctant 'to report incidents to authorities' in part because they are concerned 'for the reputation and social standing of the family' (Krienert & Walsh, 2011, p. 356). Other dynamics make disclosure difficult for abused siblings: they do not want an abusive sibling taken away, they want to avoid family conflict, they may be threatened into silence by an abusive sibling, and they may be unsure that what they are experiencing is 'abuse' (Stathopoulos, 2012, p. 11). Here, the ambiguity of sexual victimisation is complex and profound: children may turn to older siblings for what they perceive to be a source of affection not offered by their parents. Adding further complexity, abusive siblings may themselves have been physically or sexually abused.

To say more about these cases, I draw from two South Australian datasets: one is of all youths charged with sex offences in South Australia during a period of 6½ years (385 youths), and a second is of all youths whose cases were referred to a youth justice conference (described below) during a 6-month period (8 youths).[12] Of the 385 youth, 59 (15 per cent) were charged with offences against siblings,[13] and 266 (69 per cent) were charged with non-sibling 'hands-on' offences. The rest (16 per cent) were charged with a variety of 'hands-off' offences (for example, public indecency and exposure). For the 'hands-on' cases only, sibling cases more likely involved on-going violence, with multiple incidents over time compared to the non-sibling cases (64 and 23 per cent, respectively); and they more likely involved penetrative or oral sexual activity than the non-sibling cases (68 and 55 per cent, respectively). Abused siblings were younger (7.7 years) than those in non-sibling cases (12.6 years), and the male share of victims was higher in sibling (27 per cent) than non-sibling (18 per cent) cases. The offender-victim dyad was brother-brother in a higher share of sibling than non-sibling cases (27 and 17 per cent, respectively), although the typical dyad was brother-sister for both (Daly & Wade, 2012, pp. 90-1). For the United States, Krienert and Walsh (2011, p. 362) report nearly identical percentages: 29 per cent of sibling abuse victims were male; and although brothers abusing brothers were 25 per cent of cases, two-thirds were brothers abusing sisters.

One objective of the South Australia research was to compare legal response to youth sexual offences. South Australia is an unusual jurisdiction in responding to youth sexual offending.[14] If a youth admits sexual offending to the police (fully or partly) early in the

legal process, the police can divert the matter to a youth justice conference. In a conference, the victim, an admitted offender, their supporters, and any other relevant parties meet to discuss the offence, its impact, and how to address it. The conference is organised by a Youth Justice Coordinator, with a police officer present. If a youth admits to an offence and completes the agreement, no conviction is recorded. Examining the 'touch' offences only, youth in the sibling cases were more likely to show remorse during the police interview, to make admissions to the police, to be referred to a conference, and to be referred to a specialist program for adolescent youth offenders, compared to non-sibling cases. Of cases referred to court, youth in the sibling cases were more likely to admit or plead guilty to offending and were more likely to be referred to the specialist treatment program for adolescent sex offending. I cannot explain these differences. However, I suspect it may be more difficult for youths to deny offending that occurs in close proximity to their parent(s); and in addition, perhaps the 'carrot' of conference participation (no conviction recorded) encourages parents to address the problem, rather than minimise or deny it.

What, then, about victims in these cases? Research centres on the impact of abuse, and it shows patterns similar to other forms of child sexual abuse: trauma symptoms and lowered self-esteem, and longer term effects into adulthood such as drug use, 'sexual dysfunction', and problems parenting (Stathopoulos, 2012, pp. 9, 14). For victims' experiences of justice, evidence is slim.[15] Distilling from our data on conferences in four sibling sexual abuse cases, which included police reports and interviews with the conference facilitator and parents (typically a mother), here is what we learned (Daly & Wade, 2012; 2014). Victims' ages ranged from 5 to 8 years, and none attended the conference. In two cases, mothers were placed in a difficult dual role of representing their abused child and supporting their abusive child. Each conference focused largely on addressing the youth's (all were male) behaviour and on ways of reunifying him with family members or in the family home. Legal or justice aims for victims were secondary to rehabilitative or therapeutic aims: to ensure that victims and offenders received counselling. A significant finding was that although sexual abuse was disclosed and ultimately reported to the police, it remained hidden, except perhaps to counsellors. The 'full story' of what occurred was not clear in the police report or articulated in the conference setting.

Sibling sexual abuse is a recent area of inquiry, in part prompted by a shift from seeing it as benign and experimental, to seeing it as harmful. It is instructive that the term 'rape' is rarely used in this literature.[16] Indeed, in this context of offending and victimisation, ambiguity is everywhere apparent. Is the sexual behaviour thought to be

'developmentally appropriate', 'developmentally inappropriate', or 'problematic' (Stathopoulos, 2012, pp. 5-7)? The categories are not fixed, but a guide to interpretation by counsellors or psychologists. What, then, might child victims be thinking? Perhaps some are too young to 'know'. Thus, for how and why context matters, a key question turns on whose interpretation is decisive in depicting sexual behaviour as harmful or wrong: is it the child's, a parent's, another adult's, or an expert's? Research suggests that when a child's disclosure is met with disbelief or minimization by a parent or significant adult, more negative consequences to the victim may flow. Thus, seeking justice in this context means, in the first instance, that a child's account of being hurt is heard, believed, and understood by a parent or family member. After that, it is up to a child's parent or significant adult to engage in legal or therapeutic activities that may promote a sense of justice, even if a child-victim may not fully understand or be aware of what has occurred. Ultimately, justice is not only responding to a wrong, but for many victim-survivors, the ability to re-create a relationship of trust and safety with a (formerly abusive) sibling in the future.

Historical institutional abuse (A3 context)

Victimisation of children and youth in 'closed' (or total) institutions was 'discovered' as a social problem in the 1980s in affluent democratic countries. The United States was the first country to examine 'institutional abuse' as a named social problem, with a 1979 Senate Sub-Committee Hearing. Other early inquiries were established in Northern Ireland, England and Wales, and Canada in the 1980s. Sexual abuse of children by Catholic clergy in churches, rectories, and other community-based contexts first became subject to intense media attention, litigation, and prosecution in the mid-1980s in the United States, and a few years later, in Canada. Today the term 'institutional abuse' can refer to sexual abuse alone, or to sexual, physical, and emotional abuse. It may refer to residential or out-of-home care alone, or it may include both closed contexts (A3) and community-based (A2) settings. I will focus on a wider set of abuses (not just sexual) and on A3 contexts.[17]

My research on 19 major cases of institutional abuse of children in Australia and Canada shows that although victims (or their family members) did make complaints to people in authority, including the police or government officials, no legal action was taken. Their accounts of abuse were ignored or disbelieved, or investigations were dropped or did not result in charges being laid. It took, on average, nearly 40 years for an official response to be initiated, using a conservative measure (Daly, 2014b, pp. 101-6). Official responses occurred

after pressure was placed on governments or churches by survivor advocacy groups and media stories, law suits against governments or churches and, at times, the charging or conviction of perpetrators.

Sexual abuse of boys by members of the Christian Brothers at Mount Cashel School, in St John's, Newfoundland (Canada) came to public attention in 1989. It launched one of the earliest judicial inquiries (1989-91) to investigate the police and justice system handling of complaints of physical and sexual abuse against children in residential care.[18] Other Canadian cases followed in the 1990s. Several factors were responsible for the shift in sensibility that 'something must be done' to address institutional abuse of children. Among them was that the alleged abuse was *sexual*, 'a more disturbing form of abuse' (Corby et al., 2001, p. 83) than harsh physical regimes or corporal punishment, which officials had been aware of for over a century. I call this the 'sexual turn' in the institutional abuse story, and it was amplified by allegations that men were sexually abusing boys in their care. A second factor was adult survivors' first-hand accounts of institutional abuse, their 'public stories'. Davis (2005, p. 27) suggests that up to the 1970s, 'first-person accounts … outside a legal context were non-existent'. This changed when Florence Rush spoke at a feminist conference in 1971 of being sexually abused as a child. In the mid to late 1980s, male adult survivors of institutional abuse began to come forward for the first time to tell their public stories.

Social and legal responses to historical institutional abuse differ from those in the standard rape scenario in A1 for several reasons. First, the victim is a child, often a vulnerable child, growing up in an institution or out-of-home care; and although an offender can be a specific person, it is also an organisation (church, government, or charitable entity), who has a duty of care to the child. Second, the accounts of victimisation are not those of lone individuals; they are brought forward by the media and survivor advocacy groups, who tell a story of institutional victimisation that is experienced by a large number of people. Third, media and advocacy groups focus not only on abuses that occurred, but also 'cover-ups' by authorities in deciding not to investigate or pursue cases, or policies and practices that harmed children or removed them from families without parental consent (Daly, 2014c). Thus, considerable political heat is felt at high echelons of church and state authority. Finally, although criminal prosecution of some individuals is possible and does occur, the social and legal responses that are most relevant to survivors are public inquiries, civil litigation, redress schemes, official apologies, and commemorative and memory projects. This is because alleged offenders have since died and evidence of abuse from many years ago is difficult to gather. As importantly, survivor groups have more often sought (and continue to seek) forms

of redress from government, religious, and charitable organisations that do not rely solely on civil litigation. Redress schemes or packages include *ex gratia* payments, benefits, services, public apologies, and memorialisation. Of the 19 cases in my sample, 14 had redress schemes or packages and two were finalised by major civil litigation settlements only. The remaining three are national Australian cases—*Stolen Generations*, *Child Migrants*, and *Forgotten Australians*—for which the government's response to date has been service provision (counselling), apologies, and memorialisation (see Daly, 2014b, pp. 150-7, and Appendices 4 and 5).

A striking feature of victim-survivors of *historical* sexual abuse, in particular, those who come forward to public inquiries or government investigations, is the male share of cases. Drawing from Australian and Canadian investigations or inquiries, the female-to-male victim ratio was 2 to 1 (Berger, 1995, p. 13), 1 to 1 (Mullighan, 2008, p. xi), and 1 to 1.6 (Australian Royal Commission into Institutional Responses to Child Sexual Abuse, 2014, p. 285). [19] Put another way, males have been 33 to 62 per cent of those who have come forward to speak to officials. Dutch research on the prevalence of *contemporary* sexual victimisation of children in residential care in 2010 finds it was 2.5 times higher than in community-based settings, with a female-to-male sexual victimisation ratio in residential care of 2 to 1 (Daly, 2014b, pp. 55-6, 270). Compare these figures to the 2012 Australian Personal Safety Survey, for which the female-to-male ratio of sexual victimisation was 4.25 to 1 (Australian Institute of Family Studies, 2015). Thus, we see a shifting gendered face to sexual victimisation: predominantly female victims in contemporary and community-based (non-institutional) estimates, and an increasing male share in historical and institutional estimates.

At the same time, Joanna Penglase (2005, p. 145), who grew up in residential care in Australia, argues that 'sexual abuse is always highlighted as if it is the "worst" abuse … What gets lost is that children were violated in every sense in an institution, and being used sexually was just one of those violations'. She quotes a survivor, who had been in a Queensland farm home in the 1950s, as saying 'in a place so full of brutality, sexual abuse did not rank as highly as other forms of abuse' (p. 142). These and other adult survivors' memories of institutional life and their experiences of redress schemes (Daly, 2014b, chapters 3 and 7) lead me to think that social and legal responses to institutional abuse have placed too much emphasis on sexual abuse alone. Survivors' memories of abuse do not focus solely on specific abusive acts, but recall a 'dehumanizing institutional environment' of fear, non-care, and bleakness (Penglase, 2005, p. 48). Optimally, then, justice should not simply be redress for physical or sexual acts, but rather for organisational regimes and social policies that had

little or no interest in children's welfare or development. Survivors seeking justice for institutional abuse have done so (and continue to do so) as part of a collectivity; this may promote solidarity, support, and a shared narrative of wrongs that survivors argue should be recognised and subject to redress. At the same time, survivor groups may suffer fatigue, demoralisation, and division in moving their claims for redress forward. In the 14 cases with redress schemes, it took on average 7 to 8 years to achieve a tangible result of monetary recompense, once an official response began (Daly, 2014b, pp. 145-6). This is a long time to wait for justice.[20]

Conclusion

I have argued for the importance of understanding sexual violence and justice in diverse contexts of victimisation. When doing so, we see that one context dominates the social and legal landscape of thought and action. I have also argued for a research focus on a variety of justice mechanisms, not on 'types of justice': the latter is broad, often imprecise, and does a disservice to how justice works on the ground. My case studies of sibling sexual abuse and historical institutional abuse of children sought to illustrate why and how context matters. Compared to standard A1 contexts, each recasts images of victims, offenders, and relationships of abuse; and the practices and possibilities for justice. My proposed way forward is to fully grasp the ubiquity, variability, and ambiguity of sexual violence in political and empirical terms. Let's not be content with understanding sexual violence and justice solely in standard A1 contexts of victimisation. Let's not assume that what occurs in A1 can be generalised to other contexts. Let's develop a global and highly contextualised theoretical, research, and policy agenda, one that pays attention to sexual victimisation that currently sits in the shadows or on the periphery, and one that moves self-consciously across diverse contexts of victimisation to identify similarities, differences, and new justice forms.

Notes

1 According to Sy (2013), victims are as young as 15 weeks and as old as 98 years (see Evelynn Deuman and 'Anna' entries, respectively).

2 For example, the parties to a sexual activity do not think it is wrong, but legal authorities do. Sexual activity as paid work, service, or barter occurs in diverse contexts, some of which are dangerous and coercive; others, empowering; and still others, in between.

3 Up to the mid-1980s, men's sexual abuse of boys in residential care was called 'homosexual abuse', but the terminology changed to 'child sexual abuse' by the end of the 1980s (Daly, 2014b, pp. 93-4).

4 Other conventional mechanisms include victim impact statements, specialist courts, and civil litigation.

5 Other innovative justice mechanisms include people's tribunals, documentary and street theatre, and art and activist projects in civil society.

6 Conventional criminal justice is typically (but wrongly) termed 'retributive' justice (see Daly, 2000; 2002).

7 There is, of course, more than justice (broadly defined) to consider in the aftermath of sexual victimisation. Other victim needs for safety, food, and housing may be of more immediate importance.

8 Space limitations preclude my defining each term here; see Daly (2014a; 2014b).

9 This Matrix was first published in Daly (2014a).

10 Intra-familial victimisation can also be viewed as occurring in a symbolically closed community of 'the family' (an A4 context), a point that several colleagues have raised.

11 The South Australian data are of all youths (N=385) charged with sexual offences (1995-2001); 59 were sibling sexual abuse cases. The US data are of over 13,000 sibling sexual abuse cases reported to the police (2000-2007).

12 Project research methods, cases, and outcomes are detailed in Daly et al. (July 2007, 3rd revision), Daly et al. (February 2007), and Daly and Wade (2012).

13 Siblings include biological, foster, and step-relations. An additional 24 cases involved cousins.

14 South Australia is one of three world jurisdictions in which the police and/or courts can refer youth sex offence cases to a conference as a routine practice; the others are Queensland and New Zealand.

15 Although considerable research exists on child sexual abuse and justice, the focus is on adult, not youth offending.

16 As detailed in Tarczon and Quadara (2012), the Australian Bureau of Statistics (ABS) defines 'sexual abuse' as 'involving a child (under the age of 15) in sexual activity beyond their understanding or contrary to currently accepted community standards', whereas sexual assault is defined to include 'rape …, attempted rape, aggravated sexual assault …, indecent assault [and other related offences]' of those 15 and over. Thus, in addition to problems of ambiguity in classifying sexual behaviour between siblings (and especially for the offending

sibling), a second reason for using 'sexual abuse' rather than 'sexual assault' (which includes rape) is the ability of a child victim to 'know' what is (or is not) harmful or wrong. A third reason is the ability of the ABS (or any other data gathering organisation) to make accurate estimates of childhood sexual victimisation (that is, of those under 15) from sample surveys that ask adult respondents about such experiences.

17 Of the 19 cases, four centred on sexual abuse only.

18 The first judicial inquiry, carried out in 1984-86, investigated sexual abuse of boys by lay male staff at Kincora Boys' Hostel, and abuse in eight other children's homes in Northern Ireland. The inquiry centred on allegations of 'homosexual offences', but of the nine hostels or homes examined, five housed both boys and girls (Hughes, 1986).

19 In an analysis of 1,476 private sessions between 7 May 2013 and 30 April 2014, the Australian Royal Commission (2014, p. 285) reports that two in three survivors who came forward to speak in private sessions were male. Later on the same page, it reports that males were 61.7 per cent of survivors. Thus, the female-to-male ratio is 1 to 1.6.

20 In other contexts of collective victimisation, especially in Matrix cell C5, the wait for justice can be even longer. The wait for justice for survivors pursuing civil litigation is highly variable.

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Table 1. Sexual Violence and Justice Matrix, A and C country contexts (B country contexts, developing country at peace, excluded for reasons of space)

Offending-victimization context of sexual violence	Country A Developed country at peace	Country C Conflict, post-conflict, or post-authoritarian regime
(1) Person acting alone	**A1** **Relations**: peer, familial, known, and (atypically) stranger relations **Place**: mainly residential **Problem**: must fit 'real rape' template (stranger relations, injury)	**C1** **Relations**: peer, familial, known, and (atypically) stranger relations **Place**: mainly residential **Problem**: must fit 'rape as weapon of war' template
(2) Person using position of organizational-occupational authority in community-based settings	**A2** **Relations**: religious, medical, or state official (clergy, doctor, police) and child/adult victim **Place**: residential and occupational **Problem**: trusted person or state official is the abuser	**C2** **Relations**: foreign peacekeepers, aid workers, and soldiers, in addition to A2 **Place**: residential and occupational **Problem**: legal jurisdiction, police or peacekeeper is the abuser, zero tolerance policy
(3) Person using position of organizational-occupational authority in closed institutions (includes peer relations in institutions)	**A3** **Relations**: religious or state official having duty of care and child/adult victims **Place**: residential schools, prisons, detention centres, armed forces facilities **Problem**: trusted person or state official is the abuser, unable to escape, inmate code of silence	**C3** **Relations:** state official having duty of care and refugee/prisoner **Place:** refugee camps and detention centres, in addition to A3 **Problem:** official is the abuser, unable to escape, inmate code of silence
(4) Offending in symbolically closed communities	**A4** **Relations**: peer, familial, and known relations **Place**: remote communities or segregated urban enclaves **Problem**: fear and negative community consequences of disclosing; unable to escape	**C4** Limited documentation; but relations, place, and problem are likely similar to A4.
(5) Offending by loosely or well-organised groups	**A5** **Relations**: gangs, criminal enterprises, human trafficking groups **Place**: residential and occupational **Problem**: serious reprisals by offenders if reported, repatriation to home country	**C5** **Relations**: gangs, state or quasi-state combatants, militia, armed forces **Place**: everywhere **Problem**: scale of mass violence, civilian terror, no security presence, fear and negative consequences of disclosing