

Rape in the news: Contemporary challenges

Karen Boyle, ORCID 0000-0003-0162-2656

Brennie Jessie,

Megan Strickland,

Abstract

The media have an important role to play in constructing, maintaining or challenging a rape-supportive culture. In this chapter, we discuss news reporting of rape and sexual assault in Scotland, drawing on a variety of research and advocacy projects we have been involved in, as workers in Rape Crisis Scotland (RCS) and as academic researchers. This includes studies of media representation, work with media organisations in relation to trial reporting, and a focus group exploring survivors' thoughts about news media. We identify two key challenges for contemporary news reporting: the difficulty of translating a feminist analysis into incident-driven, justice-oriented news; and of constructing and understanding experience and expertise. We argue that the news media's emphasis on criminal trials produces a limited understanding of the continuum of sexual violence, and limits the range and nature of stories which can be told. We consider the contexts in which survivors – and those who work with them – could be used as *experts* rather than to report specifically on personal experience.

Abbreviations used:

RCS Rape Crisis Scotland

SRG Survivor Reference Group

Suggested words/terms for index:

Burke, Tarana

continuum of sexual violence, the

criminal justice

Jordan, Jan

Kavanaugh, Brett

Kelly, Liz

Manne, Kate

#MeToo

Rape Crisis Scotland

Salmond, Alex

victim-blaming

Introduction

The media have an important role to play in constructing, maintaining or challenging a rape-supportive culture. In this chapter, we discuss news reporting of rape and sexual assault in Scotland. We draw on a variety of research and advocacy projects we have been involved in, as workers in Rape Crisis Scotland (RCS) and as academic researchers. We use findings from Strickland's University of Strathclyde Gender Studies placement,ⁱ which investigated how RCS was represented in Scottish news; draw on guidelines on responsible reporting of sexual assault trials produced by Boyle and Jessie (2020); and reflect on our experiences of research, campaigning and advocacy.

Rape Crisis Scotland is Scotland's leading organisation working to transform attitudes, improve responses and, ultimately, end rape and sexual violence. RCS works with survivors of all genders and has a feminist analysis of rape and sexual violence as embedded in gender inequality. RCS support 17 local autonomous member centres across Scotland who lead in support work with survivors. This work is enhanced, nationally, by the RCS helpline, advocacy project (supporting survivors in the justice system), prevention and campaigning work. In 2019, RCS employed its first Press and Campaigns Officer (Jessie) in recognition of the strategic importance of RCS's campaigning work and of challenging wider public attitudes to rape and sexual assault in order to ultimately end that violence.

Since Scottish devolution in 1999, feminist understanding of men's violence against women has become embedded in government policy (Lombard & Whiting, 2017). Whilst Scotland is often held up internationally as offering a "gold standard" in relation to strategic work on men's violence against women, the reality is more complex. In Scotland as elsewhere, services are stretched and underfunded. There are also specific challenges for survivors engaging with the justice system, including Scotland's law on corroborationⁱⁱ and controversial not proven verdict.ⁱⁱⁱ

These issues have been central to RCS's work and informed the formation of the Survivor Reference Group (SRG) in 2019. The SRG is a diverse group of survivors from across Scotland who have engaged with the justice system, from police reports that never went further to criminal trial. Participation is voluntary and the majority of members are referred by local centres at the point at which they are finishing their support. This chapter also draws

on a focus group we ran for the purposes of this chapter with a self-selecting group of four survivors from the SRG - Cerys, Emma, Hannah and Lisa - to explore their experiences and perceptions of Scottish news media.^{iv}

It is often difficult to disentangle survivors' experiences of the criminal justice system from their experiences of *mediated* coverage of that system. As Lisa told us: "whatever's in the media seems to be happening in the court and vice versa". This relates both to how their own cases have/not been covered in the media, and how their decisions about reporting and support-seeking were themselves inflected by what they knew about rape, sexual assault and the criminal justice system from the media (Rape Crisis Scotland, 2019). The digital realm makes this even more difficult to disentangle. All the women in our focus group got their daily news primarily through social media. When it comes to the reporting of rape and sexual assault, this presents possibilities for RCS to reorient problematic framing of news stories via their own social media accounts. It also means that media-work has become inextricably linked with broader public education and prevention work. This is not to argue that media audiences are passive consumers. The very opposite. Audiences are also content producers. How we communicate about rape and sexual assault has never been more public. The guiding concern underpinning RCS's media and communications work is that there are always survivors (as well as perpetrators, bystanders, professionals and jury members) in any audience. What those stakeholders learn about sexual violence from these representations can, however, be problematic.

Mainstream news stories – and headlines in particular - may frame conversations (online, in families, in workplaces), but it is how people around them respond to those stories which was most keenly felt by our participants. As Emma told us, the emphasis on the adversarial in media reporting not only mirrors the courtroom but facilitates a broader conversation in which people are encouraged to "choose a side" on the basis of the – usually cursory – information publicly available. In that context, the characterisation of victim/survivors (and perpetrators) is too often what is being judged.

In the next section, we provide a brief review of scholarship on representations of rape and sexual assault, putting this in conversation with the experiences of our focus group participants. In the remainder of the chapter we focus on two key challenges we have identified in contemporary news reporting: the difficulty of translating a feminist analysis

into incident-driven, justice-oriented news; and of constructing and understanding experience and expertise. Our over-arching argument is that the criminal justice emphasis in news reporting limits the possibilities for mainstreaming a feminist analysis of rape and sexual assault and that this has concrete implications for survivors. We identify some ways in which reporting in this area can be more responsible, whilst also recognising that it is likely to be in feature and opinion writing (as well as in non-news media) that more complex stories of survival can be told.

Read all about it?

It is well-known that certain kinds of sexual assault, victims and perpetrators are more “newsworthy” than others, such that news reporting presents a distorted picture of realities detailed both in crime statistics and population surveys. The most “newsworthy” cases are the most unusual - stranger assaults, inter-racial assaults, sexual murder, serial rape and assaults resulting in serious physical injury (Boyle, 2005: 68-69) – as well as those involving high-status perpetrators or victim/survivors, and in which consent is contested. This emphasis shapes what is understood as “real” rape (Estrich, 1987), and has become inextricably linked with what is recognised as crime.

Of course, not all newsworthy cases receive the same kind of coverage. Whether victim/survivors are deemed believable is linked with stereotypical assumptions about who victim/survivors are and how they should re/present themselves (Rape Crisis Scotland, 2019). Women reporting sexual assault face what Jan Jordan (2004) calls the credibility conundrum. Whether in court or in a newspaper, it is *their* credibility which is routinely at stake. Women are more likely to be believed – and sympathetically portrayed – if they are very young or old; are assaulted by a stranger; suffer physical injury; are from the dominant ethnic group (and the perpetrator is not); are sexually “respectable”; haven’t been drinking or taking drugs; and report to the police immediately (Boyle, 2019b: 80). This betrays deep-seated attitudes about gender, vulnerability and harm which are profoundly racialised, classed and sexualised. That victimisation feminises also impacts on the credibility of *male* victim/survivors in complex ways (Weiss, 2010), which, for instance, can mean that men are more credible as victim/survivors the further they are from dominant ideals of masculinity. “Real” men’s

violation appears incompatible with codes of male (hetero)sexuality which emphasise men's sexual agency and aggression.

Victim-blaming was a recurring concern for all focus group participants. Anxiety around how they and their experiences measured up to the "ideal" had repercussions long after an attack. In relation to preparing for court, for instance, Hannah commented:

I was on Tinder at the time because I was a bit lonely, but it was also two years post being assaulted, and I was thinking 'Oh my god, no-one's ever going to be able to inform me of the ins and outs of whether they can pull in these Tinder dates or get this information off my phone.'

This was picked up by Emma who – even *after* the court case was concluded – curtailed what information she put on social media:

That's something I struggle with even to this day. I can't put information about myself anywhere. Even at work I ask to have my name removed, I almost want to be anonymous because I'm so terrified of, even though my trial has been dealt with, I'm so terrified of a story coming out about me. I know it won't, but that's just how my mind works, because of the trauma. And, like Hannah as well, I was on dating apps briefly after, and I felt like I don't have a right to be here because there's going to be someone out there looking for information about me.

This was linked, for all the women in the group, to the narrow media construction of victimisation where for a woman's story of rape to be credible she has to be only and always seen as a victim. This was echoed by Cerys' experience of reporting to the police where she – and not the man who raped her – had every aspect of her life "investigated". Here we see how the investigative and combative structure of narratives about rape and sexual assault in different arenas – policing, court, mainstream media, social media – are intertwined.

How victim/survivors speak out also impacts their believability. With rape popularly construed as the worst possible thing that can happen to a woman, a survivor's very ability to speak of her experience – and to do so publicly, without apology, and in conjunction with a demand for justice - can make her less believable. If survival is suspect, then to be credible

survivors must be recast as victims, a highly stigmatised identity. Emma noted that the one quote news agencies took from her courtroom evidence was, “I thought I was going to die”. She continued, “they were obviously painting me as the weak, vulnerable woman”. The limited range of stories available about victim/survivors was one of the participants’ greatest frustrations with news reporting.

Appearing in the media to discuss these issues could also impact on interpersonal relationships. Noting “there’s a real difference in how people treat(ed) me afterwards”, Hannah described how, after speaking publicly about being raped, people didn’t know how to react to her. She put that down to the disconnect between what they already knew of her and the stigmatised stereotype of the “broken” rape victim:

I can know someone for five years and they maybe think good things about my life, but I could go on the news tomorrow and talk about it [the rape] and I swear I would bump into them and they would look at their feet. And that’s because of how it’s portrayed on the news. I might come across fine in a particular interview, but they associate me with the portrayal that we all have in our heads, a sort of stigmatised message. And I do want people to understand, yes, I’ve been through horrific things, I’ve had a very difficult time, as we all do, but we also don’t want to be looked at as, that you know, our lives are over.

Equally, there are persistent stereotypes around who commits rape and sexual assault which make some men more credible perpetrators than others. Feminists have long been critical of the tendency to see men who commit rape and sexual assault as fundamentally different from other men, instead pointing to the connections between what counts as “normal” and what is recognised as “aberrant” male behaviour (Kelly, 1988). To state that in certain conditions, and for certain types of men, rape and sexual assault can be “normal” is to recognise that the social and cultural construction of male sexuality and gender inequality legitimates and indeed celebrates sexual aggression as part of what it means to be “a man”. As such, if a man’s sexually assaultive behaviour is to be recognised *as a problem*, then he cannot simultaneously be recognised *as a man*.

This might seem counter-intuitive given we know that the vast majority of violent crime is perpetrated by men. Our point is not to dispute this but rather to highlight that some men are

more likely to get away with it than others. We are thinking not only of outcomes in criminal trials, but more generally of what Kate Manne (2018a) calls “himpathy”: the disproportionate sympathy afforded some (alleged) perpetrators, such that the focus becomes what the attempt to make sexual assault matter means *for him*. Himpathy is not extended towards *all* men, but rather to those closest to power. It is no accident that the term was popularised after Manne (2018b) applied it to coverage of confirmation hearings for Donald Trump’s Supreme Court nominee, Brett Kavanaugh. During the confirmation hearings, Dr Christine Blasey Ford came forward to report that Kavanaugh and a friend had sexually assaulted her whilst they were at college. However, as Manne (2018b) observed, in much of the news coverage – as well as in the responses of politicians and in social media commentary (Boyle and Rathnayake, 2019) – the emphasis was on the potential impact of these reports *on Kavanaugh*, such that he was portrayed as the victim and Blasey Ford, and those supporting her, as the aggressors. In stories like this, as Emma put it, “the victim has very much been seen as the villain”.

The “himpathetic” narrative contrasts with the monsterising of men deemed credible as perpetrators of sexual assault. The language used in the media to describe credible perpetrators works to mark them as irrevocably “other”: evil, fiend, beast, monster. These terms are notably gender-neutral – they do not specify that the perpetrator is a *man*, but rather reconstruct him in almost mythical terms. This works to distance the bad apple from other men and mark them as individual aberrations. Focus group participants saw the *unremarkability* of men who actually commit rape and sexual abuse as a big challenge for the way we all think about rape. As Cerys argued:

you’ve definitely met a rapist. Whether it’s in the workplace. Whether it’s one of your friends. Because only the really shocking stories come out, I think that that makes it more difficult and less believable that it is actually a common thing.

Their very ordinariness confounds news discourse.

As with himpathetic discourses, monsterising works differently for different groups of men. Minority men are frequently presented as representatives of their communities; white men are more likely to be seen as individual aberrations (Salter & Dagistanli, 2015; Shier & Shor, 2016). In the former case, it is the group who are deemed monstrous; in the latter, it is the individual.

Yet, RCS recognise that the media can be a resource as well as a problem. Hannah encapsulated these tensions when she recounted how she prepared for trial:

I spent a freakish amount of time following news cases to prepare myself, as the only way that you can access information is to read about trials after they've been reported. [...] I looked to the media to prepare myself and what I found was dramatised and horrific information that left me with a great uncertainty to what would happen in that room. For example, there was a trial at that time when a woman who had been assaulted had her underwear held up in the jury and I would think to myself, "I had massive pants on so I'm probably safe here". If exes were brought into trials I would be thinking, "I really hurt someone is there an opportunity for them to get back at me in trial?" So in that respect reporting can be very irresponsible.

Notably, the specific media examples the women brought to our focus group largely took place outside of Scotland^v and this could give complainers a misleading sense of what to expect. While we have no reason to think that the patterns identified in existing media research do *not* apply in Scotland, given our distinct legal system, there is a need for research on Scottish news. In our focus group, two participants spoke about the coverage of the trials of the men who assaulted them, but otherwise the only Scottish case discussed in detail was the trial of the former First Minister of Scotland, Alex Salmond.

In January 2019, Salmond was charged with 14 offences relating to the sexual assault of ten women whilst he was First Minister. His March 2020 trial ended with Salmond's acquittal on all charges: one charge was dropped by prosecutors; the remaining 13, relating to nine women, produced 12 not guilty verdicts and a not proven verdict relating to sexual assault with intent to rape. "Not proven" is a peculiarity of the Scottish legal system, used disproportionately in cases of rape and attempted rape (RCS, n.d). It is an acquittal.

The reporting of the Salmond case brought into sharp relief some of the problems with the media's focus on criminal justice in relation to rape and sexual assault. Salmond was not charged with rape but with what – in legal terms – are lesser offences. Despite the widespread public discussion of more routine forms of sexual harassment and assault in the wake of

#MeToo, reporting on these kinds of cases presents specific challenges, as we will now argue, before returning to the Salmond case.

The continuum, criminal justice and news

In *Surviving Sexual Violence*, Liz Kelly (1988) introduced the idea of a continuum to encapsulate women's experiences of sexual violence and assault across a lifetime. Kelly sought to correct the sensationalist account of sexual violence as a rare crime committed by monsters, to instead recognise the sometimes mundane ways in which sexual violence and coercion are experienced by women, including in intimate relationships, workplaces and on the street. Kelly saw the connections between these experiences and identified their common character in order to advance a structural analysis of sexual violence. Seeing individual acts on a continuum means seeing how they work together – in the context of a patriarchal society – to produce gendered effects.

Although Kelly's continuum is widely referenced in feminist theory (Boyle, 2019a), its lessons have been unevenly applied. In a 2012 review of feminist scholarship, Kelly argues that the overwhelming emphasis on *crime* in the years since *Surviving Sexual Violence* meant that the “everyday, routine, intimate intrusions” (2012: xix) foundational to her thinking had not (at that point) received sustained feminist attention. As the experiences of RCS repeatedly demonstrate, the continued failures of the criminal justice system and need for survivor-centred reforms *are* politically urgent and Kelly does not deny this. Rather, she asks us to consider what this leaves out: the incidents that are never reported to the police and those that may not always be easily understood – including potentially by victim/survivors (Gavey, 2005) - *as* criminal.

RCS works against rape and sexual violence in all its forms. Survivors contact local centres about rape (in 38.84% of cases in 2019-20), sexual assault (22.01%), child sexual abuse (16.83%), sexual harassment (4.79%), sexual bullying (4.59%), grooming (4.38%) sexual exploitation (3.01%) and more. Of course, these categories overlap and don't always map onto legal definitions in a straightforward way.

In the initial discussions among this chapter's research team, Jessie expressed frustration that the media requests RCS receive are overwhelmingly about criminal justice and a narrow range of types of assault. Yet, only half (50.35%) of survivors seeking support through local centres have reported to the police (RCS 2020: 27), and a small minority of survivors who do report ever see their perpetrator face criminal trial: 2343 rapes or attempted rapes were reported to the police in 2019-20 in Scotland, but criminal proceedings were only brought against 300 people (Scottish Government, 2021: Table 4a). These figures remain depressingly consistent over time, and suggest only around 10-13% of reported cases proceed to court. When cases reach court, rape and attempted rape have among the lowest conviction rates of any crimes: 43% in 2019-20 (compared to an 88% overall conviction rate, including 63% for sexual assault, and 71% for other sexual crimes) (Scottish Government, 2021, Table 4c).

It is not surprising, then, that RCS are concerned that an emphasis on criminal justice in news creates a distorted picture of survivors' experiences and misses the diversity of RCS's work. This was the context for Strickland's research which investigated where RCS appeared in Scottish news. Strickland searched for all news articles (print and web) on the Nexis database which used the phrase "Rape Crisis Scotland" from 1 October 2019 – 30 September 2020. She identified a total of 247 articles: 61% were criminal justice oriented and more than half of those related specifically to the Salmond case. RCS were most likely to be directly quoted on criminal justice (70% of all quotations) and survivor engagement was also most notable in relation to criminal justice (75% of all articles featuring survivor engagement) (Strickland, 2020). The willingness to at least seek a criminal conviction seems to be central to determining the seriousness with which news organisations treat individual stories – and whether they cover them at all. Indeed, journalists contacting RCS are often forthright about *only* wanting to speak with survivors who have been to court and, ideally, secured a conviction.

Yet, #MeToo has opened up valuable public conversations about just how pervasive, ordinary and everyday men's sexual harassment and assault of women is. The affordances of social media have allowed users to link diverse experiences together (through hashtags) providing publicly visible evidence of Kelly's continuum. But they have also produced a flattening effect, decontextualising these experiences. The connections Kelly identifies are not easy to condense into 280 characters. The everydayness of women's experiences on the

continuum are also difficult to translate into *news*: they lack the sensationalism which typically structures news about sexual violence; they are not necessarily incident-driven; there are no easily recognisable “types” of victims and perpetrators.

Founder and leader of the Me Too movement, Tarana Burke, has made revealing comments in this respect about her treatment in the media. After the hashtag #MeToo went viral, Burke was (belatedly) acknowledged in the mainstream #MeToo narrative: “Like I just discovered something 12 years ago and in 2017 it suddenly gained value” (@TaranaBurke, 22 February, 2018). In fixing Burke at the moment of Me Too’s inception, this mainstream commentary repeatedly returned to Burke’s own experiences of victimisation. Continuum thinking (Boyle, 2019a) does not “fix” women’s identities in this way, but rather recognises that survival is a dynamic process (Kelly et al., 1996); that criminal trials and media coverage can themselves be revictimizing; and that victim/survivors exercise agency even in the most extreme circumstances. As Lisa commented:

as much as we’ve been through one of the most horrific things ever, there’s still a lot of life left in us. There’s still a lot we can do. If anything it makes us stronger because we’re more determined to fight through it. But we never get that side shown, it’s always “you’re broken” or “you’re depressed”, or you’re this or you’re that.

It is important to note that Kelly’s continuum is about seeing connections, *not* about establishing equivalences. Nor is it intended to suggest a hierarchy of seriousness. Without context, we have no way of knowing what the effects of actions have been. We know that the effects of rape *can* be devastating. We also know that women survive rape everyday, and that individual experiences are understood in relation to power, relationships, community and ability to access support and justice. At the same time, we know that the effects of a male boss placing a hand on the knee of a female subordinate can *also* be devastating: for that woman’s perception of her professional role, for her opportunities in the workplace, her sense of safety at work, and relationships with co-workers. This is not to say that these actions are equivalent, nor is to make any assumption about what the consequences for those committing the assault should be. This is a common – and popular - misconception of feminist thinking which has become difficult to shift in the post #MeToo era (Boyle, 2019b).

In the next section, we discuss how this played out in the reporting of Salmond's trial. We argue that this became a test case of the news media's – and the public's – ability to grapple with the continuum and exposed a number of limitations which arise from the media's emphasis on criminal trials in rape and sexual assault reporting.

(Ir)responsible reporting of sexual assault trials

Anticipating widespread media interest in the Salmond trial, in early 2020 Boyle and Jessie produced guidelines on responsible reporting of sexual assault trials to supplement Zero Tolerance's (2019) existing guidelines on responsible reporting of violence against women. Part of the reason we felt this was necessary is that things that feminists have identified as good practice in reporting (e.g. the use of experts, avoidance of victim-blaming language, use or avoidance of particular language) do not always easily translate to court-reporting. For instance: court reporters may be restricted in including expert commentary during a trial in case this is seen as prejudicial; victim-blaming language used by the defence may be key to reporting what happened in court on a given day; and, whilst we struggle with the connotations of the terms accused and complainer, we recognise that these are accurate in the context of Scottish criminal trials. Indeed, we wanted to ensure that our guidelines, whilst building on existing models (such as Waterhouse-Watson, 2019), applied these to a *Scottish* context, using appropriate terminology and reflecting the distinct legal system. We also wanted to make sure that our recommendations were realistic and achievable for journalists in court to follow – not least in what we knew would be extensive reporting of the Salmond trial - which is why they are at times more measured and equivocal than guidelines which take a broader approach. In the process, we consulted with both journalists and media lawyers. This meant, for instance, that we didn't make a blanket recommendation to avoid victim-blaming language but, instead, made a series of recommendations which we hoped would at least partially *mitigate* the effects of reporting on such language as it was used in court. These included: giving equal weight to prosecution and defence over the course of a trial; using comparable terms for the accused and those giving evidence against him; using comparable terms to describe the testimony of both sides (e.g. by avoiding using allegation and alleged in relation to only one side of the evidence); and making the provenance of statements clear, including in headlines. However, the very process of compiling these guidelines underlined to us the limitations of the emphasis on criminal justice in news

reporting of rape and sexual assault. Many of the things we – and the survivors in our focus group – *want* to see in the media are complicated in the context of reporting a criminal trial.

A feminist approach to responsible reporting is underpinned by an acknowledgement that there are always survivors in the audience and that, regardless of the verdict, news coverage can impact on survivors' support-seeking behaviour, wellbeing and willingness to report (Rosey Project, 2021). For this reason we advocate including helplines in news reporting (also Zero Tolerance, 2019). Movement on this has been slow and uneven. A study for Scottish Women's Aid found that helplines were included in 25.7% of news stories about domestic abuse in the Scottish press in 2020 (Duffy, 2021). However, where domestic abuse stories focused on criminal justice, this percentage dropped considerably. Given the dominance of criminal justice in reporting on rape and sexual assault, it might not be surprising that Strickland found that *even in articles which mentioned Rape Crisis Scotland*, only 11.3% included the helpline number. It is important to remember that RCS are mentioned in a very small proportion of all articles about rape: in the period of Strickland's study, a search for articles including the word "rape" in the Scottish media found 3843 articles – those mentioning RCS account for 6.4% of that total. This is consistent with other research highlighting the marginalisation of feminist advocacy organisations in mainstream reporting (Boyle, 2018a, 2018b, 2019b; Edwards et al, 2020).

The emphasis on criminal justice may partially explain the reluctance to address survivors in the news audience. We have anecdotal evidence of this from journalists who told us of their anxiety over including helpline information in reporting the Salmond trial in case this was seen as prejudicial. Although we do not accept that this would be prejudicial, in the face of this resistance it is worth thinking about how we can supplement mainstream reporting of criminal trials, particularly on social media. RCS can, for instance, disrupt the flow of victim-blaming news and commentary on their social media platforms by linking to helpline information (e.g. by retweeting or replying to news stories to address survivors in the audience, or using trending hashtags to insert this information into the wider flow); responding directly to problematic coverage; driving the news agenda by providing re/sources for journalists; or amplifying the voices of survivors (Edwards et al., 2020). That social media is a key news source for our focus group underlines the importance of this.

Of course, our experiences with social media are not uniformly positive: as Edwards, Philip and Gerrard (2020) argue in their study of Rape Crisis England and Wales, social media is a double-edged sword for feminist organisations. It is important to acknowledge the practical and emotional labour of managing these kinds of accounts in a wider digital sphere that is not itself feminist (Megarry, 2018), and where gendered, sexualised and racialised abuse is routine (Amnesty International, 2018). Additionally, social media can be fraught for complainers in criminal cases as individual commentators are less alert to – or compliant with – any restrictions governing mainstream reporting. This can lead to the threat of identification and means that no matter how responsible mainstream reporting is, the wider public discourse can still be characterised by the stereotypical and damaging constructions of crime, victim/survivors and perpetrators identified in existing research.

This points to the difficulty of what we will call *continuum reporting* in the trial context. On the one hand, the continuum provides a vital context for understanding the individual alleged crimes. On the other, the importance of securing a fair trial can make this conversation difficult, at least whilst legal proceedings are ongoing. We do not want to get into debates about the law here, rather we want to highlight that reporting on a criminal justice system which is still *incident* driven, can make an understanding of *experience* challenging. Defence-supportive explanations can fill this vacuum. For instance, in the Salmond case, Salmond's argument that the trial was the outcome of a politically-motivated conspiracy was widely reported and gained traction online. When there are – of legal necessity – lots of gaps in the trial narrative, these kinds of explanations have a narrative appeal.

Relatedly, there was also commentary (particularly online) on whether the alleged acts at the centre of the Salmond case *should* be interpreted as criminal. The Crown believed these acts met the threshold for criminality or a case would not have been brought. However, this abstract question (*should* this be criminal?) was arguably easier to report and debate publicly than the *concrete* question, was there sufficient evidence the accused had committed these acts? There were restrictions governing what could/not be said publicly about the contexts of the alleged assaults because of the risk of complainers being identified. This meant there were holes in the publicly reported evidence which caused confusion in the wider public debate around the case, feeding into discussion of the credibility of the complainers *as* victims. This mirrored the pattern our focus group participants were so critical of, where complainers were expected to prove not only that something had *happened*, but that – as a

result of those actions – they had become a “sad, broken, sorry” victim. If they hadn’t, then did what happened really matter?

There are also issues here about the visibility of the accused – particularly when he is already a public figure (like Salmond) – compared to the anonymity of complainers. Complainers in Scotland do *not* have a guarantee of anonymity: whilst this has largely been adopted as convention, it is not legally-enforceable unless it is made so in an individual case (RCS continue to campaign to change this: RCS, 2021). In the Salmond trial, Lady Dorrian *did* issue such a ruling, mandating that the identity of the complainers be withheld, and preventing publication of material likely to lead to their identification. During the trial, the major media organisations took a (to our knowledge unprecedented) shared approach to reporting precisely because of the potential for “jigsaw” identification in the case. Indeed, the BBC’s trial podcast featured legal director Rosalind McInnes in every episode, commenting on the process of reporting (what they could/not say and why) rather than necessarily on the case itself.^{vi} This caution – which we support and applaud – nevertheless meant that whilst Salmond was a fully-fleshed out figure, the women were featureless, making it more difficult to empathise with them in reports of the case. Clearly there is a tension here, which our focus group participants also identified. On the one hand, we – and they - were hungry for stories where victim/survivors appeared as more than caricatures; on the other, we – and they – want to protect the anonymity of complainers.

This tension cannot be resolved in reporting of individual criminal trials. In producing our guidelines, we wanted to offer concrete advice on how to handle the very different weight of publicly-reportable information about the accused and complainers typical in *all* sexual assault trials, albeit exacerbated in cases involving public figures. This is something other feminist media critics have grappled with (Oldfield & McDonald, 2021; Waterhouse-Watson, 2012), and we appreciate the difficulties journalists face in reporting responsibly whilst still producing readable copy. We suggest that journalists try to ensure equal weight is given to accused and complainer across the reporting of the trial as a whole and do not give details about one party which cannot be given about the other (Boyle and Jessie, 2020). But ultimately the *balance* we are looking for is more likely to be achieved if we focus on the media landscape *as a whole* and consider spaces where survivor stories *can* be told with humanising detail and complexity. Reflecting on coverage broadly (not specifically in the context of trials) Hannah argued:

they need to make both rapists and victims of rape or sexual assault more relatable, and I mean that from both sides and in an equal manner. If you're going to talk about his career, talk about her's. Yes, talk about what impact it's had on their lives, maybe they've had to rebuild it, but also show that they are a human being, because the way it is portrayed just now is they're a sad, sorry, broken person and now one wants to look at them.

In the context of trials, some of that detail *cannot* be given in case it leads to identification of the complainer. The way to tackle this, then, is to expand the *kinds* of stories told about rape and sexual assault in the news, but also in other media forms.

Other things our focus group participants were calling for are also tricky in the context of trial reporting. For instance, whilst they are technically correct that a not guilty and/or not proven verdict does not mean the accused has been declared innocent, news organisations are (rightly) restricted in how they can report on a verdict. We do not want reporting to cast doubt on an acquittal, but rather – throughout the reporting of trial and verdict – we urge that both accused *and* complainer are granted a presumption of innocence. As it stands, trial reporting too often asserts the presumption of the *accused's* innocence *at the expense of* the complainer, so that for him to be presumed innocent, she must be assumed to have lied (Waterhouse-Watson, 2012). This reinforces the sense that many complainers report that they are the ones who are actually on trial.

What this points to most strongly is the need for a *diversity* of stories about rape and sexual assault. Criminal proceedings often restrict what is possible and this is why it is important to decentre trial reporting as the primary mode of news about rape and sexual assault. This leads us onto the role of experience and expertise.

Constructing expertise

It is unsurprising that so many of the media requests RCS receive are from journalists wanting to speak with survivors about their own experiences in a way that they may not be able to during a trial. Of course, some women *want* to engage with the media to tell their own

stories, others do not, and for others there is restricted opportunity to do so, because there is no recognisable story frame for their experience.

However, whilst it is a cornerstone of RCS's work and our approach in this chapter to *listen to survivors*, what this means for media representation needs further scrutiny.

When RCS talk about listening to survivors this is both about listening to individuals (to ensure their support needs are met), and thinking about what these individual stories add up to tell us more generally. This first step is most associated – in an RCS context – with counselling and support work. The second step is what – in second-wave feminism – was called consciousness-raising, the principle of which is to see what is shared (as well as what is not) in order to build a structural analysis and so effect change (Boyle, 2019b). Not all survivors who contact RCS want to take this second step, nor are they ever required to do so. But for those who do – like the women in the SRG – processing the trauma they have experienced, and using those experiences to work for wider change, are linked but not synonymous.

In the post #MeToo era, there has been considerable pressure on survivors to speak publicly about abuse. For many survivors, there is value in doing so. Boyle (2019b: 31) summarises some of the positive aspects of speaking out online identified in existing research, these include: the importance of shared witnessing; the experience of “affective solidarity” (Mendes et al., 2019); advice seeking; engaging in awareness raising and education. Speaking out can allow survivors to reclaim power over their own narrative, particularly if they are able to exercise control over the conditions in which they speak out and if, in doing so, they become part of a wider survivor community.

Engaging with mainstream media can also be positive for survivors. However, becoming the news too often means their own narratives being taken from them. Organisations like RCS work with survivors to prepare them for speaking with the media when that is what they want to do. But the media's individualising tendencies remain. Participants in our focus group were consistently frustrated by media attempts to “fix” them in a victimised identity and deny their ongoing agency and activism. As Hannah put it:

I speak publicly because I want to be relatable as I truly believe it will aid the legal changes I advocate for and help gain support - that being said it's painfully difficult at times and truly the reason for that is the stigma attached. I don't blame anyone for the assumptions they have made about me because they have been subjected to the messages that I have been subjected to my entire life - if we are "unlucky" enough then essentially the rest of our lives are over and there's something wrong with us. I know that's not true - but I still feel the weight of it.

We are not the problem.

This is also why we have concerns about survivors being substituted for experts in media discourse. We fully recognise the expertise derived from experience. Our concern is what that is made to stand for. If "listen to survivors" becomes listen to *this* survivor, that substitutes *individual* experience for an understanding of issues that are structural. If the dominant public narrative around rape and sexual assault is about terrible things being done to individual women by atypical monsters, it encourages a kind of fatalism (how could we have known he would do this?) and dilutes the urgency of *systemic* change.

At the same time, there is an inherent danger in having one survivor speak *for* survivors, not least because of the unreasonable expectations this places on individuals and the ways in which this encourages detailed media scrutiny of their stories. This is something the SRG is acutely aware of. When individuals engage with the media they are guided by group agreement that they do not identify other members or their experiences, or attempt to speak "on behalf of" the SRG's 50+ membership. Survivors – like any other group – are not homogenous, nor do they necessarily share a common understanding or analysis of their experiences. A group like the SRG can work towards common understandings, but this is not something that is arrived at automatically.

To give a different example of the same problem, in tracing the use of the hashtag #HimToo during the hearings to confirm Brett Kavanaugh to the Supreme Court, Boyle and Rathnayake (2019) observed conservative survivors mobilising their individual experiences to argue that Christine Blasey Ford was not a "real" victim and that, by making her allegations against Kavanaugh she was harming "real" victims. The point we want to make is *not* that these commentators were wrong about their *own* experiences. Rather, we want to

acknowledge and value the importance of expertise derived from moving from individual experience to shared understanding, built on learning not only from our own experiences, but from listening to others. The importance of *listening* to achieving the transformative potential of speaking out is too often left out of the equation (Boyle, 2019b).

So, what does this mean for how survivor stories are used in the news?

Firstly, we urge journalists to think more carefully about the function survivors play in all kinds of news stories. We recognise that, from a journalist's point of view, survivors' most newsworthy personal experiences are those of victimisation. But if their news function is simply to tell these stories, in court or elsewhere, then they are discursively trapped in the "sad, sorry, broken" narrative the women in our focus group found so frustrating. Instead, we need to ask in what contexts can survivors be used as *experts* (e.g. commenting on law, policy, research findings or even a rape storyline in a soap or TV drama), whether their prior victimisation is essential to the story, and, if it is, how can this be rounded-out to ensure that victim/survivors appear as real, complex human beings.

Secondly, the assumption that public identification as a survivor (and a willingness to relive that experience publicly) is the only feminist contribution to news about rape and sexual assault needs to be challenged. There will always be survivors who disagree with a feminist analysis of rape and sexual assault. This should not be remarkable. Why should survivors be less diverse in their political views than any other population? Yet, in the aftermath of media reporting about #MeToo or #HimToo, it was difficult not to conclude that the very diversity of survivors' viewpoints became an excuse for *not* listening to survivors: it's just all too difficult, and they don't agree with each other anyway.

This is where the expertise of those working with survivors – who may themselves be survivors – can be drawn on. It is where we need Tarana Burke or RCS spokeswomen to be used as *experts*, not, simply to recount their own experiences or facilitate access to a survivor who will. As we have demonstrated, feminist organisations remain a marginal presence in news reporting and whilst the reluctance to use *any* experts in trial reporting (in case this be seen as prejudicial) is part of the problem, it is not the whole story. For instance, in her work on the Jimmy Savile sexual abuse case – in which there was no criminal trial as Savile, a long-standing BBC presenter, was dead by the time the allegations that he sexually abused

children and adult women for decades became news - Boyle pointed to the lack of engagement with feminist experts in both news (2018a) and documentary (2018b). Notably, there was less reluctance to engage with experts from the *children's* sector and this contributed to Savile's abuse of *adult* women being sidelined in media narratives. Indeed, Savile is now frequently referred to only as a paedophile.

Part of what is at stake seems to be a recasting of feminist expertise as personal *opinion*, and, where that is the case, a perceived need for "balance" results in the use of anti-feminist commentary. But this is a fundamentally *unbalanced* process, whereby organisations and academics with decades of experience are pitted against men's rights activists with no such expertise. There would be no suggestion that a representative from Childline or Barnardo's should have to share a stage with someone defending child abuse. Yet, when it comes to news about the rape and sexual assault of adult women, the adversarial model routinely wins out.

To argue that individual survivors are not necessarily experts in the broader sense we have defined here is *not* to be dismissive of their experience or expertise, but rather to demand that we reflect on why we should *assume* that survivors are always and necessarily the ones who should bear the brunt of the work to end male sexual violence. Not every survivor is in a position to take on wider campaigning roles which might impact on their own wellbeing and safety. We need to be able to have conversations about rape and sexual assault – including in the media - without endlessly requiring individual survivors to retell their personal traumas. There are already many accounts publicly available. We do not need any more to know there is a problem.

Conclusion

In this chapter, we have reviewed the persistent problems with news reporting on rape and sexual assault, paying particular attention to the emphasis on criminal justice. As well as providing a distorted sense of how many cases ever make it to court, the adversarial frame – and the lack of attention to (typically anonymous) victim/survivors - places considerable limits on the kinds of stories that can be told. There is a disconnect, then, between the continuum thinking which characterises feminist analyses and the possibility of continuum reporting which is – by definition – antithetical to the news agenda. Cases involving public

figures *can* make news of everyday behaviours, but the combination of celebrity, the emphasis on the adversarial, and the reluctance to make use of feminist expertise remain serious limitations in this kind of reporting.

Whilst we have argued that it is possible to mitigate some of the limitations we have identified in this chapter – both through producing more responsible reporting and by using social media to reorient the wider discourse within which news is embedded – our conclusion is that we need to decentre criminal justice in representing rape and sexual assault. This not only presents a challenge for journalists but also requires that organisations like RCS reflect on our own communications strategies. There is a danger that we become driven by reactive cycles of responding to the narrowly-defined range of stories already deemed newsworthy, but the continued underfunding of the sector can make a longer-term, strategic approach to communications difficult (also Edwards et al, 2020). We need to change the terms of media representation and public debate and whilst the voices of survivors must always be central to feminist stories about rape and sexual assault it is also vital that we reflect on the weight these stories are made to carry and work with journalists – as well as with those in other media sectors - to produce more diverse accounts.

Acknowledgements

Our thanks to Lisa, Cerys, Hannah and Emma for generously sharing their experiences and expertise.

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ⁱ The MSc Applied Gender Studies provides students with the opportunity to take on a research project for an external organisation. In Autumn 2020, Strickland took on a project for Rape Crisis Scotland – designed and supervised by Boyle and Jessie – which investigated how RCS was represented in Scottish print news. The findings of this research were written up in a report for internal use within Rape Crisis Scotland (Strickland, 2020), but this chapter is the first time they have been shared publicly.

ⁱⁱ Under Scots law, there is a legal requirement for “corroboration” which means that only very specific types of evidence are admissible for the purposes of a criminal prosecution. As Speak Out Survivors – a campaigning group of survivors of childhood sexual abuse – note: “The technical requirements of corroboration are difficult to meet in most cases and this prevents a significant proportion of rapes and other serious sexual offences from every being prosecuted.” Speak Out Survivors’ website also includes a short film about corroboration which explains the process clearly (<https://speakoutsurvivors.co.uk/>).

ⁱⁱⁱ Uniquely, Scotland has three verdicts: guilty; not guilty; and not proven. Not guilty and not proven are both acquittals, with no consequences for the accused. RCS are campaigning against the not proven verdict: “There is some evidence that juries can be reluctant to convict in rape cases, and that preconceived notions of how someone should react to rape may impact on their decision making. There are real worries that the existence of the not proven verdict gives juries in rape trials an easy out and contributes to guilty people walking free.” (RCS, n.d.)

^{iv} SRG members were contacted via email and invited to participate in the group: four women came forward, all of whom were known to each other through the SRG. All participants were sent detailed information about the project in advance, including groundrules and a list of the areas to be discussed, and chose a name to be used in this article. The focus group was conducted on zoom and video recorded. All individually-attributed quotations in this chapter were sent to participants for approval.

^v Specific cases mentioned were: the trial of the man who murdered Grace Millane; the Belfast rugby rape case; the killing of Reeva Steencamp by Oscar Pistorious; the Harvey Weinstein case; Brock Turner’s conviction for raping Chanel Miller; the rape and indecent assault trial of actor William Roache; and rape accusations against Kobe Bryant.

^{vi} *The Alex Salmond Trial* podcast can be accessed online: <https://www.bbc.co.uk/programmes/p0866k62>.