COURT ROOM

VICTIMS OF CRIME

*Construction,
Governance
and Policy*

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Palgrave Studies in Victims and Victimology

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In recent decades, a growing emphasis on meeting the needs and rights of victims of crime in criminal justice policy and practice has fuelled the development of research, theory, policy and practice outcomes stretching across the globe. This growth of interest in the victim of crime has seen victimology move from being a distinct subset of criminology in academia to a specialist area of study and research in its own right. *Palgrave Studies in Victims and Victimology* showcases the work of contemporary scholars of victimological research and publishes some of the highest-quality research in the field. The series reflects the range and depth of research and scholarship in this burgeoning area, combining contributions from both established scholars who have helped to shape the field and more recent entrants. It also reflects both the global nature of many of the issues surrounding justice for victims of crime and social harm and the international span of scholarship researching and writing about them.

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Dedicated to the memory of Joan Doreen Hall
1925–2015
Nan

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Constructing Victimhood in Culture and Law

In the early twenty-first century, criminal victimisation is everywhere. From high-definition videos of the latest terrorist atrocities beamed into our homes, our phones and our laptops by 24-hour news networks (BBC 2017) to the bite-size, personal, accounts from victims of crime, their families and their supporters appearing on our social media feeds. Under such conditions, members of the public can feel more personally connected with such instances of victimisation than at any time in recent history. Whether it be the collective outrage felt when terrorists strike at the "heart of our democracy" (ITV 2017) or a deep sense of personal empathy felt for the victims of historic sexual abuse coming forward to "tell their stories" (Alaggia 2004), the notion of "standing alongside" and showing "solidarity" with the directly victimised is becoming ubiquitous in modern society. Under such conditions, public consciousness has become flooded with concepts like "post-traumatic stress" and "trauma". At the same time, an increasingly informed public can engage like never before in detailed debates over how precisely such victims should be treated and what they should expect from the criminal justice process. In the flurry of such debates, opinions from members of the public on highly technical legal issues—such as the cross-examination of rape victims in court, compensation for victims of violent

crime and the nature of "consent" in sexual offences—are now routinely juxtaposed with those of agents of the state, prosecutors, lawyers, politicians and professional scholars.

As the above developments continue apace, governments of the day in almost all industrialised countries continue to reassure their electorates that a transformation *is* indeed occurring within their criminal justice systems (CJS) to better incorporate the needs and expectations of victims of crime (Wilson and Ross 2015). In the social context set out in the last paragraph, the expectations of the public at large (or at least that section of it in a position to voice their opinion) are as politically significant as those of the victims themselves. As such, public scrutiny of official practice, labelling and decision-making connected to particular forms of victimisation has never been greater. At the same time, an ever-more diverse array of officially mandated and less officially mandated actors and organisations are taking up the cause of crime victims. Responsibility for victims is thus increasingly spread widely across a range of organisations, individuals and sectors: sometimes many steps removed from direct government oversight. All of these actors and interest groups exert their own influence over the development of victim policy[1] and all feed into the broader society-level debate set out above.

Criminal justice systems are under increasing pressure in this environment to offer victims (and increasingly their supporters) more in terms of service and participation than has traditionally been possible as a matter of law or, for many, desirable as a matter of judicial or penal philosophy. The oft-repeated pledge espoused by many governments around the world for the last 20 years to "put victims at the heart of the criminal justice process" (see Hall 2009) has become something of a mantra in terms of its rhetorical standing whilst continuing to be a somewhat vague proposition in its application. Indeed, it has long been argued that such reforms that are made to criminal justice systems in the name of "victim care" can often be deconstructed and exposed as furthering very different aims and values (Elias 1986). Sometimes these alternative aims seem to correspond with overtly political objectives (Rock 2004). In other cases, such reforms have been argued to support punitive criminal justice philosophies (Dignan 2005). A further argument that is frequently put forward by critical

commentators is that reforms to assist victims have had less to do with the needs of victims *per se* and much more to do with neo-liberal market philosophies and cost-cutting in all criminal justice systems (Duggan and Heap 2014).

Academic commentators have approached the above broad-ranging developments from a number of angles. From a sociological perspective, Rock (1986, 1990, 1993, 1998, 2004) has highlighted in a number of discussions how victim issues have been combined with political priorities by the agents of the state. Both Doak (2003, 2005) and Hall (2010) have examined victim policy from a more legalistic perspective. In so doing, both authors have problematised the notion of "victim-centred criminal justice". Ashworth (2010) has examined victim reform from a right-based perspective and expressed marked concern for what he views as the eroding of defendants' rights in the guise of victim care. Elias (1983, 1986) argued that victims are used as tools of the powerful "to bolster state legitimacy, to gain political mileage, and to enhance social control" (p. 231). At a macro-social level, Garland (2001) branded victim policy as constituting part of a wider "culture of control" in which governments of many jurisdictions have reacted to falling confidence in the ability of their criminal justice systems to control crime by redefining its success criteria in terms of the efficient management of cases and the provision of minimum standards of service to victims.

A recent important addition to these debates has been made by Duggan and Heap (2014) who argue that victim policies in the UK have strongly reflected the commitment of successive governments to neo-liberal principles of individual autonomy, the marketisation of services and individual responsibilisation. Essentially, the authors argue, these polices are heavily influenced (indeed, driven) by economic imperatives and a right realist approach to expanding criminalisation and control. In addition, the case is made that austerity measures and the increased pertinence of social media have both served to catapult the victim still further into political consciousness. As the authors note:

> the examples outlined in the above section demonstrate how increases in the politicization and administration of victimization are set in the context of a seemingly disgruntled and cash-strapped UK, where behavioural tolerance is being constantly redefined. (p. 55)

In short, Duggan and Heap conclude:

> Current victim policy seeks to manage the victim experience in the CJS in line with the dominant political ideology underpinning current developments in criminal justice. (2014: p. 35)

The present volume will draw on all of the above perspectives, but it will also seek to build on them by bringing together three distinct areas of concern to modern victimology. Briefly put, these elements are: firstly, the "cultural turn" taking place over recent years in our understandings of what it means to be a victim of crime; secondly, the impact of widening governance mechanisms relating to victim policy and thirdly, the more legalistic issues which in practice often determine the place victims achieve in practice within a criminal justice system. The focus of this exercise will be the development and application of victim policy and law relating to the criminal justice system of England & Wales[2] since the formation of the 2010 Coalition Government of the United Kingdom[3] and covering the period up until the UK general election of June 2017. The aim will be to expose how a combined analysis of the three core issues set out above (and discussed in more detail in the following paragraphs) can provide a more complete and culturally nuanced picture of the present state of the so-called victims' movement in that country. Although the focus is on England & Wales, examples of similar processes and impacts will be drawn from around the world. The argument will thus be put forward that the cultural influences exposed in this domestic context can also be seen in other jurisdictions, and as such, the approach taken to the critical analysis in this volume can be applied much more widely. Before progressing further with this exercise, this chapter will first unpack the three core areas of concern introduced above at greater length.

In the first instance, this volume is rooted in the development of what has been called "cultural victimology". Cultural victimology represents a relatively new direction taken in the victimological literature over recent years in an attempt to incorporate a number of features of the modern social, political and cultural landscape which both surrounds and permeates the notion of being a "victim". These features include the increasingly visual nature of social life and the symbolic displays of shared

emotion that go along with this. In this context, the notion of "standing alongside" victims of crime becomes more prevalent. Victims of crime (and their supporters) in turn provide increasingly public accounts of the harm they suffer. Cultural victimologists are also interested in the means by which the victimisation experience is mapped through the workings of the criminal justice system. Through such a process, public narratives concerning these experiences are developed, some of which become features of a shared cultural understanding about what it means to be victimised. In short, cultural victimology foregrounds suffering, how it is presented to society and what sense that society then makes of it. This reaches beyond critical victimology approaches (to be discussed below) to place emphasis on the nature of victimisation *itself* in addition to the social standing of the person or group being victimised (Mythen and McGowan ([2017]).

Secondly, this book will assess the interaction between the more cultural understandings of victimhood outlined above and the ever-wider network of actors and organisations who now exert influence over the development of victim policy, whilst at the same time feeding into the cultural narratives discussed above. In so doing, the book will draw on aspects of governance theory to explore how responsibility for and influence over victim reform has developed in recent years to the point where much of this process now occurs at arm's length from government institutions. The book will examine the implications and the impact of these new governance arrangements, noting in particular that the resulting "policy network"[4] of influencing parties includes both those with officially mandated responsibilities for victims as well as other organisations including non-government organisations (NGOs), charities and, significantly as a matter of culture, the news media. This volume will explore the influence and impact of these actors on criminal justice reform as well as their role in facilitating or contributing to the development of new cultural narratives on the nature of victimisation and the justice process.

The third element of this discussion will combine these two areas with a more legalistic examination of the place victims have achieved within the criminal justice system. In particular, this volume will seek to expose some of the complications that exist when attempting to reconcile seemingly ever-expanding and culturally charged understandings of victimisation

with legal and procedural practicalities, especially within the still staunchly adversarial criminal justice system utilised in England & Wales. This third component is significant in that it exposes a fundamental tension between the more constructivist approach outlined by cultural victimologists and the more positivist understanding of crime, harm and victimisation usually favoured (some would say necessitated) by the legal system.

Combining these three areas, the principal goal of this volume is to expose how modern, *culturally driven* ideas concerning victims and their place in criminal justice are refracted through the lens of a policy process arguably now constituted much more by systems of *governance* rather than *government* into "black letter" legal reality and to critically assess the results from a more victim-centric perspective. Whilst all three of these elements (cultural victimology, victim governance and victims in law/criminal justice) have been separately dealt with by academics of more sociological (Rock 2004), political (Garland 2001) and legal (Ashworth 2000) bents, this will be the first volume to explicitly combine them and in effect examine the process end to end. In approaching this task, the work will combine a socio-political approach with legal analysis of recent victim provisions and their application by criminal justice actors, drawing also on examples of practices and commensurate developments from beyond the English and Welsh criminal justice system. In support of this analysis, a small number of qualitative interviews have also been conducted: two with serving homicide family liaison officers from a police force in the north of England, one with a Police and Crime Commissioner (PCC) serving in the north of England and one with that PCC's Chief Executive.

In the remainder of this first chapter, this volume will begin to examine modern understandings of what it means to be a "victim" and how such academic analysis might help explain the escalating politicisation of victims as the subject of public policy. It will also discuss how expanding notions of victimhood interact (and are often at tensions) with the legal and procedural constraints of the criminal justice system. Whilst most book-length work on victims of crime begin with some elaboration on what is meant by "victimisation" or "victim of crime", the goal here will be to offer an initial deconstruction of that discussion under the three key themes outlined above. As such, in the following section, this chapter will

look at various ways in which the fundamental "damage" caused to victims has been understood and quantified in the literature through successively equating this with "crime", "injury", "harm" and, most recently, with "trauma". The discussion will next move on to expand on the recent "cultural" turn witnessed in recent years in victimology. In so doing, the chapter will specifically emphasise an issue which has received less attention even in the cultural victimology literature: this being the *temporal* aspects of victimhood as it changes over time in terms of both private and public recognition. In its next section, the chapter will turn to explore a key outcome of the above cultural developments: the increased public scrutiny of what is classed as victimisation by the state, along with an increased tendency to question official pronouncements on who is and is not recognised as a "victim". In so doing, the chapter will also emphasise the interaction between cultural understandings of victimhood and the ever-escalating politicisation of victim issues and victim policy-making in the twenty-first century. The chapter will then turn to examine how these wider, culturally derived and heavily politicised notions of victimhood interact at present with the somewhat more restrictive world of criminal law and adversarial justice, which relies on clear-cut, simple and mainly positivistic definitions of victimhood. This section will draw a particular contrast between victims' apparent need to convey a developed "story", or *narrative*, versus strict evidential rules which seek to eliminate such dynamic components from their accounts. The chapter will end by posing some interim hypothesis to be tested throughout the remainder of the volume.

What Is a "Victim"? The Metric of "Damage"

Kearon and Godfrey (2007) once described the victim as a "fragmented actor" (p. 31). Indeed, a great deal has been written and debated on the different understandings of "victimhood" (Garland 2001; Jackson 2003; Rock 1998). In seeking to present a contemporary account of our understanding of victimhood, I do not intend to rehearse in great detail here all of this now well-travelled territory (for summaries see Maguire 1991; Kirchhoff 1994; Spalek 2006) but focus instead on assessing and

furthering some of the more contemporary aspects of these debates. Central to such discussions, both amongst academic victimologists and in public policy around the globe, has been a gradual evolution in the way we conceptualise the *damage* that is actually being done to victims of crime.

"Damage" here is used as a deliberately open-ended, umbrella term to encompass a number of sometimes overlapping ideas about what it is to be "victimised". In its early years, victimology as a sub-discipline tended to rely on predominantly positivist perspectives, assuming "victims" to be a relatively static based on official definitions, developed by law, applied by criminal justice systems and discovered through the use or largely quantitative data sets produced from official sources. Initially such data were drawn from police reporting statistics, supplemented after 1981 by the introduction of the British Crime Survey[5] (Miers 1997).

In the 1970s and 1980s, the emergence of so-called radical victimology attempted to challenge some of the impression given by these state-produced images of victimisation by drawing on more localised data collection and on qualitative data in an attempt to reflect the lived experiences of "real" victims (Mawby and Walklate 1994). These commentators argued that the above official data sources tended to underestimate the prevalence of victimisation in the home, especially levels of domestic violence and sexual violence, as well as victimisation of ethnic minorities. They also reinforced stereotypical notions that the "average" victim was young, male and poor. In critiquing the radical school, however, Mythen and McGowan (2017) note that this movement (sometimes called "realist" victimology) did not go far enough in representing much of the lived experience of victimisation and, in particular, failed to expose the fact that offenders and victims were often overlapping groups. This led in the 1990s to the development of what has come to be known as critical victimology. Critical victimology is particularly concerned with exposing how certain groups suffering harm become labelled as "victims of crime" (Mawby and Walklate 1994). To this end the critical approach is concerned with the structural factors and the power relationships within society that lead to *some* forms of victimisation gaining official and legal recognition. As with radical criminology before it (see Taylor et al. 2013), this approach requires victimologists to focus not just on the harms which

become officially labelled as "crimes", but also on those harms which do not.

Early work to this end by critical victimologists drew on the field of zemiology to speak not of crime but of "social harm" (Hillyard 2006). Focusing on "harm" rather than crime has, according to Hillyard and Toombs (2003), several distinct advantages. Hulsman (1986) notes that "crime" has no "ontological reality" separate from the legal instruments that define it and hence "the criminal law fails to capture the more damaging and pervasive forms of harm" (Hillyard and Toombs 2003: p. 12). I have previously argued (Hall 2009, 2010) that the conceptualisation of victims as those who have suffered harm (as opposed to a more technical, legal or prescriptive definition) has two key implications. Firstly, as an underlying principle, it gives scope for a wide cross-section of individuals, communities or organisations to be included within the ambit of victimhood, especially given the inclusion of "emotional suffering" within such definitions. Secondly, this understanding of victimhood to some extent allows victims to be self-defined.

It is clear that focusing on *harm* rather than *crime* also has the potential to include more legally ambiguous activities which foster victimisation such as tax avoidance, the distribution of "legal" highs or environmental crime. Indeed, even when such activities are criminal in the strict legal sense, focusing on harm allows us—in line with the critical critique—to account for such activities in cases where whatever mechanisms of justice which are available (at the national, transnational and international levels) *fail* to adequately recognise or prosecute such transgressions. Another salient point made by Hillyard and Toombs is that the social harms approach allows for the consideration of "mass harms". The concept of mass or group victimisation is still difficult for many justice systems to assimilate, recalling of course that most such systems around the world are still struggling to incorporate individual victims of traditional crimes, where matters such as causation are fairly clear-cut. Indeed, traditional criminology as a whole has struggled to fully embrace the concept of group victimisation and, with the exception of limited inroads into the fields of state crime and corporate crime, has largely remained focused on the individual. For similar reasons, the authors argue that the social harms approach poses a challenge to individualistic conceptions of crime

grounded around notions of risk (Giddens 1990). Below and in Chap. 6, we will explore how the notion of *group* victimisation is becoming even more pertinent with the advent of cultural victimology.

Reflecting this developing theoretical context, if we examine legal provisions across different jurisdictions, we can see that variations between legally adopted understandings of victimhood tend to centre around whether or not victimisation is expressly linked to criminal activities, whether such victims are defined as suffering "harm" or whether the more specific notion of "injury" is employed. Some countries also ground their definition of victimisation around breaches of human rights. In New Zealand, for example, victims of crime are defined in the Victims' Rights Act 2002 (s.4) and the Victims' Rights Amendments Act 2011 as "those suffering physical injury, or loss of, or damage to, property…as a result of criminal actions". This is a relatively restrictive definition and one based on "injury", narrowly defined. This can be compared to the definition employed the Canadian province of Québec where a victim is "a natural person who suffers physical or psychological injury or material loss by reason of a criminal offence committed in Québec, whether or not the perpetrator is identified, apprehended, prosecuted or convicted".[6] This definition is also based on injury, but the concept is clearly more widely construed to expressly include non-material losses. South Africa construes the victim as "a person who has suffered harm, including physical or mental injury, emotional suffering; economic loss; or substantial impairment of his or her fundamental rights, through acts or omissions that are in violation of our criminal law" (South African Department of Justice and Constitutional Development 2008: p. 23). Notably this definition employs the notion of "harm" as a wider concept than injury and also opens the understanding up to breaches of human rights. China also draws on a harm-based definition, although here the conception has been more restrictively confined to those who have "directly" suffered such harm as a result of a criminal act (Gu-An 2001).

Incorporating breaches of human rights into our understanding of victimisation dates back at least to the 1985 UN Declaration of basic principles of justice for victims of crime and abuse of power,[7] which expressly defined one category of victims as "persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional

suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights" (para.18). This wording was intended to cover victimisation by the state but has received markedly less attention than other aspects of the Declaration aimed at more "conventional" victims, either by academics or by policy-makers. This is despite the fact that most countries trace a great deal of the content of their victim policies back to the 1985 Declaration (see Rock 2004).

Some commentators have recently gone further than any of the above legal or critically inspired "harm-based" definitions to draw on the notion of "trauma" as the most appropriate quantum of damage to describe victimisation (see McGarry and Walklate 2015). Branches of this field, particularly apparent in the USA, have emphasised medical conceptions and explanations of trauma, most notably through the vast literature now developing on post-traumatic stress disorder (PTSD) amongst crime victims (Kunst 2014). Hence, as noted by Bryce et al. (2016)

> there are a significant number of victims of violent crime each year who, as a result of their experiences, are at risk of developing trauma symptoms (e.g., avoidance behaviours, negative moods), which can subsequently lead to problems such as substance abuse, poor emotional regulation, and increased risk of psychiatric disorders. (Davidson et al. 2010; Stimmel et al. 2014; Walsh et al. 2012)

In another recent contribution, Korkodeilou (2017) has examined the longer-term psycho-social effects associated with stalking victimisation.

At this point it appears that few jurisdictions have incorporated the concept of trauma explicitly within their legal provisions on victims, although many countries and international agreements arguably do reflect this notion of a wider trauma caused by crime through the inclusion of a broader array of victims who are less proximate to the direct criminal offence in question. In particular, these so-called indirect victims of crime have included the relatives and the community of more direct victims (see Rock 1998; Canter and Youngs 2016). To such ends, an expansion in the definition of victimhood, in terms of proximity to

crime, was a core component of EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.[8] The EU's previous 2001 Council Framework Decision on the standing of victims in criminal proceedings[9] had defined the victim as "a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State" (Article 1). The Directive expanded this to include "family members[10] of a person whose death was directly caused by a criminal offence and who have suffered harm as a result of that person's death" (Article 2(1)(a)(ii)). This in turn required the UK to reissue its Code of Practice for Victims of Crime to take account of this expansion.[11] Much of this volume will also consider reforms to victim policy which effectively recognise the trauma caused to victims by the criminal justice process itself.[12]

Victimisation as a Cultural Construct

The move towards an understanding of victimisation grounded in the "trauma" suffered by victims is arguably a component of a much wider development occurring in recent thinking about victims beyond the critical sphere and towards the more cultural approach outlined above. It has become increasingly clear that our understanding of "victimisation" is informed by a whole range of societal and political factors which extend well beyond whatever particular form of words appears in any given directive, code or legislative instrument concerning crime, crime victims or criminal justice systems (see Drake and Henley 2014). Recently, debates in victimology have thus reflected this more cultural tone. At the forefront of this development, McGarry and Walklate (2015) characterise cultural victimology as broadly comprising of two key aspects. These are the wider sharing and reflection of individual and collective victimisation experiences on the one hand and, on the other, the mapping of those experiences through the criminal justice process. I have previously drawn upon the work of Hans Boutellier (2000), whose discussion of victimisation and morality in a secular society to some degree foreshadowed this trend. Boutellier argued that, as the process of secularisation goes on,

common standards of morality decline but common appreciation and sympathy for the impacts on those who have suffered harmed remains and takes over as a shared moral barometer for society. In more recent parlance, we could say that such victimisation becomes incorporated into the fabric of our social culture. The author refers to this as the "victimalisation of morality". Furedi (1998) in pioneering aspects of the cultural approach made a similar point in terms of social solidarity with victims in the UK context:

> It is difficult to avoid the conclusion that, with British people feeling so fragmented, the ritual of grieving [for victims] provides one of the few experiences that create a sense of belonging. (p. 82)

Central to this cultural approach to victimisation is an understanding of victimhood as a dynamic and developing concept, both in terms of society's understanding of it and the individual (or group) victim's personal experience. It is this recognition that has driven victimologists to think in terms of "trauma" because trauma often develops over time and in directions many steps removed from the initial act (criminal or otherwise) that initiated the victimisation (see Formolo et al. 2016). Trauma can also be amplified or sustained by actors well beyond the specific criminal perpetrator in a given case. Secondary victimisation at the hands of the criminal justice system is a case in point, but so too is the ongoing treatment of victims by support services, local communities and the media. Significantly for the present discussion, if victimisation is now shared, defined and recognised as a matter of culture then recognition of "victim status" becomes subjected to the ever-shifting contours of the said culture. To illustrate this idea, we can look to the ongoing example from the UK of the Hillsborough football stadium disaster.

The Hillsborough disaster is the worst sporting-related tragedy in UK history (Scraton 1999). It followed a human crush in the overcrowded Western Stand (at the time a standing terrace) of the Hillsborough Football Stadium in Sheffield, England, during a 1989 Football Association Cup Semi-Final. Over 700 people were injured in the crush and 96 people—all supporters of the Liverpool Football Club—lost their lives. In the days following the disaster, accusations quickly arose from

those present, and then the families and supporters of those killed, that poor management of the situation by the presiding South Yorkshire Police Force had directly contributed, if not caused the tragedy (ibid). At the time, however, these concerns were played down in public discourse in favour of the police's version of events. This version included a number of accusations to the effect that the behaviour of the football supporters themselves had been the main contributor to the tragedy. These accusations against the supporters were most prominently taken up by the *The Sun* newspaper, which was then and remains now Britain's most read newspaper. Four days after the tragedy, *The Sun* ran with the front-page headline "The Truth" followed by the sub-headlines: "Some fans picked pockets of victims"; "Some fans urinated on the brave cops" and "Some fans beat up PC giving kiss of life". In the years that followed, those seeking to expose what they argued to be the gross negligence of the police and their vilification of the victims coalesced into a distinct movement— "Justice for the 96"—organised by the Hillsborough Family Support Group. This group championed the perspective of the families of those killed and injured through an independent inquest in 1991 (which returned a verdict of accidental killing), the subsequent quashing of this panel's findings and an attempted private prosecution of the Chief Constable of South Yorkshire Police in 1998 (BBC 1998). Ultimately, as a result of this unceasing campaign, a second inquest began hearing evidence in 2014, with a jury of nine delivering verdicts in April 2016 to the effect that the 96 supporters had been "unlawfully killed". This jury also found that the supporters themselves bore no blame for the disaster (Brennan 2017).

The Hillsborough case exemplifies a great deal about the contemporary cultural context of victimisation and victim policy. The story[13] of "the 96" and their families is one of *becoming* victims in the eyes of the establishment and the public at large. The process by which this occurred has been frequently described as a "journey" (see Barlow 2016) culminating in a public acknowledgement of this status by the Prime Minister after the 2016 verdict was announced. On this occasion, Prime Minister David Cameron commentated on the victims' "long search for the truth" (Prime Minister's Office 2016). The progression in the case from 1989 to 2016 is inherently interconnected with much wider social and cultural changes

from a position in the late 1980s where deference to authority and to the media's presentation of "facts", as well as basic trust in the police, was much more prevalent (as discussed by Garland 2001). Furthermore, in 1989 the largely working-class football supporters and their families had very little platform to air their own grievances. More broadly, the victimisation experience in this case took on a wider cultural component as the City of Liverpool *itself* was increasingly seen as being vilified—especially after *The Sun*'s headline—and its residents the collective victims of a still wider injustice. As noted by the Chair of the Hillsborough Supporters Group following the announcement of the 2016 inquest verdict:

> Let's be honest about this – people were against us. We had the media against us, as well as the establishment. Everything was against us. The only people that weren't against us was our own city. That's why I am so grateful to my city and so proud of my city. They always believed in us. (BBC 2016a: unpaginated)

The cultural narrative of a city beset as a collective victim is epitomised by the continued virtual boycott of *The Sun* newspaper in Liverpool (see Horrie and Chippindale 2013). This notion that victimisation is no longer an "individual" experience but in many cases transcended the direct (or even indirect) victims to include still larger groups within society is a key feature of victimology's cultural turn.

This development of cultural victimology challenges victimologists to reconsider some of our most entrenched assumptions about our subject matter. For example, few conceptualisations of victimisation and the relationship between victimisation, public policy and criminal justice reform have been more influential than that of Nils Christie's (1986) widely referenced discussion of "ideal victims". His argument was that some victims are endowed by the public and by policy-makers with "ideal" status making them "worthy" of public sympathy, accommodation and facilitation of their rights through reform. Cultural victimology however has problematised this basic understanding of who is and who is not regarded as a genuine victim by focusing increased attention on the process of *becoming* recognised as a victim rather than assuming this as a static concept. Hence, the early characterisations of those hurt and killed at

Hillsborough as "football hooligans" gave way over time to a far more sympathetic *public* acceptance—and then *official* acceptance—of their victimised status. Most of the 96 killed at Hillsborough were young,[14] able-bodied working-class men (BBC 2016b), some with criminal records (The Socialist Worker 2012). On the face of it, these are not the ideal, vulnerable victims of Christie's thought but rather have *become so* (or *recognised* as so) over a long period of cultural shift in the public's overall impression of the police, its deference to authority figures and to the media in general.

Another pertinent example of shifting public—and perhaps cultural—understanding of victimhood revolves around the sufferers of historic sexual abuse at the hands of clergy of the Catholic Church and other historic child sex abuse cases. In the UK context, McGarry and Walklate (2015) discuss the cultural relevance of revelations concerning noted television and radio celebrity Jimmy Savile that he was engaged in decades-long campaign of persistent sexual abuse against some 300 victims aged between 5 and 75 years old. Such revelations have forced a cultural confrontation in the UK with the victims of these crimes, so long dismissed by the authorities and organisations like the BBC and the National Health Service (see Mance 2016; Malnick and Brooks-Pollock 2014). Whereas the public narrative in this case was once one of "(possibly) dirty old men", "rascal" and "celebrity" (see Walz 2002; Fuerdi 2013), the public narrative is now one of "abuse", "exploitation" and "violence", as of course it has been for the victims all along. In both the Catholic Church cases and the Savile cases, victims were usually met with disbelief initially and have won recognition over decades only though a long-term campaign in the context of changing attitudes about religion and celebrity. Practically, the length of time since many of these events occurred has inevitably frustrated effort to now bring the perpetrators to justice: raising the key question of how such cultural, constructivist notions of victimhood interact with the more positivist criminal justice process.

For their part, McGarry and Walklate (2015) tie the increased recognition of "less ideal victims" back to the growing importance of "trauma" in victimological understandings and the recognition that even "non-ideal" victims who we would not ordinarily consider vulnerable can suffer from this. As an illustration, these authors draw on the story of Doug Beattie,

an English solider and decorated Afghanistan veteran who opened up about his personal and emotional struggles both during and after the conflict. More recently, families of UK soldiers killed in the second Iraq war threatened to mount legal action if the delayed "Chilcot Report"[15] of the independent inquiry into to the reasons the UK entered the war did not get an official publication date, arguing that their family members were "victims" of the conflict and, possibly, of deception by the UK government (Buchanan 2015). The key point is that as archetypal (often) masculine figures, soldiers usually lack the traditional characteristics of overt "weakness" attributed to ideal victims.

A telling aspect of these examples is not just how "victim status" or "ideal victim status" is ascribed but how they suggest a need to *acquire* this status not just through prolonged *trauma* but also through sustained *effort*. It is almost impossible to imagine that the 96 Hillsborough victims and their families would have received the recognition they now have (with the tangible possibility of "justice") without the consistent and organised efforts of the Hillsborough Family Support Group, not to mention a multitude of other supporters, lawyers, academics, investigators and so on. In the case of Doug Beattie, it was the *telling of his story* via the publication of his biography that "won" him recognition as having been "truly" victimised.

Gaining victim status is one thing, but keeping it in the modern cultural context is quite another. Further to the above points, cultural understandings and recognition of victimisation may often appear fickle. One key example of this can be drawn from the case of Kate and Gerry McCann who, over the course of the decade since the disappearance of their daughter Madeleine from a Portuguese holiday resort, have been painted both as villains and victims. Thus, in late 2007 articles began appearing branding the McCanns and their friends (whom the media labelled "the tapas seven") as "swingers" (Smit 2007). Accusations of inconsistencies in the McCanns' story developed into theories, without corroborating evidence, that Madeleine had died through some misadventure in the family's apartment and that the alleged "kidnapping" was a means of covering this up. The McCanns themselves were for a time given the status of *arguidos* (official suspects) by Portuguese investigators (Machado and Santos 2009).

Nevertheless, in the light of accusations which might have destroyed any sense of public, let alone official, goodwill to the couple, the McCanns have maintained a significant media presence throughout the period that has kept them, for the most part, on the sympathetic side of public/cultural discourse, securing intervention by Scotland Yard to the tune of a £10 million investigation (BBC 2015). Indeed, it has often been commentated that the McCanns have approached their situation in a way that is very media savvy, exploiting all the advantages of being middle class, articulate professionals (Jones 2012).[16] Interesting comparisons were initially drawn with the case of Shannon Matthews, a nine-year-old girl who disappeared from her home in Dewsbury, West Yorkshire, in February 2009, some two years after the McCann disappearance (Cotterill 2011). Media attention continued to be poured on the McCann case at the time, with relatively little attention paid to the Matthews case. The Matthews were a low-income working-class family who appeared far less capable of courting media attention. Notwithstanding the fact that, ultimately, it emerged Shannon's disappearance was orchestrated by her own mother and her boyfriend as a means of generating income thorough the publicity, the case still highlights that *winning* and *retaining* victim status for some requires both effort and social capital.[17] It is in itself very telling of the cultural status of such victimisation in twenty-first-century Britain that Matthews' mother and boyfriend reached the conclusion (no doubt inspired by the McCann case) that this would be a workable means of gaining finance.

As the above examples illustrate, it has become impossible to approach the question of how cultural attitudes to victimisation change and adapt over time without discussing media representations and, most significantly, the role that social media has exerted in this sphere. Whilst work on the portrayal of crime and criminal justice in the media has been pursued for a long time and by a range of scholars (see Birbeck 2014), the interactive and up-to-the-minute nature of so much of this media now increases its impact tenfold. So, at the time of writing—and in an exchange that might be described as "hyper-mediatisation" (Soukup 2013)—fresh accusations have been made against the McCanns by media (and mediatised) personality Sharon Osbourne to the effect that they had been "insane" to leave their daughter unsupervised whilst they went out to din-

ner at the resort where she was taken (Desborough et al. 2016). In this story, we see cultural overlaps between "real" victimisation and entertainment narratives. Of course, it is possible to become victims *of the media*. Here we might point to the recent example of one homicide survivor maintaining that she and her family have been "traumatised" (note the language) by a television dramatisation of the homicide in question (the murder of her mother) which was produced and broadcast despite staunch resistance from both her and her wider family (see Bradford 2016).[18]

It is not just the recognition of victimisation by the media or by the public in general that changes over time. In reality victims *themselves* may only come to recognise their own victimisation after a period of reflection, and in most cases their thoughts and ideas about that victimisation will develop as time goes on (Shapland and Hall 2007). Again, such development is part and parcel to modern understandings of "trauma" (Powell and Taylor 2017). Victimisation is therefore a dynamic process both *personally* as well as *publically* and *culturally*. Those studying victimology have themselves been slow to adapt their methodologies to incorporate this dynamic nature of victimisation. Indeed, Shapland and Hall's (2007) extensive review of what we know about the effects of crime on victims indicated a marked lack of victimisation studies which incorporated any longitudinal component. Such studies as did exist were for the most part very restricted in scale. Denkers and Winkel (1998) remains the only relatively recent, European, large-scale longitudinal study looking at a general population sample. It compared victims' and non-victims' reactions before an offence with their reactions two weeks after an offence, one month after and two months after, concentrating upon (subjectively judged) well-being and fear, the latter in the sense of "disintegration of the victim's sense of invulnerability" (p. 141). The authors found that victims of crime systematically reported lower levels of well-being than non-victims (less satisfied with life, less positive affect, perceiving the world as less benevolent and themselves as less worthy) and, to some extent, higher levels of feeling vulnerable to victimisation (being afraid of crime, people or situations; crime having a greater potential negative impact). Victims of violent crime reported themselves as more unhappy than victims of property crime, in general. So, after the offence, victims were more unhappy than non-victims, which is in accordance with the

previously discussed cross-sectional data. However, this longitudinal study found that victims were also more unhappy than non-victims before the offence happened.

In more recent years, further longitudinal studies have emerged, including that of van Wijk et al. (2017) on homicide survivors. Amongst other findings, this study indicated that:

> The main conclusion is that the co-victims really struggle to cope in the immediate aftermath of the crime, but that their problems generally improve after that. The sharp edges wear off, the grief recedes, but the feelings of loss grow. An important finding is that problems may resurface again at the time of the trial, probation and eventually, the release of the perpetrator. Cross-sectional research does not show a reoccurrence of problems. The longitudinal character of this study shows how important it is not to limit care for the victims and co-victims to the immediate aftermath of the crime, but to provide follow-up care for an extended period and to tailor the help and support. (p. 10)

As such, whilst it has often been argued that policy-makers in many jurisdictions have approached victim reform with little reference to evidence derived from victims themselves (see Hall 2010), it could be equally said that victimologists and other commentators have largely failed to provide a great body of evidence that truly reflects the dynamic nature of the victimisation experience.

Challenging Victimisation by the State and by the Criminal Justice System: The Official Labelling of Victims

This section will focus on two specific and related consequences of the enhanced cultural significance now attributed to some victims and victimisations set out above. These issues will in turn inform several of the arguments made out later in this volume. The first is the degree to which such cultural interaction and public debate has cast increased light on the victimisation of individuals and groups *by the state*, the organs of the state and (arguably) by the criminal justice process itself. The second concerns

the increased focus and public scrutiny now directed at official labelling of "victims" in general, and particularly in relation to such alleged victimisation by the state.

As a general proposition, state crime and state victimisation has remained under-researched by criminological and victimological scholars. Kauzlarich et al. (2001), for example, maintained that the harmful actions of states had fallen well behind the vanguard of even the critical criminological literature:

> The criminological study of immoral, illegal, and harmful state actions has not developed as fully as would have been expected from the explosion of research in the late 1980's to mid 1990's, which lifted the optimism about criminology's interest in understanding state malfeasance. (p. 173)

There is an irony in this given that, although the concept of state offending seems at odds with standard notions of crime as utilised by most criminal justice systems, as argued by Matthews and Kauzlarich (2007):

> The practice of states engaging in illegal and/or harmful behaviour is as old as the concept of the state itself. (p. 51).

Approaching the issue from a different direction, Kauzlarich et al. (2001) have attempted to develop a so-called victimology of the state. The authors' typology effectively groups "state crime" into four classifications. Firstly, "Domestic-International Governmental Crime" occurs within a state's geographic jurisdiction against international law or human rights. Secondly, "International-International Governmental Crime" occurs outside a state's geographic jurisdiction against international law or human rights. "Domestic-Domestic Governmental Crime" occurs within a state's geographic jurisdiction against domestic criminal, regulatory or procedural laws or codes and, finally, "International-Domestic Governmental Crime" occurs outside a state's geographic jurisdiction against domestic criminal, regulatory or procedural laws or codes.

Until the advent of cultural victimology, much of this work had remained somewhat abstract. In more recent years, however, debate surrounding figures like WikiLeaks founder Julian Assange (Greenberg 2012)

and former CIA employee Edward Snowden (Wu et al. 2015) demonstrate the public's greater propensity to question who is a criminal and who is a victim whilst also subjecting the state's role in any abuses, along with that of the criminal justice process itself, to greater scrutiny. In both the Assange and Snowden cases, official political and prosecutorial rhetoric from the USA, the UK and other jurisdictions consistently maintain the (alleged) criminal credentials of both men for their part in releasing classified intelligence information. For the public at large, however, Snowden in particular is to some a hero and to others a traitor (Qin 2015; Caster 2016). Officially however Snowden clearly falls in the latter camp, facing numerous charges under the US Espionage Act for revealing details of NSA surveillance operations. Notably, the previsions of the statute mean any trial faced by Snowden for the charges would be conducted in closed hearings, the prospect of which is itself seen by some as a case of victimisation by the state and the agents of the criminal justice process (Ellsberg 2014).

The phenomena of more readily questioning the official labelling of "criminal" by either the state or its justice system is not however limited to what might be classified as white-collar crime. Thus, when the formal mechanisms of justice in England & Wales initially convicted Premier League footballer Chedwyn Michael "Ched" Evans of raping a 19-year-old woman[19]—who was at that point deemed too drunk to consent—many supporters rallied to his defence (Dent 2015). Many more were quick to condemn a criminal justice process which granted victim status to the woman in question. Indeed, some of the public comments on the matter harked back to debates concerning victim precipitation/blaming (see Agate and Ledward 2013) whilst also questioning the legal status of "drunken" consent, which in the UK criminal law has been fairly clear since the case of *R* v *Bree*[20] in 2007. Some commentators saw a positive side to this in that, for them, the strong public reactions to the case reflected a criminal justice system that had become more willing to tackle "difficult" cases and also indicated that juries were now more willing to put aside victim-blaming attitudes and myths about rape (Smith 2015). Whatever the interpretation, it is clear that this case exemplifies how victim status is now caught up in social culture and, like the other examples discussed above, protracted through social media platforms. This final