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# RETHINKING THE COMPETING DISCOURSES ON UNCORROBERATED ALLEGATIONS OF CHILD SEXUAL ABUSE

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*This article shows that the competing discourses on uncorroborated allegations of child sexual abuse (UACSA) each rest on unreliable epistemic assumptions, meaning that in any given case it is uncertain whether the individual making the accusation is a genuine victim or the perpetrator of a false allegation against an innocent individual. It argues that this presents a fatal challenge to the existing fields of knowledge and practice on either side of the discursive divide in terms of how alleged victims in UACSA cases are conceptualised and measured and how they are acted upon. It concludes with a call for an open-minded approach which prioritises the pursuit of truth in investigations to try to ensure that criminal justice system interventions in such an inherently problematic area are just and that they do not cause or compound the forms of harm and injustice currently at play.*

Key words: Allegations of child sexual abuse; false allegations; discourse; victims; harm.

## *Introduction*

There is no doubting that child sexual abuse (CSA) is a most odious crime. Widely conceived as an abuse of power (see Baird, 2014; Rossetti, 1995: 684; Finkelhor, 1994: 33; Smith, 1986: 13), CSA is committed mostly by persons known to and trusted by victims, ‘occur[ing] where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity’ (HM Government, 2015: 93; see also, World Health Organisation, 2006: 10). The harmful effects of CSA are well documented to have long-term destructive effects on all aspects of victims’ lives, impacting on mental and physical health, as well as social, sexual and interpersonal functioning (Cashmore and Shackel, 2013: 2; also Paolucci et al, 2001; Brown et al, 1999).

At the same time, false allegations of CSA can also destroy lives, ruin careers and reputations and there can be permanent and on-going social stigma, psychological trauma and forms of

cultural and financial harm to direct victims and their families when the label 'child abuser' is falsely applied (see Gambaccini, 2015; Warr, 2017; Greene, 2011). Moreover, when such allegations are falsely made the 'no smoke without fire' discourse can conflate those who may be or are innocent with those who may be or are guilty (see Jones, 2011; Naughton and Tan, 2011: 70-71), which can be devastating for genuinely innocent victims and their families, as well as society as a whole in terms of the climate of suspicion and diminished trust that allegations of CSA can engender (Naughton, 2011: i).

An obvious evidential problem exists with uncorroborated allegations of CSA (UACSA) in that 'he said, she said' cases have no inherent ontological reality and only the parties involved have the potential to know whether the alleged CSA occurred or not. Moreover, the literature on false allegations of CSA details a variety of reasons why they are made against teachers (see Anderson, and Levine, 1999) or parents during child custody battles (see Kopetski et al, 2006; also Kuehnle and Connell, 2009; Coleman and Clancy, 1990; Green, 1986), for instance. This only adds to the existing general uncertainty about whether an individual alleging to be a victim of CSA without corroboration is, in fact, a victim or the perpetrator of a false allegation, and possibly a range of associated criminal offences,<sup>1</sup> against an innocent individual who is the real victim in such a scenario.

Despite this, the existing discourses on UACSA are highly polarised, falling into one of two broad camps. On the one hand, what may be termed 'Child Protection Discourse' (CPD) works on the rather simplistic basis that alleged victims of CSA are telling the truth. CPD sources include governmental (see, for example, Independent Inquiry into Child Sexual Abuse, 2016a; 2016b; Jay, 2014), third sector (see NSPCC, 2013; Roan, 2017; The Offside Trust, 2018), journalistic (see Hinsliff, 2018) and third sector and governmental collaborations (see Gray and Watt, 2013).

Alternatively, what may be termed 'False Allegations Discourse' (FAD) works on the basis that those who say that they are victims of false allegations of CSA must always be treated as though they might be innocent, particularly if they were accused but neither charged nor convicted in a criminal trial, or if they overturned a conviction for alleged CSA in an appeal court. In terms

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<sup>1</sup> Such as wasting police time, perjury, which carries a maximum custodial sentence of seven years and perverting the course of justice, for which a life sentence can be given.

of providers, FAD also derives from a diverse range of academic (see Burnett, 2017; 2016; Eady, 2017; Hoyle et al, 2015), legal practitioner (see George, 2017; Henriques, 2016; Hewson, 2016) and journalistic sources (see Pearson, 2017; Robins, 2016; Rowles, 2015).<sup>2</sup> However, third sector versions of FAD (see FACT, 2018; Unfounded, 2018) go further in continuing to support alleged victims of false allegations in UACSA cases who maintain innocence after conviction and/or after failing in an appeal but who are making or ‘planning’ to make an application to the Criminal Cases Review Commission (CCRC),<sup>3</sup> also working on the basis that they might be innocent.

Against this background, this article shows that the competing discourses on UACSA each rest on unreliable epistemic assumptions, meaning that in any given case it is uncertain whether the individual making the accusation is a genuine victim or the perpetrator of a false allegation against an innocent individual. It argues that this presents a fatal challenge to the existing fields of knowledge and practice on either side of the discursive divide in terms of how alleged victims in UACSA cases are conceptualised and measured, and how they are acted upon.

To these ends, the remainder of this article is structured into four parts. First, the CPD perspective is outlined with reference to some of its key forms of discourse and the profound reforms to police and prosecution practice that they have recently triggered. Second, an analysis of some of the main planks of the FAD critique of CPD is presented from the perspective of its own epistemological and counter discursive limitations. Third, the question of who the victim is in UACSA cases will be considered, highlighting the problematic status of the so-called forms of 'victimology' that the competing discourses construct in support of their positions and the fallacy that either CSA or false allegations of CSA can be quantified from uncorroborated allegations. Finally, why it is vital to know who the victim is in UACSA cases is analysed, critically highlighting the epistemic blind spots of the opposing discourses and how this links with the causation of a range of harms to genuine victims of CSA and innocent victims of false allegations alike.

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<sup>2</sup> It is acknowledged that the competing discourses considered here derive from overlapping sources (journalistic, legal, academic, governmental, third sector) but an analysis of those nuances will not feature here, which is, rather, concerned with the underpinning orientation of the discourses under consideration to either a CPD or FAD stance.

<sup>3</sup> The establishment of the CCRC means that the criminal appeals system is, effectively, never ending, as there is no limit to the number of applications that alleged victims of false allegations of CSA (or any other crime) can make to the CCRC in their attempts to challenge their alleged wrongful convictions (see Elks, 2008).

It is concluded that the intrinsic uncertainty of UACSA and the considerable forms of harm and injustice<sup>4</sup> that can be, and are, caused by taking one side over another based on the belief or disbelief of an UACSA signals the need for a rethink of existing ways of dealing with such allegations. Overall, there is a need for an open-minded approach that prioritises the pursuit of truth in investigations to try to ensure that criminal justice system interventions in such an inherently problematic area are just and that they do not cause or contribute to the forms of harm and injustice currently at play.

### *Child Protection Discourse*

The Jimmy Savile sexual abuse scandal will forever mark a defining moment in the history of CSA in the UK and for the monumental shot in the arm it provided to CPD.<sup>5</sup> A one-time ‘national treasure’ who was knighted for his charitable services, approximately 500 allegations of sexual abuse were posthumously made against the former television and radio personality a year after his death in 2012, the nature and sheer scale of which shocked the nation (see Halliday, 2014a). The joint report by the Metropolitan Police Service (MPS) and the National Society for the Prevention of Cruelty to Children (NSPCC) into the allegations of sexual abuse against Savile was uncompromising in its approach. Entitled ‘Giving Victims a Voice’, even though Savile was never formally charged or convicted for his alleged crimes, it was clear in its conviction that the alleged victims *were* victims who needed to be heard:

‘...the allegations that have been made...paint a compelling picture of widespread sexual abuse by a predatory sex offender. We are therefore referring to them as “victims” rather than “complainants” and are not presenting the evidence they have provided as unproven allegations (Gray and Watt, 2013: 4).

In the fallout, the spotlight shone widely on alleged sexual assaults carried out in schools, children's homes and at NHS sites, key Savile haunts (see Lampard and Marsden, 2015). The

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<sup>4</sup> The concepts of ‘justice’ and ‘injustice’ discussed here are relate, quite straightforwardly, to the truthfulness or otherwise of accusations of CSA: is the person accused in truth and fact guilty of the alleged offence, did they do it, and the injustice is to the alleged victim making the allegation or is the accuser making a false allegation of something that did not take place and the individual accused is the victim of injustice in the form of a false allegation?

<sup>5</sup> Indeed, the starting point for this analysis of CPD is the Jimmy Savile scandal, not because it is the first such large scale alleged CSA scandal but, rather, for the impact that it has had on British society, generally, and on significant reforms to police and prosecution practice, specifically (shown below).

subsequent investigations that followed in its wake by the Metropolitan Police under the auspices of Operation Yewtree strengthened the burgeoning CPD by obtaining several high-profile convictions for historical CSA crimes by other prominent public figures (see Campbell, 2016). These included those of the entertainer Rolf Harris (see Walker, 2014), former BBC Radio 1 DJ Dave Lee Travis (see Topping, 2014) and the publicist to the stars, Max Clifford<sup>6</sup> (see Halliday, 2014b).<sup>7</sup>

At the same time, other high profile and much published CSA cases over recent years have only added to the potency of CPD in the eyes of the public, as well as for criminal justice system policy makers. This includes prosecutions and convictions of gangs of men in Rotherham (see Jay, 2014), Rochdale (see Bunyan and Syal, 2013) and Oxford (see Laville, 2013) for grooming and sexual exploitation of vulnerable young girls, with the Rotherham case alone estimated to involve at least 1,400 (alleged) victims between 1997 and 2013 (Jay, 2014: 1). It also includes the case of Barry Bennell, the former youth football coach, who was convicted and sentenced to 30 years imprisonment in February 2018 for hundreds of sexual offences against junior players from Manchester City and Crewe Alexandra (see Taylor, 2018).

Another development in response to *Savile* and other CSA cases has been the so-called ‘*Savile Effect*’, which has seen the number of alleged rapes of adults (almost all women) and children (almost all girls) recorded by the police double in a four-year period from 2011/12 to 2015/16, which is attributed to more adult survivors of historic CSA ‘feeling empowered to come forward to tell the police’ (Dodd and Bengtsson, 2016).

New CPD initiatives have also emerged such as the setting up of The Offside Trust (TOT) in November 2016, which works alongside clubs, organisations and other charitable bodies to further enhance safeguarding for children at all levels of sport (The Offside Trust, 2018). Most crucial for this discussion is TOT’s mission statement, which shows clearly that all those making allegations will be regarded as *prima facie* victims whose stories will be believed:

‘If you are a victim or survivor of abuse: We will SUPPORT you. We will BELIEVE you. We will LISTEN to you. You will be taken seriously no

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<sup>6</sup> Who died on the 11 December 2017 (see Marshall, 2017).

<sup>7</sup> Although, all three continued to deny the allegations against them and maintain their innocence after they were convicted.

matter how recent or historic the abuse occurred. We are YOUR voice. We are the PUBLIC'S voice' (The Offside Trust, 2018).

In governmental response to *Savile* and amid still growing concerns about allegations of historic and contemporary CSA in British society, the government set up the Independent Inquiry into Child Sexual Abuse (IICSA) in 2014. Aiming to report in 2020, the IICSA will cast the net even wider to investigate allegations of CSA relating to local authorities, schools, religious organisations, the armed forces and public and private institutions, as well as high profile individuals in the public eye, including people in the media, politics, and other aspects of public life (for its full terms of reference, see Independent Inquiry into Child Sexual Abuse, 2016a: 6).<sup>8</sup>

As with the joint report by the MPS and NSPCC into the allegations against Savile, the IICSA will also construct its 'truth' of CSA on the basis that those who claim that they are victims of CSA *are* indeed victims. Although aiming to report in 2020, in 2016 the Inquiry produced an interim report on its methodology, with a second one planned for 2018. In practical terms, the Inquiry will collect testimonies from alleged victims of CSA either in interview or written form under the auspices of the 'Truth Project', which, the Inquiry says, will give (alleged) victims a voice to be listened to and lessons to be learnt from. The findings of the 'Truth Project' will inform the Inquiry's view of the nature and extent of (alleged) CSA in England and Wales and form the basis of recommendations for reform (see Independent Inquiry into Child Sexual Abuse, 2016a: 11).<sup>9</sup>

Despite this, and before the final report of the IICSA and any recommendations that might flow from it, major reforms have already been implemented in response to criticism of past failures by police and prosecutors to properly investigate allegations of CSA in the pre-Savile era and bring offenders to justice (see BBC News, 2017). This has seen a paradigm shift in police and prosecution responses to allegations of CSA. From a position of questioning the veracity of allegations as a safeguard to protect potentially innocent individuals from false allegations and

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<sup>8</sup> It would be remiss not to acknowledge here that the IICSA has been dogged with controversy since its creation, including the withdrawal of three previous chairs and senior legal advisors (see Press Association, 2017; Laville, 2016).

<sup>9</sup> In December 2016, the first anonymised summaries of experiences from those who testified to the 'Truth Project' were published (see Independent Inquiry into Child Sexual Abuse, 2016b).

wrongful conviction, the default position now is to believe alleged victims; to see complainants as victims at the point of complaint, unless there is compelling evidence to the contrary.

As this relates, specifically, to police practice, the College of Policing, the body which sets standards and guidance for police in England and Wales, recently emphasised that:

‘...when an allegation is received, police should believe this account and record it as a crime’  
(College of Policing, 2016; see also BBC News, 2016).<sup>10</sup>

Similarly, prosecutors are now mandated under the terms of the new ‘Guidelines on Prosecuting Cases of Child Sexual Abuse’ issued in 2013 (and revised in 2017) to work on the basis that those making allegations *are* victims, with prosecutors instructed to ‘guard against looking for “corroboration” of the victim’s account or using the lack of “corroboration” as a reason not to proceed with a case’ (Crown Prosecution Service, 2017: paragraph 55).<sup>11</sup>

### *False Allegations Discourse*

These reforms have been met with fierce resistance by those of a FAD persuasion who see them as a fatal blow to the presumption of innocence, which is supposed to govern investigations into, and prosecutions of, alleged criminal offending. A central academic figure in the production of FAD is Ros Burnett who has produced several articles (Burnett, 2017; Burnett and Smith, 2017), an edited book (Burnett, 2016) and the first specific report on the harmful consequences of (alleged) false allegations of abuse with two colleagues at the University of Oxford (Hoyle et al, 2015). Symptomatic of this work is Burnett’s (2017) assertion that ‘it is too easy for innocent people to be wrongly accused of sexual abuse’ in the post-Savile criminal justice landscape, and that this makes the ‘handling of sexual abuse (particularly non-recent) prone to mistakes.’ Moreover for Burnett (2017), a criminal justice

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<sup>10</sup> It was reported in April 2018, however, that the College of Policing is conducting a review into the terminology ‘victim/complainant’ and believing victims at time of reporting (see College of Policing, 2018).

<sup>11</sup> There have also been significant changes in the courtroom since *Savile* under the terms of *R v Lubemba*, which diminishes the potential for defence barristers to cross examine alleged victims of sexual offences involving children or other vulnerable witnesses. Specifically, defence barristers are no longer allowed to put their case to a child or vulnerable witness in cross-examination, to pose any question that directly suggests such a witness is lying or to question a vulnerable witness on previous inconsistent statements (see also Wheatcroft et al, 2015).



system which lacks a requirement for physical evidence or corroboration to support allegations in order for alleged cases to be prosecuted, coupled with the relative ease for alleged victims of CSA to claim compensation, renders the innocent vulnerable to being wrongly accused and/or convicted (see also Hewson, 2016).

In a similar vein, Dennis Eady (2017), another prominent FAD voice from Cardiff Law School Innocence Project, argued recently that:

'...false allegations are happening, and in epidemic proportions', caused when 'some disturbed or damaged people make false accusations', whilst others 'are motivated to lie because of the chance of large sums of money...in...A compensation culture...that...has no regard for the many real victims it has created – those who are sent to prison on the flimsiest of uncorroborated 'evidence'.

Picking up on the notion of the potential scale of current alleged false allegations of CSA, Chris Saltrese (cited in Rowles, 2015), a solicitor who has specialised in alleged false allegation cases for almost 20 years, 'imagines' that there may have been 'several thousands' of wrongful convictions since Savile:

'Convictions for abuse cases are mainly based on one thing: oral testimony of the victim...In the absence of other supporting evidence like eyewitnesses or forensic evidence, it can be very difficult to get fresh evidence necessary for an appeal. Over the last 10 years, I imagine there have been several thousands of wrongful convictions. Since...Savile, it has gone off the scale.'

A major problem with the foregoing is that none of the FAD commentators cited provide any evidence, in the form of case studies or statistics, to support their claims. Such forms of counter discourse, then, are not merely epistemologically problematic, they are also discursively weak. Crucially, without such forms of evidence they are unlikely to disturb the existing CPD 'regimes of truth' (see Foucault, 1977: 30) in this area that sees victims where, in fact, there are only complainants, as they strive on behalf of alleged victims of false allegations of CSA who, themselves, may not be as innocent as they may claim (c.f. Naughton, 2007a: 108-114).

It seems pertinent to note here the links between leading FAD contributors from academia and the legal profession and third sector organisations that support convicted CSA offenders who

say that they are innocent when they may not be. Burnett, Eady<sup>12</sup> and Saltrese, for example, sit together on the Advisory Board of Falsely Accused Carers and Teachers (FACT), a prominent third sector support organisation for (alleged) victims of false allegations of CSA (see FACT, 2018).

Crucially, FACT works on the basis that alleged victims of false allegations *are* genuinely innocent as they offer support to (alleged) victims 'who conscientiously maintain they have been falsely accused' (FACT, 2018), with this reasoning applying equally to those accused but not charged or convicted, as well as to those convicted of CSA who continue to maintain their innocence even after failing to overturn their conviction on appeal (FACT, 2007). This may go some way to explaining the somewhat parochial perspective on allegations of CSA adopted by the prominent FAD voices cited who seem to be personally invested and committed to the ideology and politics of false allegations of CSA at the expense of a more detached and objective engagement.

Another notable FAD motif argues that there has been a 'moral panic' in response to *Savile* (see Cree, 2012; Cree et al, 2014; Jenkins, 2013). This relates to Stan Cohen's (1972) classic work on moral panics, which he defined as:

'A condition, episode, person [folk devil] or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media (Cohen, 1972: 9).

Drawing from this perspective, Cree (2012) argued that:

'In the case of Jimmy Savile, it is likely that some vulnerable people (children and those in care settings) were sexually assaulted. But it is less certain whether all those currently alleging abuse were, just as it is not clear yet whether he was at the centre of a paedophile ring involving a large number of other prominent figures.'

Also from a moral panic perspective, Cree et al (2014) correctly observed that:

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<sup>12</sup> Also founder of South Wales Liberty, which is now a support organisation for alleged victims of wrongful convictions under the auspices of South Wales Against Wrongful Convictions (SWAWC), and a member of Unfounded, the third sector 'alliance against unfounded allegations of abuse', mentioned above.

'...it is important to highlight that the Yewtree report, *Giving Victims a Voice*, is full of scare-mongering, exaggeration and elision, as allegations are presented as 'facts' and accusations become 'offences', held to be incontrovertibly true. Moral aspects are also to the fore.'

From this standpoint, and in the same way that Operation Yewtree 'successes' energised CPD, FAD has, too, attempted to draw discursive strength in a string of just as highly publicised 'failures' of Operation Yewtree, defined in terms of non-prosecution or acquittal at trial of alleged child sexual offenders. This includes the cases of comedians Freddie Starr and Jim Davidson (see Evans, 2015) and radio and television presenter Paul Gambaccini (see Gambaccini, 2015).

Additionally, other alleged CSA 'failures', in terms of accusations of CSA that have not resulted in charges or convictions have been embraced by FAD proponents in attempts to bolster the discourse still further. This includes the cases of Sir Cliff Richard (see Pendlebury and Wright, 2016), Nigel Evans, MP (see Tozer et al, 2014), former MPs Harvey Proctor (see Mendick, 2016a) and John Hemming (see Johnston, 2017), and Coronation Street actors William Roache (see Robinson, 2014) and Michael Le Vell (see Bunyan, 2013).

Missing in such analyses, however, is a more balanced and reflexive acknowledgment that subscribers to FAD display the same discursive tendencies as those of its adversary CPD camp. This is particularly so when dropped charges, acquittals at trial or quashed convictions are unproblematically embraced by proponents of FAD as evidence of exoneration or some kind of innocence status, as part of a crusade by its own proponents to induce a moral panic around (alleged) false allegations of CSA, as they compete with proponents of CPD for both moral supremacy and legal system superiority.

Indeed, such objectivity and reflexivity was precisely lacking in Hoyle et al (2015), which is the most significant study to date into the impacts of (alleged) false allegations of child abuse on teachers and carers who work or have worked in positions of trust with children or vulnerable adults.<sup>13</sup> Directly mirroring the MPS and NSPCC report on Savile, Hoyle et al's

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<sup>13</sup> Although not restricted to alleged CSA, Hoyle et al's (2015) study is relevant here as 23 of the 30 participants were accused of sexual abuse and 29 of the 30 participants were alleged to have abused children (see Hoyle et al, 2015: 25).

(2015) report was subtitled 'Victims' Voices', a muscular counter-discursive statement that their participants had an equal claim to *be* victims, on the following grounds:

'Both common law and the Human Rights Act assert the right to be considered innocent until proven guilty, and the present study is focused on those who are legally innocent. Either they have not been charged; or charged but not prosecuted; or they have been prosecuted but were acquitted by a judge or jury; or, in one of our cases, they were convicted but later had their conviction quashed by the Court of Appeal' (Hoyle et al 2015: 5-6).

It is, perhaps, not so surprising that Hoyle et al (2015) selected such a methodology in their research, however. As mentioned above, one of the three researchers, Ros Burnett, is on the Advisory Committee of the third sector organisation FACT, which also provided access to the research subjects and a grant towards it (Hoyle et al, 2015: 2). The exact reason for the choice of methodology is something that only Hoyle et al (2015) can clarify. What is certain, though, is that the methodology utilised was in full compliance with a FAD perspective. Indeed, it was entirely uncritical of the limitations of forms of knowledge based on legal decisions, as well as the workings of the criminal justice process, as a basis for conceptualising alleged forms of harms experienced by alleged victims of false allegations who may not, in fact, be innocent (see, for instance, Naughton 2008).

Moreover, by grounding their research on criminal justice system decisions, Hoyle et al (2015) effectively mirror CPD's stance of believing that alleged victims of CSA are genuine victims, albeit their belief of the 'legal innocence' of alleged victims of false allegations is a product of a belief in the validity of legal decisions. As such, it fails in the same way to produce either reliable or valid forms of epistemology on the harm to 'legally innocent' victims of false allegations who may not be factually innocent, particularly so in a system where factually guilty individuals (i.e. individuals who did what they are alleged to have done) are routinely not charged for their crimes, acquitted at trial or routinely have their convictions quashed on appeal on points of law and departures from due process (see, for instance, Naughton, 2013, 20-23 and 148-149; 2005; 2012).

Finally, Hoyle et al (2015) also totally side-stepped the inherent injustice at the heart of the statistics on alleged CSA. Although there has indeed been a doubling of allegations of CSA and rape in the wake of Savile (mentioned above), less than 1 in 10 of those allegations results

in a conviction.<sup>14</sup> And, as much as those of a FAD persuasion may want to interpret such low conviction rates as evidence of false allegations against innocent individuals, such an interpretation does not necessarily follow.

To be sure, the overall conviction rate in England and Wales is almost 85% for all other alleged crimes (Ministry of Justice, 2014), rendering the relatively low conviction rate in alleged CSA and rape cases (cases in which women and girls are overwhelmingly the alleged victims), a stark outlier to this general trend. Despite this, Hoyle et al's working assumption is that those who made the allegations of CSA against their 'legally innocent' research subjects, the overwhelming majority of whom were male (see Hoyle et al, 2015: 25), in truth made false allegations – that they were telling lies.

This highlights further methodological and political limitations of Hoyle et al's (2015) study in that it fails to problematise the apparent and widely accepted gender bias in how the criminal justice system works in this area against the interests of justice for genuine victims of CSA and rape (see Russell, 2016; Temkin et al, 2016; Hohl and Stanko, 2015; Gregory and Lees, 1996; Adler, 1987).

### *Who is the Victim in Uncorroborated Allegations of CSA?*

A critical question pertaining to UACSA relates to who the victim is: is it the individual making the allegation or the individual who is alleged to have committed CSA but who is innocent? The problem with the existing discourses on UACSA is that the epistemic assumptions that underpin the competing discourses mean that they are not constitutive of victimologies in the strict sense of that term at all. Indeed, a 'victim' in unambiguous terms is 'a person harmed, injured, or killed as a result of a crime, accident or other event or action' (Oxford English Dictionary, 2017). Crucially, then, the claimed 'victimologies' of CPD and FAD, alike, are epistemologically flawed in terms of the methodological choice that they make in constructing the forms of knowledge they offer in support of their discourses. Put simply, a true victimology cannot be based simply on a belief (CPD) or a legal decision (FAD). Rather, it is about whether

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<sup>14</sup> In numerical terms, the percentage of allegations resulting in conviction in 2015/16, for example, was reported as a mere 7.5%, or 2,689 convictions from 35,798 alleged rapes (Dodd and Bengtsson, 2016).

the person who is claiming to be harmed or injured, and so on, has, actually, been injured; is a genuine, truthful victim, which is not something that the existing forms of knowledge/discourse on allegations of CSA can prove.

In this light, the rival discourses on alleged CSA are better understood as competing forms of 'pseudo-victimology' - inventions that have weaponized the inherent uncertainty of UACSA for their competing discursive and programmatic ends. To be sure, there is just no way of knowing for certain in any given case that involves no evidence other than a complainant's allegation whether the alleged victims on either side of the CPD versus FAD divide are really victims at all.

The logical consequence of this is that a caveat must be applied to all existing forms of knowledge/discourse that relate either to alleged victims of CSA or to alleged victims of false allegations of CSA that rely solely on the uncorroborated testimony of the alleged victim. This includes the aforementioned references to research driven by CPD and FAD. As already shown, each is based on problematic epistemological foundations, which cannot be read as accurate or reliable indices of CSA or of false allegations of CSA in British society.

It follows, too, that competing empirical claims by CPD that CSA is rife (Bracchi, 2017; Churcher, 2012; House of Commons, 2011; Column Number 16) or by FAD that false allegations are at epidemic proportions (Eady, 2017; Gower, 2017; Campbell, 2016; Saltrese, cited in Rowles, 2015) must also, respectively, be seen as entirely discursive as well. As already indicated, there is just no way of knowing what the true scale of each phenomenon is in A said B said cases.

It is, perhaps, understandable, however, on a theoretical level, that each side may want to present its 'victims' as being as large in number as it can as a way of attempting to strengthen its discourse and gain support for its position and reform agenda. Indeed, if the number of genuine victims of CSA or false allegations of CSA was small, then the potential force of the rival discourses would, for sure, be relatively weak.

In this sense, CPD and FAD both appear to have an in-built discursive proclivity towards exaggerating the scale of the problem as part of their contest for discursive dominance. It may also stem from a confusion by both CPD and FAD combatants that takes a structural criminal

justice system bias, either against the probability of prosecution and/or conviction (if police officers work on the basis that false allegations are rife and that complainants tell lies) or towards prosecution and/or conviction (if police and prosecutors work on the basis that complainants *are* victims), as *prima facie* evidence of either high levels of CSA that are going unpunished or of false allegations of CSA that are causing innocent victims to be wrongful prosecuted and/or convicted.

The problem is that neither side can evidence such claims using the methodologies that currently underpin its discourse because the consequence of UACSA is that the scale of either social phenomenon is simply unknowable.

### *Why it is Vital to Know Who the Victim is in Allegations of CSA*

The question of who the victim is in allegations of CSA cases is not merely an academic exercise relating to the validity of the forms of knowledge which underpin the competing discourses. It is vital that victims can be appropriately identified so that justice can be directed at the appropriate offender, support provided to the appropriate victim and measures to combat and seek to reduce and/or prevent CSA and/or false allegations of CSA can be devised by criminal justice system law and policy makers. As things stand, however, it is not possible to state with any certainty who the victim is in alleged CSA cases where the only evidence is an accusation that is not corroborated, and which cannot be corroborated to a standard sufficient to make it a sound basis upon which to act one way or the other.

Despite this, CPD and FAD as currently constituted act in some sort of mutual symbiotic relationship as they, apparently, fail to appreciate the epistemic blind spots of their own discourses, yet clearly identify and feed off the epistemic blind spots of their opponent, which leaves them locked into a discursive battle from which they are unable to escape. In this battle, a form of cognitive dissonance<sup>15</sup> seems also to be at play, whereby evidence that might logically serve to undermine the efficacy of the competing discourses is either totally ignored by the

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<sup>15</sup> A situation where a person becomes psychologically stressed when confronted with internal inconsistency in terms of beliefs, ideas or values and so is motivated to reduce the cognitive dissonance by making changes to justify the stressful behaviour, either by adding new parts to the cognition causing the psychological dissonance, or by actively avoiding social situations and/or contradictory information likely to increase the strength of the cognitive dissonance (see Festinger, 1957).

combatants or explained in such a way that it results, not in diminishing the belief in the discourse to which they are committed, but rather to strengthen their belief in the validity of their discourse and the overall resolve of their stance. As this relates to CPD, there is a notable discursive silence on the reality of genuine false allegations of CSA. This amounts to a collective denial that not all alleged victims of CSA are truthful, which has the effect of providing further fuel for its competitor, FAD. As for FAD, it is similarly discursively mute on the reality that not all those claiming to be innocent victims of false allegations are truthful (see Naughton, 2007b; 2008), or tries to explain away the conviction of alleged victims of false allegations of CSA as a product of such things as a compensation culture (Burnett, 2017; Eady, 2017). If this is true (and it may be) it needs to be supported by hard evidence in the shape of a sufficiently large number of cases in which innocent individuals *were* subject to false allegations by individuals who were, categorically, attracted by the lure of compensation.

Perhaps most crucially, however, at its core each of the competing discourses on UACSA is fundamentally about harm prevention, either in terms of preventing harm to genuine victims of CSA or to genuine victims of false allegations of CSA. However, the way in which the discourses are constructed means that it is not possible to know whether alleged victims of CSA or false allegations of CSA are genuine victims who have been harmed or bogus 'victims' who are causing harm when they either make a false allegation of CSA or lie and say that a genuine victim of CSA is lying.

Moreover, the way that the discourses are constructed and operate means that CPD and FAD serve to inflict precisely the forms of discursive harm and violence upon one another that its opponent exists to counter. For ease, this can be represented as follows:

- CPD causes forms of discursive harm and violence to innocent victims of false allegations when it supports an alleged victim of CSA who is not genuine;
- CPD causes forms of discursive harm and violence to genuine victims of CSA when it lumps them together with alleged victims of CSA who are not telling the truth;<sup>16</sup>

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<sup>16</sup> Although it is acknowledged that even if beliefs are false, it does not necessarily make their holders intentional liars.



- FAD causes forms of discursive harm and violence to genuine victims of CSA when such allegations are questioned and disbelieved and it supports a child sexual abuser in a claim of innocence that is not genuine; and,
- FAD causes forms of discursive harm and violence to genuinely innocent victims of false allegations of CSA when it lumps them together with those claiming to be victims of false allegations who are not innocent.

Importantly, the harm caused by CPD and FAD as they battle for discursive control of how society thinks and feels about UACSA and what is done in response to them are not merely discursive. They have real, material, harmful consequences too. An example on the CPD side is Frances Andrade, whose husband claimed that she committed suicide the day after her alleged CSA offender, Michael Brewer, gave evidence at his trial saying that she was a liar and a 'fantasist', but who was later found guilty of five charges of indecent assault against her (see Walker, 2013). An example on the FAD side is Graham Smith, who also committed suicide which was claimed to be due to the alleged 'mental trauma' of being accused of historic CSA, even after a police investigation was alleged to have 'cleared him of any wrongdoing' (see Robinson, 2013).

The unknowable nature of both 'he said/she said' UACSA and the workings of the criminal justice system means that the truth in such cases, and just as crucially, the justice or injustice in such cases, may never truly be known.

### *Conclusion*

Forms of knowledge/discourse are not objective, neutral nor, indeed, innocent (Foucault, 1977; 1991). They shape public attitudes on such socially important and damaging issues as alleged CSA and alleged false allegations of CSA and what should be done in response. This applies, equally, to CPD and FAD opponents for whom the findings of their researches evaluated here seem to be predetermined by their allegiance to a CPD or FAD worldview, with the research a mere exercise in working towards that discourses programmatic ends.

As things stand, however, the general public is in limbo, not knowing if alleged victims of CSA in UACSA cases are genuine and harm and injustice was caused to a child by a genuine child sexual abuser or whether the alleged victim of CSA is untruthful and the harm and injustice is caused to an innocent individual. This impacts, too, on the families and wider communities of alleged victims on both sides, whose understandings are a product of the interplay between CPD and FAD discourses on UACSA, which are not only intellectually deceptive but cause psychological and emotional uncertainty as well. This can, and does, see families and communities at war when they believe that an innocent person accused of being a child sexual abuser *is* a child sexual abuser and when they believe that a genuine victim of CSA is not telling the truth.<sup>17</sup>

On a wider plane is the harm to society when legal and policy reforms follow FAD or CPD discourses. Whatever the 'hopes' of policy makers and legislators, good intentions alone and wanting to alleviate harm to genuine victims will not protect against inherently harmful courses of action when the alleged victim is not a victim at all but, rather, a victimiser. The responsibility for this must lie, also, with those engaged in the production of forms of knowledge/discourse which give support to and oxygenate the discursive exchanges between CPD and FAD proponents, with the 'winner' getting to determine whether reforms serve the programmatic goals of either CPD or FAD.

It is in this regard that this article seeks to contribute to a better understanding of the nature of the forms of knowledge/discourse that inform the existing debates about allegations of CSA and allegations of false allegations of CSA, as well as the prevailing ways of responding to the competing discourses that are constructed upon those allegations. Drawing attention to the forms of harm and injustice that are generated in the push and pull between CPD and FAD highlights the need for a rethink of the way that such allegations are currently dealt with. Indeed, criminal justice system interventions in such an inherently problematic area must always seek to be just and try to ensure that they do not cause or compound forms of harm and injustice where the task is to deliver justice through the remedy and/or prevention of such forms of harm.

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<sup>17</sup> For instance, the case of Darren Kelly who was stabbed to death by vigilante 'paedophile hunters' who thought he was a CSA offender, although no evidence that he was could be found (see Payton, 2016).

On a general level, this requires law and policy makers to be alive to the constructed nature of the forms of knowledge that underpin CPD and FAD discourses and proposed courses of action, their inherent biases and the discursive impetus underlying the chosen methodology. For laws and policies to be just they must be based on valid, representative and reliable forms of knowledge, which is not currently the case.

At a more fundamental level, there is an urgent need to move beyond the practice of adopting a predetermined stance to either believe (CPD) or disbelieve (FAD) allegations of CSA in favour of an open-minded approach to investigations and knowledge/discourse creation which prioritises the pursuit of truth as the only meaningful and legitimate route to justice. The statistical evidence shows, clearly, that FAD claims of the vulnerability of the innocent to false allegations and/or wrongful conviction and/or of an epidemic of false allegations due to changes in police and prosecution approaches to allegations of CSA are unfounded,<sup>18</sup> although this is not to say that genuine false allegations do not occur, and that genuine victims of CSA continue to be overwhelmingly failed by the criminal justice system, which is not to say that some alleged victims of CSA are not untruthful.

It is in this context that an alternative approach that might start to better balance the existing injustices and harms that are associated with UACSA and compounded by existing forms of CPD and FAD could be to adopt the kind of ‘interactional belief’ about allegations of CSA as proposed by Wheatcroft and Walklate (2014), although it would be extended here to recognise and include the harms and injustices to genuine victims of false allegations of CSA as well as to genuine victims of CSA. At first blush, the notion to work on any basis that complainants are truthful may look like it merely corresponds with a CPD perspective and the recent move by police and prosecutors to believe allegations of CSA at the point of the complaint. Yet, the interactional belief perspective offers an altogether different approach with radical implications for how the criminal justice system deals with allegations of CSA and rape.

Grounded in an extensive critique of how problematic stereotypes of false allegations and rape myths combine to shape the dominant discourses that govern everyday understandings of ‘true’ and ‘false’ regarding alleged sexual offences by, mainly, women and children, Wheatcroft and

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<sup>18</sup>. Indeed, the notion that over 90% of complainants are untruthful is simply untenable, more so in the context of the research that shows that the vast majority of alleged sexual offences go unreported (Brown, 2011).

Walklate (2014: 241-245) show how the criminal justice system also works within the same frames. In consequence, and as the data shows, a mere belief in allegations at the point of recording the alleged crime is insufficient on its own to overcome prevailing cultural attitudes and the methods of investigation in alleged CSA and rape cases, which prioritise the construction of legal evidence to fit the requirements for potential criminal proceedings. This can, and does, work to diminish, rather than enhance, the pursuit of truth about what really occurred in such allegations and can exacerbate the harm and injustice experienced by genuine victims of CSA and false allegations of CSA as well when offenders escape justice.

Crucially, then, an interactional belief perspective is about getting to the truth or otherwise of allegations, rather than seeking to build legal cases that might satisfy a criminal prosecution. It is not to be interpreted as a belief in an allegation *per se*. It is a provisional or guiding ‘belief’ as a standpoint from which to begin an investigation, whereby allegations are subjected to rigorous interrogation in the interests of more holistic avenues to truth. Overall, it is to guard against prematurely or too readily closing investigations into allegations, which can, and does, fail both genuine victims of CSA and genuine victims of false allegations of CSA, alike, when offenders and/or those who make false allegations escape justice.

It is in this sense that the interactional belief perspective can be interpreted as an approach that seeks justice through truth by recognising and seeking to overcome the realities of the existing harms and injustices of CSA and of false allegations of CSA to individuals, families and society as a whole, as well as the enduring limits and outright failures of the existing criminal justice system to deliver justice in this area. This need not be interpreted as a threat to the rights of an accused but, rather, as a means of enhancing such rights by trying to determine the truthfulness or otherwise of allegations and dispensing justice accordingly. This would, surely, represent a sea change in dealing with allegations of CSA. Yet, it would be a change which genuine victims of CSA and genuine victims of false allegations need not fear for the potential gains in terms of truth and justice that could be obtained.

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