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Lawyers' treatment of gang grooming victims prompts call for reform

Campaigners demand urgent shake-up of court procedure after seven barristers cross-examined a girl every day for three weeks in child-grooming case

Louise TickleThe Observer, Sunday 19 May 2013



A reconstruction scene in Channel 4's Dispatches about the grooming of girls by a gang. Photograph: True Vision

"I want to ask you once more why you are telling lies?" demands defence barrister Tayyab Khan. He is cross-examining a witness on her evidence relating to the multiple violent rapes she suffered at the instigation of a child-grooming gang operating in the West Midlands.

"No," she says. "I'm not telling lies." She breaks down, but the court transcript shows the barrister pressing the point. "You're a compulsive liar," he states. She's shouting and crying now. "Was you there? Was you there?" she asks.

"You're telling lies," Khan insists again. "No, I'm not, shut up, shut up!" she shouts.

She's clearly distressed, but this seems not to bother him as he continues with his line of questioning regardless.

Khan's client, Ahdel Ali, was convicted of crimes including the rape of a 13-year-old and multiple sexual offences with children as part of a three-year investigation called Operation Chalice – but not before the main victim in the trial, a girl called Abby, was aggressively cross-examined by seven barristers every day for three weeks. Each represented a different man charged with sexually exploiting her over two years, and all in turn had their go at testing not only her evidence relating to their client, but also calling into question her integrity, lifestyle and issues of consent. Seven men were eventually convicted as a result of Operation Chalice, one of the first cases dealing with grooming of the kind that last week saw the conviction of seven men in Oxford for preying on vulnerable girls.

Having watched their daughter crumble as she endured this concerted legal assault, Abby's parents are appalled. "She'd already gone through a horrific experience, and then had another horrific experience in court," says her mother. "For weeks they laid into her. You wouldn't put a hardened criminal through that, let alone a child."

Any rape victim facing a single defence barrister will find being cross-examined a painful experience. But the recent series of gang grooming trials has brought a disturbing problem into focus: when a group of abusers is charged together, each individual will have his own barrister. The Operation Chalice, or Telford, trial opened with 18.

The repeated attacks by each subsequent defence advocate on the victim's character then becomes an excruciating echo of the abuse and loss of control that the child has already suffered, points out documentary-maker Anna Hall. Her forthcoming *Dispatches: The Hunt for Britain's Sex Gangs* details the dilemmas facing detectives, who know that to prosecute such cases is to jeopardise seriously the future mental health of already vulnerable and damaged girls.

The notion that young victims who have been repeatedly gang-raped should be required to endure multiple aggressive interrogations in order to get justice is now being challenged by child sexual abuse campaigners.

Childline founder Esther Rantzen says there is an urgent need for change. "I believe that the overriding reason Jimmy Savile never had to face allegations in a court of law is that, even when somebody had the courage to go to the police, the Crown Prosecution Service thought it wouldn't have a chance of getting a conviction because the child would be so

horrified at being cross-examined like that, that they would either break down, or try to run away, or simply fail to convince the jury because they were so distressed," she says. "And that is the terrible decision that the CPS has to make again and again."

Rantzen suggests cross-examination of vulnerable complainants should be filmed before the trial and carried out by the judge, supplied with relevant questions by the defence. But what if more questions emerge later as a result of new information or additional arrests?

"The lord chief justice has gone on the record to say you just go back and ask further questions of the child," she says.

The Ministry of Justice is considering commissioning pilot projects to try out different methods of testing evidence in cases of child sexual abuse, but no funding decisions have yet been made.

Under section 28 of the Youth and Criminal Evidence Act 1999, which has never been brought into force, defence barristers are already permitted to conduct pre-recorded cross-examinations, though not, as Rantzen would like to see, the trial judge. Whoever does the cross-examination in advance of the trial, there may be drawbacks for prosecutions of dangerous perpetrators in removing a victim entirely from the court process as it unfolds, suggests barrister Hugh Davies QC, an expert in criminal law relating to child exploitation and sexual abuse.

"A wholly pre-recorded approach can feel less immediate to the jury, with the risk that they will relate less personally to the victim – it can feel too much like watching television, rather than absorbing the reality of a victim's account," he says. "The ultimate objective is that a true account is believed by the jury."

Defence counsel, Davies points out, are the only lawyers in a courtroom currently not obliged to be trained in crimes of child sexual abuse and how to conduct questioning. This, he believes, must not be allowed to continue, an opinion shared by the Advocacy Training Council in its 2011 report *Raising the Bar*, which recommends compulsory training and certification for barristers conducting cases involving vulnerable witnesses.

Ultimately, Davies believes, it is the legal culture itself that has to change. "The style and language that was apparently adopted by some defence counsel in the Telford trial appears difficult to justify," he says. "In future, I would not expect to see a single vulnerable witness being questioned for weeks by a series of barristers, each with the right to question as to matters of general credibility."

In the meantime, a recent realisation by police and the CPS that human trafficking legislation can secure convictions in gang grooming trials may soon make one distressing aspect of defence interrogations redundant altogether – the thorny issue of consent.

Under trafficking legislation used for the first time in the Telford case, Anna Hall explains that a child under 16, given trafficked status, cannot be held to have consented to their own exploitation. She says: "That means there is no point in a barrister raising a victim's sexual history to throw doubt on whether they consented to sexual activity which their client is charged on, and then the next barrister doing the same, and so on."

There's another advantage of this legislation being used to prosecute gang sexual abuse, points out trafficking expert Mike Hand. "In the case of the Chalice children, they were being moved around the police force area by the gang, and outside the area, in some cases, with the intention they would be sexually exploited. If you can show that, you can convict for trafficking. You don't need forensic, you don't need DNA. You don't need disclosures from children. It's a very simple piece of legislation."

A radical change of approach in the treatment of child sexual abuse victims in court can't come too soon for Abby's father, now helping his traumatised daughter attempt to rebuild her life.

"What I can't live with is destroying someone who's innocent of any crime and is a total victim who's had their childhood taken away from them, any decent start in life taken away from them," he says. "Ultimately, it's destroyed a family. It disgusts me. And the judicial system in that respect is wrong."

Some names have been changed

The Hunt for Britain's Sex Gangs will be screened on Thursday 23 May on Channel 4

- This article was amended on 19 May 2013. The original headline and standfirst incorrectly referred to the child sexual abuse ring in Oxford rather than Operation Chalice in Telford. This has been corrected.

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