

Legal Justice



Racial Justice

Social Justice

The Response of the Criminal Justice System to the Bradford Disturbances of July 2001

Executive Summary

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Executive Summary

The events in Bradford in July 2001 came after disturbances earlier in that year in a number of northern cities.

This report looks into the significant questions raised concerning the lengths of the resulting custodial sentences in Bradford, in comparison with disturbances at other times and places. This report does not examine the causes of the riot, or its handling by the police, or the charges and sentencing of particular individuals, or into the appeals procedure.

Concern with the riot sentencing is hardly surprising. In a society in tension it is not easy to be both fair and seen to be fair in the administration of legal, racial and social justice. Add to that a riot in which too many people performed actions which they themselves could only explain as 'moments of madness'. Add further that many sons were handed in by ashamed parents. There is little dispute that prison sentences were inevitable. But doubts start to arise when sentences of some of those pleading guilty seem to be substantial, compared with apparently similar actions in other incidents.

These issues are important because of the serious consequences of the disturbances for individuals and the community, and because of the potentially divisive effect of the controversy over justice.

The aim of the report is to contribute information and ideas to a dialogue on the issues raised by the sentencing.

Did the Punishment fit the Crime?

So did the degree of Bradford punishment fit the crime? Has the use of oft-quoted sentencing comparisons between Bradford and Belfast, Burnley, Brixton and elsewhere been useful or distorting? Is there an issue of racial justice of sentencing to be addressed? What is and is not a 'riot' in legal-speak? What about social justice as well as legal justice? And can restorative justice help the community and individuals? No one wants young people coming out of prison angrier towards society than when they went in.

Our report comes at a time when the legal process is virtually complete. It offers the

benefit of hindsight through a reflection on how society deals with major events. In another way, this report is a contribution to research on young people in society, which remains a relatively neglected topic.

Charging and Sentencing

Although it is the police who make arrests and the Crown Prosecution Service which decides the charges (in consultation with the police), sentencing is a matter for the judges alone, within the range of what the law says.

When, as in the Bradford situation, a large number of people are sentenced for similar types of offences, the first 'tariff-setting' sentence establishes a benchmark for later cases.

'Riot' word Confuses Comparisons

One conclusion of this report is that comparisons based on the one word – riot – confuse rather than clarify thinking. In Bradford, riot as declared in legal terms existed only on Saturday July 7th 2001 ('7/7/01'). Across Britain, differences exist regarding the declaration of a riot. Between Britain and Northern Ireland there are differences of riot law, which has also changed in Britain over the last two decades. Furthermore, there are significant differences around the world.

Public Order and the Law

The 1986 Public Order Act (POA), which applies in England and Wales, establishes four categories of offence:

- Section 1 Riot
- Section 2 Violent Disorder
- Section 3 Affray
- Section 4 'Threatening Behaviour'

These offences vary by:

- the significance of the collective factor;
- whether violence is committed or merely threatened;
- the numbers involved in disorder;

- the Court process to be followed;
- the severity of sentences.

Although the offences are scaled from the least serious (Threatening Behaviour) to the most serious (Riot), the overlap in their definitions provides the authorities with discretion in their charging decisions.

Public Disorder in Bradford 2001

Following the main events of July 7th 2001 in Manningham, some 256 people were charged, including 178 charged with Riot under Section 1 of the 1986 POA. Nearly all of these pleaded guilty, and 170 were convicted. Almost all of the prosecutions relied to a greater or lesser extent on video evidence.

Overall, 40% of those charged were unemployed and 62% had previous convictions or police cautions. All but two were male, of whom an estimated 90% were of Asian background. Their ages ranged from 13 to 46 in July 2001, and averaged 21 years old. 40% lived in the Manningham area close to the disturbances, and nearly all (97%) were from West Yorkshire.

The average sentence for the 110 imprisoned adult rioters was over 4 years (50.4 months), and for the 12 imprisoned juveniles a year and a half (19.9 months). 36 other young people were given Detention and Training Orders for Riot, averaging 15 months.

... and Elsewhere

The use of the riot designation elsewhere in the last three years has varied. Oldham was formally declared a riot, but Burnley and Leeds were not. Violent Disorder was the most serious charge arising from events on the Ravenscliffe Estate in Bradford on July 9th 2001. Riot charges were not brought for the 1995 disturbances in Bradford. No football-related disturbances in recent years have been declared riots, despite their acknowledged severity. And neither did the 'riots' in Cardiff, Oxford and Tyneside in the summer of 1991, give rise to Riot charges.

A similar point applies to the attacks on asylum seekers in 2003, even though the judge considered the situation had emulated 'the

worst scenes in Belfast 25 years ago', and to the 1980's disturbances in Brixton, Toxteth and elsewhere in the UK, which were also covered by a previous law.

No-one was charged with Riot in any of these cases, despite the fact that the legal definitions would have allowed such charges to be brought. This may be related to the character of the incidents, as well as the quality of the evidence, especially the poor technical quality of film evidence before the 'video era'.

Miners' supporters were charged with Riot in connection with Orgreave in 1984, and were later acquitted, largely because of poor and inconsistent police evidence.

The data from Northern Ireland indicates that relatively few people have been prosecuted for public order offences and sentences have been lower in recent years than for Bradford's 7/7/01, despite the fact that outbreaks of serious public disorder have been more frequent. Indeed, the Bradford sentences provoked calls in Northern Ireland for tougher sentences to be imposed on those convicted of public order offences, and this call was backed up by revisions to the legislation.

A review of the international scene finds that riot law and sentences are less harsh in Canada, Australia and even the US, despite the latter's explosive history of riots.

Comparative Justice

The report indicates some of the considerations that bear on the question of comparative justice, without aiming at definitive conclusions on every issue.

A starting-point for the analysis is that, since injustice might arise at numerous points in the criminal justice process, it is necessary to be clear where, precisely, an alleged injustice arises.

1. It seems unlikely that a case can be made that those convicted in connection with 7/7/01 suffered from basic failures of natural justice, or from direct racial discrimination at the level of individual cases.

2. There is little evidence that the Bradford defendants, mainly Asian, were given more severe sentences for the same public

order offences than defendants in similar cases from other ethnic or religious backgrounds.

3. The use of the Violent Disorder charge in the UK is broadly comparable in effect to the most serious public order offences available in comparable jurisdictions.

4. The use of the Riot charge was however exceptional. It is rarely used in the UK, and comparable jurisdictions do not have available a public order offence with such a high maximum penalty (10 years' imprisonment).

5. Concern has rightly centred on the sentences handed down for Riot to the adult defendants. These were up to three times longer than the custodial sentences received on average by either a) adults convicted of lesser offences or b) juveniles convicted of any public order offence (up to and including Riot).

6. There is considerable variation nevertheless in the sentencing of adults for Riot, from 200 hours Community Punishment to 9 years imprisonment. It has not been possible to determine whether mitigating and aggravating factors were taken into account consistently in individual cases. This may be a source of potential injustice.

7. As noted above, Riot charges have not been used in recent incidents of public disorder in England and Wales involving a scale or intensity of violence less than 7/7/01, but above the legal threshold for riot.

8. Some other incidents occurred prior to the 1986 Act with an equal or greater level of violence than 7/7/01, but the failure to prosecute for Riot may be explicable by evidential factors.

9. Riot charges were used in connection with Orgreave in 1984, and the acquittals are explicable by evidential factors that do not give rise to questions of comparative injustice.

10. The comparison with Northern Ireland may indicate that defendants there are treated too leniently, not necessarily that the Bradford defendants were treated too severely. A factor in the comparison may be the

naturalisation of violence in the N. Ireland situation.

11. The availability of high quality video surveillance techniques was vital to the criminal justice response to 7/7/01. But this only resulted in convictions because of the broad cooperation of the community affected – above all, from the Asian population in Bradford.

12. The use of video technology raises some subtle issues of comparative justice in relation to social deterrence, and the corresponding intentions of Parliament when the public order legislation was enacted.

13. The relationships between legal justice, racial justice and social justice raise complex issues regarding social power and the motivation for criminal action, concerning 'hate crime' for example. It is not therefore easy to see how the underlying principles could or should be applied more generally within the criminal justice process, in relation to 7/7/01 or other cases.

Two Issues for the Future

The report highlights two issues for the future:

1. Clarification is urgently required about the circumstances under which Riot charges are used, and the broader purposes for which they are used, given that the prosecuting authorities appear to be using a threshold level of disorder different from that laid down by law. In the absence of this clarification, doubts and allegation about injustice are bound to recur.

2. Restorative justice initiatives try to incorporate inputs from the community, the victim and the offender with the aim to better meet the needs – short and long term – of all three. Across the world, especially in New Zealand, initiatives are beginning to be developed for incorporating this approach into the handling of post-riot situations. This field deserves immediate attention.

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