

Perceptions of Racist Crime and Victimisation in Scotland

Ian Clarke and Susan Moody report on how the courts have responded to the introduction of racially aggravated offences to Scots Law

Section 33 of the *Crime and Disorder Act 1998* created two new offences in Scots law: racially aggravated harassment and racially aggravated conduct. The Scottish Executive Justice Department commissioned us to evaluate the impact of these new offences, and to explore the views on racist crime and victimisation of criminal justice professionals and representatives of minority ethnic communities. (In Scotland, in the 1991 census, 1.3% of the population — nearly 45,000 people — described themselves as other than 'white', of which the three largest nationalities were Pakistani, Chinese and Indian.) The research involved sending questionnaires to a sample of minority ethnic organisations, followed by four group interviews with a sample of questionnaire respondents. Depersonalised statistics from the Scottish Criminal Records Office (SCRO) on outcomes of court cases involving the new offences were analysed. Finally, case studies in each of the eight Scottish police force areas were conducted, involving the analysis of a sample of cases from court and prosecution records and interviews with police officers, senior prosecutors and sheriffs.

Key findings

The questionnaire responses showed that the most common type of racist incident that came to the attention of minority ethnic organisations involved verbal abuse and threats, with property damage and physical attacks reported much less often. One third of respondents said they heard about racist incidents 'frequently'; over half said this happened 'occasionally'. There was a perception amongst group interview participants that many racist incidents were committed by young people aged under 16, and that because of their age there was little that the statutory authorities could, or would, do to punish them.

It emerged from the questionnaires and the group interviews that much 'low-level' and persistent racist behaviour is not reported to the police. Numerous reasons were given for victims not reporting incidents, including fear of retaliation, the risk of making matters worse, and lack of trust in the statutory authorities. Some of those attending group interviews felt that the police, especially beat officers, neither took racist incidents seriously enough nor pursued them vigorously. The interviewees were concerned about delays and variability in police responses, though others had

seen some improvement in police service delivery.

Court proceedings were regarded as highly formal and intimidating, while the layout of most courts meant that witnesses could find themselves in close proximity to the accused and their families/friends while waiting to give evidence. Some participants suggested that many victims suffered further harassment while waiting for cases to come to court and believed that even custodial sentences would not necessarily prevent the continuation of racist behaviour by families and friends of offenders.

SCRO statistics showed that 450 cases involving the new offences were taken to court during 1999 and 2000, most (404) of which were against single accused. There were 480 people accused of racist offences, of whom 420 were male. They faced 536 statutory racist crime charges: 499 of racially aggravated conduct, 31 of racially aggravated harassment and six under the *Public Order Act 1986* (incitement to racial hatred); and 318 other common law and statutory offences, a third of which were assaults. The statistics were not, however, able to show how many racially aggravated common law charges such as assault or breach of the peace came to court. Three quarters (73%) of the accused were convicted of one or more racist offences, and the remainder were acquitted of all the racist offences they faced.

The SCRO statistics also showed that during 1999 and 2000, 45 cases involving racist crimes allegedly committed by young people aged between 9 and 16 were referred to children's hearings, and 161 such cases were referred to the Children's Reporter.

Discussion

The new offences were drawn quite widely to capture a range of different behaviours, but with the common element of a perpetrator evincing malice or ill-will towards someone from a different racial group. Whilst the representatives of minority ethnic organisations we spoke to saw racism predominantly in terms of the victimisation of visible ethnic minorities, the research found a few other examples, such as victims who were European, asylum seekers, or English. It was clear that the statutory authorities have used the new offences, and not just in areas with the highest minority ethnic populations: during 1999 and 2000 the new offences were prosecuted in 30 of Scotland's 49 sheriff courts (and many of the other courts are in rural or island communities with extremely small minority ethnic populations). In Scotland, less serious cases involving young people aged 16 and under are

usually referred to the Children's Reporter and, if necessary, then to children's panels instead of being prosecuted in the courts.

It is, of course, too early to say whether the use of these measures will deter offenders, but there are indications (from non-analogous previous convictions in the court records) that for some offenders, racist behaviour is only one element of a range of 'low-level' criminality for which they have been prosecuted. Some of these people clearly had chaotic lifestyles, characterised by alcohol and drug abuse, and racism was only one of their many problem behaviours.

Police statements showed that a minority of offenders had hotly disputed the charge of racism, citing their friendships with non-whites. A number of the sentencers we spoke to had distinguished between casual verbal insults uttered in the heat of an altercation, whether intentionally hurtful or not, which they regarded as mostly trivial, and language 'with a fascist tinge', which they were prepared to treat much more seriously. A few of the group interview participants did express fears of a 'white backlash' if the new offences were used in a disproportionate way.

Conclusion

From the perspective of those subjected to regular racist victimisation, though, these distinctions, while important, would probably carry little weight. For example, those who work late at night in takeaway food establishments may be subjected to racist verbal abuse, or worse, by a large transient customer population in varying stages of inebriation. Individual incidents may be unconnected, but undoubtedly have a cumulative and debilitating effect on victims. Likewise, shop owners subjected to repetitive harassment by local children may feel more threatened by the frequency and persistence of incidents than by their seriousness. While successful convictions may make some people think twice before being verbally abusive again, such behaviour seems to be deeply ingrained in others, and the absence of punitive sanctions against young people who commit such crimes seems to provide little incentive for victims to report them to the authorities.

The new offences alone are unlikely to put a stop to racist behaviour. What, then, can be done? Persistent racist offenders need to be identified by careful scrutiny of police reports and treated appropriately, though we do not claim expertise in how that should be handled. Perhaps a public anti-racism campaign might help to raise awareness about the impact of racist behaviour on victims, and we believe that work of that nature in schools is also crucially important if the culture of racist name-calling that seems to exist in some areas is to be successfully dislodged. Finally, those most

frequently victimised may require greater support from statutory agencies to enable them to participate effectively in the prosecution of those responsible.

Ian Clarke is a research fellow, Department of Law, University of Dundee; and has been seconded as Senior Research Officer to the Scottish Executive Central Research Unit.

Susan Moody was formerly a senior lecturer, Department of Law, University of Dundee, and is currently Director of the Victim Liaison Office of the Crown Office and Procurator Fiscal Service.

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