

How may race have been implicated in the Rochdale “grooming case”?

Emmanuel Melissaris explains that – from a legal standpoint – race is either completely irrelevant or not proven to have any relevance in the Rochdale case. However, it may be connected to it indirectly and this is what much of the surrounding debate has focused on. Dangerously, many are tempted to generalise and condemn whole communities and sadly this has been facilitated by the construction of the case in the press.



I do not want to take a stance as to whether and – if yes – how and to what extent race played a part in the so-called Rochdale grooming case in which a verdict was recently reached. Only the court was in position to do this. Neither will I attempt any hasty sociological arguments. What I want to do is frame and disaggregate some issues which tend to be conflated. In particular, I will distinguish between four separate questions. First, were the crimes of a “racial” nature, i.e. did the convicted offenders’ criminal responsibility depend to any extent on their attitude to people of other ethnic origins? Secondly, could race have had a bearing on sentencing? Thirdly, are there any sociological circumstances linked to ethnic background, which allowed the offenders, and may allow others, to form the attitude that they did towards their victims? Fourthly, did the “debate on race” cloud the judgment of agents in the criminal justice system handling the cases at its various stages?

The answer to the first question is a clear no; the second question was answered by the court in the negative. The remaining two are still open but they should be tackled in a level-headed manner, which does not confuse the issues or create dangerous distractions.

Race and Criminal Responsibility

As a general rule in English law motive is not salient to the wrongfulness of an act or the blameworthiness of a defendant. Having the requisite mindset (intention, knowledge, dishonesty etc.) when committing the act is sufficient for one to be held criminally responsible. To illustrate, if you kill someone, all that the law requires is that you intend to end that person’s life (or cause grievous bodily harm but let’s not get too technical). The law has no interest in the reasons that drove you to want that, say your desire to inherit from the victim.

Some circumstances may *condition* one’s intention. For instance, the defendant may have lost control because of actions or words of the victim or the defendant may believe he or she is acting in self-defence. When these conditions are met, the defendant’s criminal responsibility is accordingly qualified. However, such circumstances do not pertain to the defendant’s motivation but rather to the formation of the requisite mindset. It is one thing for D to intend to do x because by doing x D hoped or intended to also achieve y and another to say that D intended to do x because D’s judgment was clouded by a provocative act or in the belief that D was defending himself or herself.

There are, however, some statutory exceptions, the most notable of which has to do with race. The Crime and Disorder Act 1998 introduced a range of offences aggravated by the manifestation on the part of the defendant of racial or religious hostility. When one assaults or harasses others, causes criminal damage, or commits a series of public order offences motivated by or displaying racial hostility, one is held to have committed a more serious offence than simple assault, harassment and so forth. The introduction of such aggravated offences is, I think, correct. Criminal offences are a disapprobation of the violation of duties that we owe to each other as members of the same political community, as citizens. Offences motivated by racial or religious hatred are more than the failure to honour such duties; they manifest the rejection on the part of the defendant of the victim as a member of the political community to start with.

Should such aggravating circumstances be extended so as to cover a wider range of offences? I don't see why not. Sexual offences, for example, manifest a disregard for the sexual integrity of the victim. In light of the fact that it is predominantly women who are victims of sexual offences, such crimes are also meant to denounce the objectification and instrumentalisation of women by men. But the fact that this is the justificatory core of sexual offences does not mean that they cannot be considered *even* graver when they are accompanied by racial or religious hatred.

The offences, for which the men in the Rochdale case were convicted, are not part of the range of racially aggravated offences. Perhaps they should eventually become so as a matter of improving the law and this is a debate worth having but the offenders in *this* case could not have been prosecuted, tried and convicted on the basis of their attitude towards different ethnic backgrounds. So, in that limited sense, their crimes had nothing to do with race.

Race and sentencing

The law, however, allows for the differential *sentencing* for hate crimes, including racially motivated ones. This does not have to do with the conditions of responsibility of the defendant any longer but rather with the severity with which the criminal justice system will decide to treat the convicted offender within statutory boundaries. This flexibility allows for the differential treatment of offenders in a way that will reflect the different circumstances, in which they committed the offences. And it is applicable to all offences and not only the ones I highlighted earlier.

But again whether to impose a tougher sentence is not left to the whim of a court. There has to be sufficient evidence that the offence was racially aggravated. In the Rochdale case, it does not seem that there was any such proof. For example, according to Detective Chief Superintendent Mary Doyle of Greater Manchester Police: *"There is no evidence that they were targeted because they were white. They were targeted because they were there"*.

It is of course not unimaginable that the court got this wrong. But it is not for me to assess this here nor is it for anyone in the press or in political discourse. There are appropriate legal channels, through which such decisions may be appealed against.

Race and the circumstances of crime

So far, I have argued that from a legal standpoint, race is either completely irrelevant or not proven to have any relevance in the Rochdale case. However, it may be connected to it indirectly and this is what much of the debate surrounding the case has focused on.

It is said that there is a culture of disregard for women amongst members of some ethnic communities and, in particular, disregard for white women. This is not impossible in exactly the same way that it is not impossible that, for instance, the objectification of women in popular culture helps formulate the motivational disposition of those who commit sexual offences. Many consider the Rochdale case as predominantly about the exploitation of disempowered children and women (see Jane Martinson's [article in the Guardian](#)). This, I think, is correct but it does not preclude asking why these particular offenders were motivated to commit these particular offences against these particular victims. And, at the same time as trying to solve the former problem, we should also be trying to solve the latter.

Note that this is different to whether such an attitude could have been proven in court as manifested in the commission of the offences in a way that it would have had a bearing in sentencing. The question here is much broader. What is it that stops some citizens from respecting others irrespective of ethnic background, gender, religion etc.? And how can we create the right conditions so that respect for all members of the political community will take precedence in everyone's conscience over contingent interests or the sense of belonging in a community?

But we also have to be cautious. Many are tempted to generalise and condemn whole communities and this has been sadly facilitated by the construction of the case in the press. [Others](#) think that the solution is to replace one "cultural identity" with another. I am not able to develop this argument here but I believe that such views, which regard the issue in such terms, should be rejected not least because they

reproduce the problem rather than solving it. The issue is not to coerce everyone into subscribing to a moral code but to have a robust democratic and socially just political system, which will allow everyone to be motivated by their political duties to other citizens in spite of but not against their own moral convictions.

Race and the criminal justice system

I will only highlight this without saying much on it. There are reasons to believe that the fear of touching on the “race issue” may have influenced some agents’ actions, although it is more likely that it was the identity and status of the victims, which may account for the lax way that the case was handled. Either way, recent experience, with the Lawrence case still prominent, has taught us that institutional measures should be taken so as to relieve the criminal justice system on all levels from all such prejudices. And this should be done as a matter of urgency.

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.

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