Are there Theories at the Bottom of his Jargon?

Andrew Colman replies to Reicher, and defends his claim that the trials represent a legal breakthrough.

According to Reicher, the review reveals that "courts had long accepted that the [psychological] processes could in principle allow extenuation, only sometimes they questioned the application to a particular case". In support of this, Reicher slightly misquotes Foster to the effect that "no court has, to date, entirely rejected psychological evidence concerning collective violence". I happen by chance to have read this exceedingly obscure reference, so I know the context of the quotation. It turns out that Foster meant merely that no court had ruled the evidence inadmissible, not (as Reicher implies) that the courts had accepted psychological evidence as proof of extenuating circumstances. The full quotation is:

"No court has to date entirely rejected expert psychological evidence concerning collective violence. In all cases, with the possible exception of the Upington 26, the evidence itself and the status of the expert witnesses have been accepted. Instead, the evidence on crowd behaviour has been found, for one or other reason, not to apply to the particular accused in these cases. (p. 165, Foster's italics)"

Foster's (1990) review was not, in fact, accurate. What actually happened was as follows (for a fuller account see Colman, in press). In the late 1980s South Africa defence lawyers - Advocates David Soggot and Martin Lufting in particular - began to call social psychologists as expert witnesses in extenuation, but at first the experts relied exclusively on de-individuation. The cases of S. v. Sibisi and Others (1989) and S. v. Gambia and Others (1990), in which I testified, were the first in which a wide range of psychological processes, including not only de-individuation but also conformity, obedience to authority, group polarisation, frustration-aggression, relative deprivation, bystander apathy, the fundamental attribution error, and Latané's law of social impact, were put forward and accepted by the courts as evidence of extenuating circumstances. That is why those cases are historically significant.
Crowd psychology

Reicher alleges that my evidence "was clearly based on presenting collective action as irrational." He seems to think that I described the murders as both irrational and haphazard. He points out that in "both cases...the attacks were not haphazard. Rather, they constituted violence against those who, in aiding the enemy, were seen to put the category represented by the crowd under threat." It should be clear from my article that I agree with this. I and the other expert witnesses said something similar in our evidence, although we used simpler language. Reicher's well-worn criticisms of the irrational aspects of de-individuation theory may be justified, although experts on crowd psychology seem to ignore them, but whatever their merits they are clearly irrelevant to the other psychological processes I referred to. Understandably, the only psychological process that Reicher mentions in his reply is his favourite bugbear, de-individuation.

Reicher also attempts to me the contention that my testimony involved "the role of a scientific psychology in determining issues of responsibility". This shows a profound misunderstanding of the purpose of my evidence. I thought I had made it clear that I testified in the extenuation proceedings after the issues of responsibility had already been decided by the courts. I was not even present during the responsibility phase of either trial. Defence counsel made no attempt to argue that the psychological evidence had any relevance to the question of criminal responsibility. My evidence was intended solely to prove the existence of extenuating circumstances which helped to save several convicted men from the gallows.

References


McKenzie v. van der Merwe, 1917 SA 41 (AD).


The Logic of Psychology, not the Intentions of the Psychologist

Stephen Reicher clarifies his argument

It is that it rules out a defence which says "they didn't do it" because simply being in the crowd that did it is enough to ensure guilt. All one can do is question whether the defendants knew what was going on - whether they knew what the crowd was doing; whether they knew what they were doing themselves. Littlehings and Colman's criticisms only confirm the point: the logic of "common purpose" impels strategies which turn on issues of understanding and rationality. These are pre-eminently psychological questions and therefore pull psychology into the courtroom. My use of Foster's review - which I use because it is the only one I know to exist - was to demonstrate that this logical connection is also an empirical connection. Again, we could debate the finer points of Foster's analysis. We could also debate the precise meaning of his words (though I would defend my interpretation and certainly strongly reject the implication that I am using selective quotation in order to distort). However, what unquestionably shows is that there are a whole raft of cases in which psychological evidence concerning crowd action is accepted as relevant either in principle or in practice.

Having shown that the use of psychology relates to the use of common purpose, the second part of my argument is to suggest that the acceptance of the actual ideas may have to do with their broader ideological implications and to demonstrate what those implications are. In a nutshell, my argument is that to argue that crowd members are not in control of their actions may get individuals off the hook, but at the cost of discrediting crowd action in general. It does not just condemn those who hack strike-breakers to death as mindless; it suggests that all mass action is mindless. It is precisely because the theory has such a general sweep that it is so attractive to authorities in periods of collective unrest. In putting my case, I concentrate on deindividuation, not because it is any sort of personal bugbear. Rather it is the clearest and most longstanding expression of the notion that collective behaviour is inherently irrational. What is more, when the psychological evidence is discussed in the press, the notion that people may lose control and act barbarically is clearly to the fore.

I accept that the defence tried to portray the social backdrop to crowd behaviour. However, to say that they were concerned to challenge the brutalities of apartheid, that much emphasis was laid on these brutalities in their case, does not answer the argument that the psychologies they used undermined this task. Nor does it rebut the suggestion that the judge accepted the psychological evidence for precisely this reason.

Of course it is hard to disentangle the various factors which go into judicial decisions. However, if we go beyond the motives of individual judges, one central point remains. The arguments of the trial were public, not private. While the intentions of the defence are unimpeachable, to release notions of inherent "mob madness" into the public arena may well have unintended costs.

Ted Hughes refers to his poems as "my sad captains" which, once written, may travel to unsuspected destinations with unforeseen consequences. Our psychological arguments do likewise. The question is whether we can foresee their voyages and, if so, whether we should take responsibility for their outcome.