

## **GUNS, GANGS, DRUGS AND JUSTICE**

Peter Herbert, barrister and part-time judge in the second part of this article gives his views about the current wave of gun crimes that everyone in the country is talking about.

### **Race, Poverty and Crime**

The recent murders of black teenagers on the streets of London in recent days illustrates the fact that African Caribbean youngsters are the most likely victims of violent knife crime in the major cities. Contrary to the they were not involved in any delinquent behaviour but on the contrary had promising futures as young people who would have made a significant contribution to society. The cultural malaise which facilitates such killings whether by guns or knives is the responsibility of the whole of society. It is ironic indeed that in the week that there is the 200<sup>th</sup> anniversary of the abolition of slavery the descendants of that evil trade act out a brutality on each other which was for many centuries inflicted upon them.

The situation facing the African, Caribbean and Asian community is that after ten years of a Labour Government a real and deepening crisis which has not been the subject of effective campaigning by black and minority organisations and not been rigorously tackled by those organisations such as NACRO that previously highlighted these injustices. The Penal Affairs Consortium has however repeatedly called for alternatives to the increasing use of custody as a solution to crime but together with the Howard League for Penal Affairs, the recommendations of Her Majesties Inspector of Prisons and Liberty have mostly been largely ignored.

The 2003 Criminal Justice Act is the main culprit for a the dramatic increase in the prison population coupled with a judiciary and magistracy who, despite the best of intentions have not withstood the barrage of political invective against “soft judges” handing out lenient sentences backed by the right wing and tabloid media who sell newspapers on the spurious notion that simply filling our prison somehow makes the streets safer for decent citizens. The main statistics speak for themselves and are illustrative of the depth of the problem that we face as African, Caribbean and Asian

communities face the brunt of this reactionary response to a law enforcement agenda.

- **The average prison population of African, Caribbean prisoners has risen from 113% since 1994 to 2004; and by 75 % for Asian prisoners as compared to 34% for white prisoners. The highest groups rise has been for the “other group” being Chinese, Arab and people of mixed origin.**
- **Whilst only 3% of the population is African Caribbean origin some, 15% of the prison population is of that origin.**
- **The number of Black prisoners in 2003 was 7 times higher than for white people, while the rate for Asians was  $\frac{3}{4}$  that for the white people;<sup>1</sup>**
- **Young BME offenders were more likely to be remanded in custody, with less previous convictions than if they were white and more likely to be given detention; 12% were sentenced to custody as against only 6% of white offenders;**
- **The rate of people who offend within 2 years of release has risen from 51% in 1992 to 67.7% now that so crowded prisons do not work.**
- **The number of 15 to 17 year olds in prison has doubled in the last ten years,**
- **1 in 5 women in prison is a foreign national**
- **It costs over £40,000 per year to keep a person in prison and one new prison place costs £100,000.**
- **11% of prisoners in local prisons are recalled under breach of licence**
- **One third of all women in prison had no previous convictions (double the number than for men)**
- **Nearly 2/3 of women in prison have a drug problem and about 1/3 have been subject to sexual abuse.**
- **It is estimated that over 150,000 children have a parent in prison at any one time.**

In August 2003 as the Criminal Justice Act 2003 was on its way to the statute books the United Nations Committee for the Elimination of Racism received a report by a

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<sup>1</sup> Section 95 Criminal Justice Act 1991, Race and the Criminal Justice Act: An overview to the complete Statistics, 2003-4.

cross section of Non Governmental Organisations (NGO's) in the United Kingdom, highlighting the likely impact of the new legislation when it commented, that,

**“Ethnic Minorities are already disproportionally represented in the criminal justice system...If the bill becomes law without substantial amendment it will cause undue harm to Black communities.”**

The report also foretold the likely consequences of the implementation of the Anti-Social Behaviour Bill when it stated that,

**“When the bill becomes law it will effectively create a two tier policing. Socially disadvantaged areas will be subject to greater control. This is likely to cause resentment among ethnic minorities groups and create tensions between their communities and the police.”<sup>2</sup>**

The population figures used in this report were derived from the mid year 2004 population estimates produced by the Office for National Statistics and weighted using the 2001 Census. This showed the proportions of the population aged 10 years and over across England and Wales as 91.3% White; 2.8% Black; 4.7% Asian and 1.2% 'Other'. The Home Office publication states that, “When interpreting the data, it is worth noting that people from BME groups are often significantly disadvantaged in social and economic terms compared to the White population, although there is considerable variation between and within each ethnic group.” This` apparent recognition of the relevance between deprivation and ethnicity compounded by a persons individual circumstances is lost in the application of the mandatory minimum sentencing put forward by the Government (MMS).

For example, Chinese and Indian groups tend to suffer little or no economic disadvantage relative to White groups; Black Caribbean, Bangladeshi and Pakistani groups suffer a range of severe forms of disadvantage, as do Black African groups, albeit to a lesser degree. This disadvantage relates to factors such as employment, housing and education, factors that are in part predictive of offending behaviour and general involvement in the criminal justice process.

Unemployment rates for people from BME groups are generally higher than those from White ethnic groups. There are differences within the BME group in respect of

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<sup>2</sup> Joint submission by NGO's to the UN Committee for the Elimination of all forms of racial Discrimination (CERD) with regard to the UK Government's Sixteenth Periodic Review, August 2003.

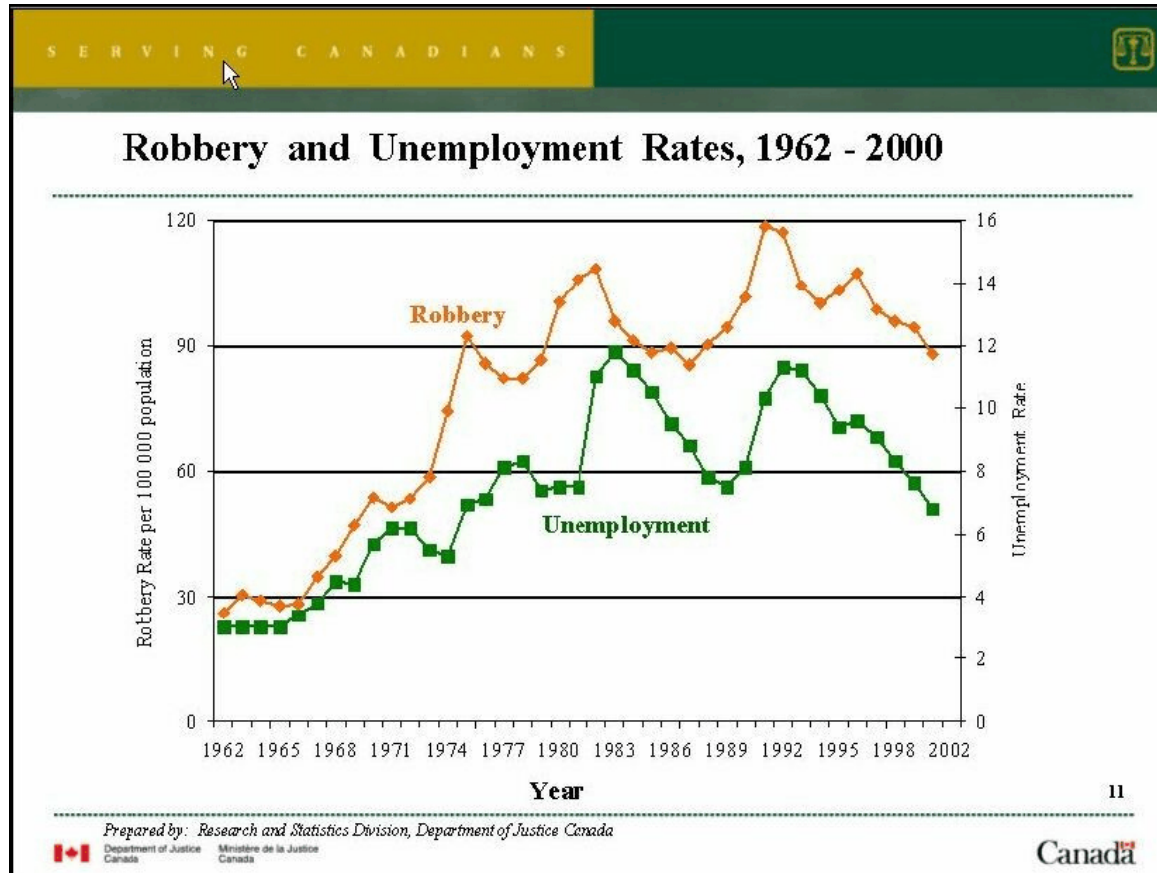
unemployment among the economically active; rates are high for Black Caribbean, Black African, Bangladeshi, Pakistani and Mixed groups and low for Indian and Chinese groups. People from BME groups are also more likely than White people to live in low-income households. Again, there is considerable variation among the different ethnic groups. Pakistanis and Bangladeshis are much more likely to be living on low incomes. In terms of education, Chinese pupils are most likely to achieve five or more GCSE grades A-C with Indian pupils achieving the next highest achievement levels. The lowest level of GCSE attainment is amongst Black Caribbean pupils, particularly boys. Black pupils are more likely to be excluded from schools than children from other ethnic groups. Some years ago the release by the Metropolitan Police of statistics showing that street robbery or mugging was disproportionately committed by young black boys who were more likely to have underachieved, to have been excluded from school with truancy as a backdrop was greeted with dismay at the way in which an ethnic group was singled out for targeting. The resultant guidelines that street robberies should result in a three year sentence of imprisonment followed shortly thereafter.

The present criminal justice population is a reflection in many ways of the racism that exists in wider society and a phenomenon that is distinct and separate from it. The number of Black and Minority Ethnic (BME) Prisoners is currently 25% whilst we constitute only 9% of the population in the United Kingdom, whilst we represent only 6% of those employed in prisons. The report into the murder of Zahid Mubarak in Feltham Young Offenders Institute illustrated the lethal combination of incarcerating large numbers of people, failing to tackle racism and the situation where prisons have become the dumping ground for the mentally ill who would be far more humanely and more safely treated elsewhere.

### **Drug Crime, Robbery and Deprivation; Capitalism in the Ghetto?**

It could be observed that many drug dealers have taken the theories of Thatcherism and now Blairism and applied them vigorously to their urban environment. Privatization and self help is the order of the day with dispute resolution using guns instead of arbitration with a whole alternative economy formed in the ghettos of the United Kingdom. The effect on sentences for young black men generally had the

effect of making their sentences uniformly higher than may otherwise have been the case. There is also clear evidence that not only in the United Kingdom but elsewhere that poverty and unemployment track offending rates for robbery as seen by the graph of robbery and unemployment in Canada.



One case illustrates the negative relationship between high profile political pronouncements and the Crown Court sentence imposed thereafter whereby one 14 year old who pleaded guilty to a street robbery of a mobile phone, with no weapon involved, with a threat of violence on a fellow schoolboy met with a sentence of 28 months imprisonment. Boy X had serious developmental issues, a chaotic family background with an alcoholic mother, absent father, and a recent history of self harm with one serious attempt at suicide. After some eight months in Feltham Young Offenders Institution (YOI) where he was subject to violence from other inmates and bullying he was reluctantly given an 18 month supervision order by the Court of Appeal as his case was accepted as being “exceptional”.

If such a sentence had been subject to a mandatory minimum it is highly likely that he would have become a serious recidivist offender as do over 84% of juveniles and some 67.4% of all people sentenced to custody who re-offend within 2 years of their release. The various reports indicate that deprivation in the United Kingdom has, and continues to fuel higher levels of crime. The Princes Trust has mapped the disadvantaged throughout England and Wales with the figures showing that the highest level of need occurs in the Inner London area.<sup>3</sup> The highest levels of disadvantaged young people are to be found in Hackney, Newham and Tower hamlets with the highest deprivation in terms of income and work levels found in the Boroughs of Hackney, Haringey and Newham.

When one factors in the level of benefit dependency then three quarters of London Boroughs show at least one ward where benefit dependency is higher than 20%. The Boroughs of Hackney and Newham have 23 such wards, with Islington and Southward having 18 and Tower Hamlets 17. These are some for the Trident Boroughs and some with the corresponding highest rates of crime. The other factor is the social trend whereby in London great wealth sits uncomfortably close to great poverty. The material world whereby the acquisition of assets whether jewelry, clothing, fashion accessories, cars and the vast array of technology gadgets such as mobile phones, Ipods, all the paraphernalia of modern society is on display to those who have little or no chance of sharing in that wealth.

The argument from the right wing media and those who wish to avoid the linkage between poverty and crime is that most people who are poor do not turn to crime. Whilst that is clearly true that argument however misses the obvious point that the prevalence and proximity of a material society to which people cannot gain access save through dishonesty or drugs will be a constant source of temptation and opportunity if all else fails. The existence of so called “black economy” is itself often a symptom of deprivation where people living below the poverty line are forced to rely on cash earnings from work that is not declared for tax purposes. The consequences are that with the economic attraction of hard drugs such areas of deprivation provide the foot soldiers for the trade in heroin, cocaine and other Class A drugs. The economic ability of such deprived communities to resist such targeting by

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<sup>3</sup> The Princes Trust, “Mapping Disadvantage” 2006. [www//Princes Trust.com](http://www.PrincesTrust.com)

large scale drugs dealers is easy to comprehend.

## **Conclusion**

There can be no real achievement for Black and minority lawyers and judges whilst such a significant proportion of our community faces increased levels of racism within the criminal justice system. Whilst as lawyers we may bemoan the crisis we face with the impact of the Carter review but a far more insidious threat is eroding our ability as communities to achieve advancement.

Economic, social and political advancement for the few lawyers, judges and other professionals will be a very hollow achievement if we leave the majority of our people behind in a sea of despair and deprivation. Emancipation did not just occur because white people in authority woke up one morning and decided that slavery and racism was wrong. It was a freedom that was hard earned by those who experienced it over many centuries of rebellion and suffering. Similarly black and minority communities in the United Kingdom cannot rely on the Government and other agencies to perform a task that we ourselves do not seek to address. The solution for this crisis must therefore rest with us.