

Deserving of Penalty and Public Outrage? The ‘Gypsy’* within the Punitive City

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Summary: This article concerns the separate deaths of two unrelated Travellers. The first case is the killing of Traveller boy Fred Barras by farmer Tony Martin in England in 1999. The second is the killing of the Traveller John Ward by farmer Pádraig Nally in Ireland in 2004. Throughout, the author explores the potential for social learning as a consequence of instruction via the media, and penal signification. Theoretically the idea that the media may play an influential part in the civilising process, considered here as being more akin to a decivilising offensive, is also addressed in order to reflect on, and incite further debate as to the impact of stereotyping on minority groups, in this instance Travellers and the Roma (both groups commonly referred to as ‘Gypsies’). Elsewhere the Tony Martin case has been covered in depth, as has the media’s (RTÉ’s) influence on the Nally case. This paper adds to knowledge by further deconstructing public responses towards these communities prior to (and following) both deaths.

Keywords: Decivilising offensive, Gypsy, Traveller, Roma, signification, penalty, Tony Martin, Pádraig Nally.

Introduction

Nomads were othered and viewed with suspicion in 16th-century England (Mayall, 1995, 2004). They were reviled as:

Vagabonds, sturdy beggars, commonly called *rogues* ... [as] idle, vagrant persons, having no master, nor no certainty how and whereby to live.
(Ribton-Turner, 1887: 103)

* Most nomadic people across the UK and Ireland today (and their non-nomadic relatives) prefer to be regarded as ‘Travellers’. Meanwhile ‘Gypsies’ from continental Europe are most often referred to nowadays as ‘Roma’. Nevertheless, all these groups share historical and contemporary experiences of discrimination on the grounds of belonging to the ‘Gypsy’ communities.

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These ‘Egyptians’ or ‘Egypcians’ (Mayall, 2004: 68), as they were originally referred to in the 16th century (whence the term ‘Gypsy’ derives), were also accused of ‘intimidating farmers and Justices of The Peace’ (Mayall, 2004: 68). Moreover, they were said to be ‘barbarous in condition, beastly in behaviour, and bloody if they meet advantage’ (Mayall, 2004: 68).

With relevance to the *raison d'être* of the debate that follows, Fraser (2007: 98) observes that:

The lack of a permanent address runs counter to the state's desire to establish a relationship with and knowledge of its citizens' or residents' place of abode. Homeless and nomadic communities require greater policing and ... greater state resources precisely because they ... slip under the radar of surveillance.

Although most Travellers (and Roma) are no longer nomadic, association with nomadism (by blood ties) impacts negatively on these communities. In the UK it has been alleged that when Travellers appear in court there is often no chance to ‘slip under the radar’ of state surveillance, as it is difficult for them to disguise their identity (e.g. surnames are often indicative of status), placing them at risk of ‘anti-Traveller prejudice in sentencing’ (Cottrell-Boyce, 2014: 417; Donnelly-Drummond, 2015).

Across the UK and Ireland harsh contemporary anti-trespass laws (aside from Scotland’s legislation, which remains ancient)¹ have reinforced the message that nomads remain ‘masterless’ ‘felons’ (Ribton-Turner, 1887: 103). Thus nomads have been criminalised while members of these communities remain stereotyped (often via media amplification) as criminal en masse. Therefore I believe that clear links can be made between Garland’s (1990) signification of penalty and the othering of Travellers (and Roma; Fraser, 2007; Fanning, 2007). Moreover, this can occur via a deliberate decivilising offensive that may at times encourage ‘justification’ for ‘killing [boys such as Fred Barras and men such as John Ward] in the name of otherness’ (Prum *et al.*, 2007).

The concept of signification and its impact on Travellers (including the Roma) is analysed prior to making links between this and the issue of media amplification and stereotyping concerning these ethnic groups.

¹ The anti-trespass laws are as follows: in the Republic of Ireland, the Housing (Miscellaneous Provisions) Act 2002; in Northern Ireland, the Unauthorised Encampments (Northern Ireland) Order 2005; in England and Wales, the Criminal Justice and Public Order Act 1994; in Scotland, the Trespass (Scotland) Act 1865.

Next, the civilising process (Elias, 2000) is discussed in order to make connections between, and to theorise, the impact of signification and stereotyping/media amplification on those who are ‘othered’. Prior to concluding, the cases of the farmers are evaluated.

Theorising signification, media amplification and the civilising process

According to Garland (1990: 252) the term ‘penality’ ‘communicates meaning not just about crime and punishment but also about power, authority, legitimacy, normality, morality, personhood, social relations and a host of other tangential matters’. Thus, via continual and repetitious instruction the signification of penal signs and symbols informs us how to consider good and evil, normal as opposed to pathological, the difference between legitimate and illegitimate, and order as opposed to disorder (Garland, 1990: 249). By way of legal judgments, admonitions and condemnations, it is believed that the public are taught and persuaded how to judge, what should be condemned and how to classify, while being supplied with the language to do so. What is more, as noted by Reiner (2016: 129, 134), while ‘the police and courts are reliable story suppliers ... the media [can] distort the threat of crime, fomenting fear and stimulating public support for authoritarianism’.

Symbolic statements such as legal judgments amplified by the media might influence cultural mentalities and sensibilities. By ‘cultural mentalities and sensibilities’, Garland (1990: 195) means: ‘all those conceptions and values, categories and distinctions, frameworks of ideas and systems of belief which human beings use to construe their world and render it orderly and meaningful’. In turn, cultural mentalities and sensibilities may influence penal institutions and the actions and beliefs of those working within them. In this way the public are asked to form opinions based on what little knowledge they have of a particular group of people – Travellers, the ‘underclass’ (Murray, 2005), black youth or other minorities – the consequences being that certain groups become stereotyped and blamed for society’s problems (Vanderbeck, 2003).

Fraser (2007: 95–6) made an interesting observation on an incident in Firle in Sussex, England in 2003 when the local Bonfire Society:

carried out the tradition of burning a figure of local scorn and popular hatred. The effigy in question was a ‘Gypsy caravan’. The caravan bore

the [derogatory] registration PIKEY [use of the name since proscribed in UK law] ... being a popular slang expression for Gypsies and Travellers. In addition, the window of the trailer was filled with pictures of a woman and several small children portrayed as a Gypsy family ... The effigy was marched through the village to the shouts and admiration of the local population, to be set alight to traditional cheers of 'burn it, burn it'.

Allegedly, according to the Bonfire Society (following reporting of this incident by a local 'Gypsy'), the burning of the effigies was an 'attack not on a racial or ethnic minority but on the politicians and police who had failed to act against ... [the uncivilised?] illegal camping' (Fraser, 2007: 96) of a family of Travellers in the summer of 2003 at Firle. Of course it is the reality that some unauthorised campsites are left in such a mess (whatever the reasons) that this feeds in to stereotypes as to the uncivilised behaviour of people such as Travellers and links them with dirt and disease, which is what the civilising process (Elias, 2000) has discouraged over centuries. According to Elias (2000) civilising processes were originally dictated by members of the courtly societies of Europe, an example being the following admonition: 'take good care not to blow your nose with your fingers or on your sleeve *like children*, use your handkerchief and do not look into it afterwards' (Elias, 2000: 124; emphasis in original). In turn, the general public would learn as these manners were indoctrinated into societies. Yet, although some members of contemporary society clearly view nomadism as uncivilised behaviour, the burning of the 'Gypsy' effigies in Firle cannot be considered a courtly procedure. Rather it should be viewed as an explicit and deliberate decivilising offensive, perhaps embodying an attempt to undermine equality/rights-based laws that offer protection to ethnic groups² such as these.

Van Ginkel (2015: 1) states that during the 1980s, although this was not part of Elias's (2000) 'conceptual apparatus', a number of Dutch academics considered the term 'civilising offensive' (rather than civilising process) as referring:

² As of 2016 (unlike members of this community residing in the UK), Irish Travellers are *not* considered to be an ethnic minority in the Republic of Ireland yet they are offered limited protection as members of the 'Irish Traveller Community' (Drummond, 2007). This may also be considered emblematic of a decivilising offensive, as recognition of ethnicity in Irish law would strengthen protection for Travellers under a range of international conventions to which Ireland is a signatory.

implicitly – to a one-sided process. There are those who launch an offensive, and there are the offensive's targets (or perhaps even victims) who undergo attempts to civilise them albeit not necessarily passively.

As discussed by Van Ginkel (2015), the concept of a ‘civilising offensive’ is analogous to a military operation, and, given the history of anti-Gypsism/Travellerism it is a useful way to discuss the situation of these groups in light of the killings of the two Travellers that are yet to be redressed. It may also prove pertinent that ‘What it means to be civilised is ... largely defined by the middle classes’; moreover:

middle class civilisers often have no intention to extend their efforts to the poorest and unruliest urban dwellers. They merely want to keep them out of sight – and out of mind – [or metaphorically, burn them!] and restrict (or restrain) them so that they (the ‘respectable’ middle class citizens) will not be offended. (Van Ginkel, 2015: 1)

Traveller sites are often located at the periphery of towns and cities, arguably to contain residents, segregating this apparent underclass from ‘civilised’ society (Van Ginkel, 2015). Moreover, defamatory media articles on this ‘underclass’ and (more commonly today) blogs³ (referred to as ‘citizen journalism’ by Reiner, 2016: 134) attacking Travellers underline offensives such as those discussed by Powell (2007) and Van Ginkel (2015), the purpose being to ‘shackle’, chastise and shame those considered ‘maladapted’ (Van Ginkel, 2015: 1), ‘abnormal’ (Goodman and Rowe, 2014: 32), ‘non-citizens’ (Mottier, 2008: 265) in need of ‘corrective treatment’ (Sibley, 1981: 81).⁴ Yet when ‘corrective’ treatment takes the form of killing, the civilising offensive can only be deemed as decivilising: there is nothing left (individually) to redeem. However, it may be the case that killing has the impact of a civilising offensive on other

³ One of the worst examples of a decivilising offensive is exemplified in T-shirts that were available to buy online with the slogan ‘Keep Calm and Kill Gypsies’, as reported by *The Travellers’Times*, <http://travellerstimes.org.uk/Blogs—Features/Keep-Calm-and-Report-Hate-Crime.aspx> (accessed 8 March 2016).

⁴ Reviewer’s comments left on the Amazon website concerning McVicar’s (2003) book indicate a mindset that views Travellers as uncivilised: ‘One aspect that struck me is how this chavscum underclass are funded by the rest of society ... Why are we paying to keep them alive, really?’ (by Ian Millard, posted on 9 February 2009, <http://www.amazon.co.uk/Right-Kill-Tony-Martins-Story/dp/1903906369> (accessed 26 August 2015)).

group members (as in a warning shot if certain behaviour does not change).

Rohloff (2012) states that 'decivilising processes may occur where there is a weakening of the state', even if there is only a perception that governmental regulations are 'failing to control a particular perceived problem', or 'conversely, that individuals are failing to regulate their own behaviour and thus there is a need for a stronger external force ... to control these "uncontrollable" deviants'. Unauthorised encampments underline these failures, yet in the case of nomadic Travellers I would amend Rohloff's (2012) view to propose that states have not been weakened at all. It is more likely their failure to control the 'problem' (created by state parties) is purposeful: a deliberate failure to provide adequate accommodation for Travellers, especially nomadic ones (Drummond, 2007), in order that the media can whip up and sustain a long-running moral panic about subsequent unauthorised encampments. In turn this failure to provide accommodation may encourage untold members of the public to 'panic' and engage in banter decivilising Travellers further whilst undermining attempts by Travellers to lay claim to nomadism as a right or as reasonable and culturally relevant etc. (Drummond, 2008). Essentially, it is proposed that moral panics can often be employed against Travellers (and the Roma), the aim being to support a decivilising offensive stereotyping them as undeserving of help/welfare, thus discouraging sympathy for their plight on the part of the public (the ultimate aim being enforced assimilation, perhaps?).

Van Baar (2014: 5) conceptualised the term 'reasonable anti-Gypsyism', explained as:

A widely supported movement among non-Gypsies and non-Roma [seeking] ... retaliation under the pretext that ... Gypsies, Travellers and Roma frequently exhibit undesirable behavior. The argument goes that you are rightfully entitled to act against them and treat them differently, because they cause inconvenience, indulge in criminal activity and can generally be expected to cause trouble. It is not 'we' but 'they' who violate rights and fail in their duties. This 'reasonable anti-Gypsyism' manifests itself throughout politics and wider society – which is also one of the reasons why it is hard to challenge it.

Van Barr's (2014) theory is reflected in concerns expressed by Europol (2011: 11) that:

An attitude of detachment towards Roma communities by public authorities in some Member States has ... left the most vulnerable members of these communities – children and young women – unprotected from exploitation by criminal groups.

Other authors echo this detachment as they discuss control of Travellers and Roma by way of methods viewed as wide policing (James, 2007) and of demonisation (MacLaughlin, 1998), which in some instances has encouraged the ‘gardening’ of certain minority communities by eugenicist methods, as happened in Switzerland from the 1920s to the 1960s (Mottier, 2008). The more recent forced sterilisation of Roma in Czechoslovakia (1971–91) is also relevant here (McLaughlin, 2005).

The information presented so far indicates the detachment of some state officials from safeguarding members of these communities. Moreover, it may be speculated that currently the media is fed information to amplify concerns regarding these communities in order that decivilising offensives can appear ‘reasonable’ (civil, perhaps?) even if they take the form of ‘killing in the name of otherness’ (Prum *et al.*, 2007). This is a key issue which is addressed below.

It has been observed that in the case of nomadism, the ‘state and members of the nation will be hostile to those who attempt by the very nature of their existence to escape from ... normative boundaries ... a clearly established territorial, spatial loyalty’ underpinning general comprehension of ‘sovereignty [and, no doubt, allegiance to crown or state] and thence rule of law’ (Fraser, 2007: 98). In the case of Tony Martin, outlined below, I believe that apparent widespread support for his actions (McVicar, 2003: 165) underscores the way in which hostility is shown to those perceived to be evading normative boundaries.

The Tony Martin case

In England in 1999, farmer Tony Martin was burgled by two young Travellers (and a third, non-Traveller, driver/accomplice). As the two intruders were exiting Martin’s premises through a window (it is alleged that he had sat in wait in darkness), he shot both in the legs at close range. Brendon Fearon escaped but Fred Barras was shot in the back and died as he attempted to escape. According to McVicar (2003: 28), Martin ‘fancied he’d bagged a couple of two-legged rats, but [allegedly, and doubtfully] he had no means of knowing how badly’. McVicar (2003: 24)

also revealed that Martin ‘used [his] gun regularly on [what Martin referred to as] vermin … “pigeons and gypsies”’. It is also reported that Martin ‘attended a police surgery on crime a year before [the shootings]’ informing PC Douglas Cracknell that burglars, ‘especially Gypsies, “should be surrounded by barbed wire and machine-gunned”’ (McVicar, 2003: 114). Moreover, McVicar (2003: 199) states that in regard to Martin’s denial in court of the use of derogatory language against Travellers, a friend of Martin’s retorted: ‘he’s a lying bastard. Anyone who knows him, including my two girls … know he’d kill a gypsy.’

In the closing speech of the trial, Rosamund Horwood-Smart QC expressed the opinion that Martin ‘was a man … waiting for intruders’, that disproportionate and unreasonable force was used, and that ‘he has lied and lied again to cover up the way he deliberately ambushed these burglars. He murdered them’ (McVicar, 2003: 155). Nonetheless, Martin was eventually cleared of murder, convicted of manslaughter (on appeal) and sentenced to six years in prison. Just after his conviction, Holland (2000) observed that he ‘is a tabloid hero – almost 300,000 Sun readers rang to protest against’ the sentence. Martin received thousands of letters of support in prison (BBC News, 2003). This is despite the observation by Chief Inspector Martin Wright of Norfolk Police (Holland, 2000) that ‘he [Martin] just went up to these people and shot them’. He was released after serving less than two-thirds of his sentence. His decision to sell his story (for £125,000) angered the dead Traveller’s relatives, while the Labour MP Chris Bryant accused newspapers of ‘condoning a lawless society’ (Byrne, 2003).

Following discourse analysis of the Martin case, Vanderbeck (2003: 363) observed that, whenever Travellers set up illegal encampments, the media report that they have ‘invaded’ an area and residents ‘battle’ to stop this. If residents succeed in preventing Travellers from setting up a camp or permanent site, they score a ‘victory’. Therefore, resembling a military-style civilising offensive, media language portrays Travellers as enemies in a war that needs to be fought and won by settled society.

It could be postulated that media bias represented Martin as akin to the ‘gentleman poacher, of outlawry as democratic rebellion’, as ‘part of the *demos* … one of “us”’, while Travellers remained (and remain) subjected to a decivilising process, viewed as ‘Other’ (rarely as gentlemen). It appears that the Englishman’s home (and very likely, as indicated below, the Irishman’s) remains his castle, and, as the outcome of the Martin case indicates, ‘the Gypsy is someone who lives in the state of exception as the

outlaw subject of the law' (Fraser, 2007: 103). The 'Gypsy' remains othered even inside law's violence (Sarat and Kearns, 1995). All law is considered here as inherently violent in terms of its negative impact on those trialled, found guilty or not guilty, and the impact of these processes on those involved, including loved ones; the outcomes of Martin's and Nally's trials perhaps underscore exactly how violent law can be for those othered within jurisprudence (Buist and Lenning, 2015).

Martin's actions might be considered by some as an attempt to uphold the 'rule of law' against individuals allegedly intent on evasion of so-called 'normative boundaries' (Fraser, 2007: 98), individuals deemed perhaps to have failed to 'observe the "civilised" standards of the dominant society' (Powell, 2007: 118). Yet the same 'theory' could easily be applied to Martin and, as his case was covered by a host of media across the Republic of Ireland, I believe that an element of social learning was involved in the subsequent killing of another Traveller by farmer Pádraig Nally in 2004. Indeed, the written media might often be 'one of the causes of new crimes, by arousing the imitative instinct to be found in man' (Bonger, 2005: 60).

The case of Pádraig Nally

It is claimed that images of crime and violence presented by the media are a form of social learning, and may encourage crime by imitation or arousal effects (Reiner, 2002). In 2005, Nally, a farmer from Co. Mayo, alleged that two Travellers were thought likely to be about to burgle his home (Shiel, 2005; Hogan, 2005). After asking the first Traveller (Tom Ward) "where was the other fellow, believing Tom Ward was not likely to be on his own" ... He was told this other man was round the back "having a look". 'Mr Nally said words to the effect that he would not be coming out again' (BreakingNews.ie, 2006).

Thereafter, with striking similarity to the Tony Martin case, after a prolonged attack Pádraig Nally shot Traveller John Ward in the back and killed him (BreakingNews.ie, 2006). At the close of the trial on 20 July 2005, 'the jury returned a verdict of manslaughter, the applicant having pleaded not guilty to the single count on the indictment' (Director of Public Prosecutions v. Nally, 2006).⁵ Nally was then sentenced to six years in prison (Mulcahy, 2005: 12), but (not wholly dissimilarly to the case of Tony Martin) he was acquitted of manslaughter at a retrial in December

⁵ <http://www.courts.ie/Judgments.nsf/0/C11AC1AFE2F4AB1D80257205003CB715>

2006 and released. Just as in the Tony Martin case, though, shooting a burglar (allegedly) in self-defence, allegedly in fear, was not the whole story.

In opening the case for the first appeal, the prosecution's Mr Paul O'Higgins SC said that Nally first got a shotgun and shot Ward. Nally then 'beat John Ward black and blue'. There were eight 'full lacerations to Mr Ward's skull, exposing the underlying bone ... more than 25 bruises to his body and his nose was broken. There was a break to his left forearm, suggestive of a defensive type injury.' Moreover the prosecution said that 'Mr Nally had described the beating as "like hitting a badger or a stone. You could hit him but you could not kill him"' (BreakingNews.ie, 2006).

As Mr Ward attempted to stumble out of the yard:

Mr Nally went back into his shed, got the shotgun and three more cartridges. By this time the deceased was either out on the roadway or stumbling or limping towards it and had turned right onto the road when Mr Nally followed him and shot him again. The second shot went through his left arm, back out and through the left hand side of his chest into his lungs, almost immediately killing him. He said Mr Nally then took John Ward's body and heaved it over a wall, before driving to a neighbour's house where the gardai were called. (BreakingNews.ie, 2006)

Mr O'Higgins said it was the prosecution's case 'that the killing in these circumstances [killing in the name of otherness?] was not and could not be a lawful killing'. 'He added: "There is not a death penalty for burglary in this country"' (BreakingNews.ie, 2006). Ahead of the trial, and, underscoring my concerns with media amplification (McVicar, 2003), Mr Justice Paul Carney warned:

'This case has engendered a great deal of publicity, perhaps more than any other in the history of this court. It has also engendered extremely strong feelings' ... the jury must try the case 'strictly on the basis of the evidence adduced and the trial judge's directions of law ... Anybody serving is warranting that he or she can do that without any prejudice towards the Travelling or farming community.' (BreakingNews.ie, 2006)

My question is whether a trial without prejudice could actually be possible when there was so much media coverage, mainly in support of Nally

(Leahy, 2014). This case has similarities to that of Tony Martin. Particularly striking are the analogies used by the farmers: a dying Traveller was ‘like a badger’ and Travellers were vermin, like pigeons. Reference to humans as animals (that are hated at least by many farmers) is a form of a decivilising offensive as occurred in Nazi Germany. Indeed, Smith (2011) states that during the Holocaust the Nazis referred to Jews as rats, that throughout history slave owners considered their slaves as subhuman animals and that such dehumanisation precedes genocidal policies (e.g. sterilisation). Regarding prejudice on a lesser scale (as also occurred in the Tony Martin case), media coverage on the Nally incident not only reflected Richardson’s (2005) observations on the wide policing of Travellers but also underscored the role of the media in signification.

Ward’s widow received hate mail proclaiming ‘one down, 30,000 to go’⁶ (Chrisafis, 2005), while Fine Gael chief whip Paul Kehoe told a public meeting: ‘let me say, he [Nally] was a victim, and if I was Pádraig Nally I think I would have done exactly the very same thing as well’ (Fahey, 2005: 9). Kehoe’s comments embody Foucault’s abstract philosophy on the nature of discipline, meted out in what is imagined as the ‘punitive city’, comprising ‘hundreds of tiny theatres of punishment’ (Foucault, 1977: 113). According to Ferrell (2005: 585) it is in these theatres of punishment that ‘young people, ethnic minorities, lesbians and gays, and other play villains are [portrayed as] deserving of penalty and public outrage’. The comments are also not dissimilar to the musings of some British politicians following the killing of Fred Barras. McVicar (2003: 84) observed that the first politician to ‘wade in on Tony’s side was ... Anne Widdecombe’, the same person that spent ‘much of her time defending such practices as women prisoners being shackled to hospital radiators whilst giving birth’. At the Tory Party conference in October 1999 she stated that the next Conservative government would ‘put the law in order’ (McVicar, 2003: 84) before continuing:

Victims are not only those who suffer from crime, but those who suffer from the law ... I believe it is every citizen’s right within reasonable and sensible limits to defend themselves, or their properties, against attack without then fearing a penalty at law.

Victims were (and remain) protected in UK law if they used self-defence to protect their homes and persons from attack: ‘a defendant is entitled to

⁶This refers to official approximate counts of Travellers in the Republic of Ireland at that time.

use reasonable force to protect himself, others for whom he is responsible and his property' (*Beckford v. R* [1988] 1 AC 130, cited in *Martin v. R.* [2001] EWCA Crim 2245).⁷ The role of a jury in such cases is to assess whether or not the violence used is proportionate or reasonable.

In Ireland it is significant that as a result of concerns over self-defence 'in the aftermath of a heated national debate following the jailing of farmer Padraig Nally' (thejournal.ie, 2012), a new law was introduced in 2011. The Criminal Law (Defence and Dwelling) Act 2011 allows a person to use reasonable force in defending their home (O'Connell 2012; Leahy, 2014). Yet, in discussion on this issue, Justice Minister Alan Shatter said the law is 'not a licence to kill' (thejournal.ie, 2012). While advocates for it argued that 'the law allows for force in proportion to the threat someone perceives they are under', the Irish Council for Civil Liberties warned that the law 'insufficiently' protects the right to life for householders or intruders while some fear it could lead to intruders being more likely to carry weapons (thejournal.ie, 2012). It appears, then, that although the Nally incident led to the introduction of a new law, how much force might be deemed reasonable in Ireland is still unclear. Meanwhile in 2013, no doubt influenced by other cases where burglars had been killed by members of the public in England (Pilling, 2011; Bunyan, 2011),⁸ the Crown Prosecution Service (CPS) issued new guidelines on self-defence:

Anyone can use reasonable force to protect themselves or others, or to carry out an arrest or to prevent crime. You are not expected to make fine judgements over the level of force you use in the heat of the moment. So long as you only do what you honestly and instinctively believe is necessary in the heat of the moment that would be the strongest evidence of you acting lawfully and in self-defence. This is still the case if you use something to hand as a weapon. As a general rule, the more extreme the circumstances and the fear felt, the more force you can lawfully use in self-defence. (CPS, 2013)

In commentary on Nally's original sentence, Mulcahy (2005) observed:

while considerable outrage has been expressed [by settled people] about the severity of Nally's [initial] six year sentence, Travellers and others

⁷ www.bailii.org/ew/cases/EWCA/Crim/2001/2245.html

⁸ Neither of these cases appeared to concern Travellers, and the ethnicity of the victims was not referred to in these articles.

view it as strikingly lenient and as highlighting the low value that the criminal justice system attaches to the lives of Travellers.

The final verdict on Nally (whereupon he was freed)⁹ led the Irish Traveller Movement (2006) to comment that it was:

deeply shocked at the verdict of the jury, and extremely disappointed that after a lengthy trial where all the evidence pointed to a deliberate and unlawful killing, that the jury chose to decide in favour of the farmer, who, in his own words had intended to kill the victim.

Conclusion

As outlined above, evidence exists to support the notion of a decivilising offensive aimed at the Traveller and Roma communities. In England, ‘Gypsies’ were first othered and viewed with suspicion in the 16th century. More recently ‘Gypsy’ effigies have burned on public bonfires in England (Fraser, 2007). Often, where accommodation has been provided, Travellers remain (albeit unofficially) segregated on sites located on the periphery of towns and cities. Travellers have been publicly referred to as akin to vermin like pigeons and animals such as rats and badgers. In the recent past across continental Europe, some Roma have been sterilised without consent (Mottier, 2008; MacLaughlin, 1998). Throughout the UK and Ireland (as detailed in footnote 1) a range of (mostly contemporary) harsh anti-trespass laws signify that nomadic Travellers (and those associated with them) are now officially criminalised and stereotyped as a suspect community. Hate-filled media articles (Drummond, 2006) show how ‘in great part, the press [and some other forms of media] is the opposite of what it ought to be ... [often increasing] ... the prejudices of the crowd’ (Bonger, 2005: 59). To a degree, the phenomenon of the Nally and Martin cases indicated how ‘the press ... has a special place in the aetiology of crime’ (Bonger, 2005: 60). Thus, as indicated via the furore surrounding the trials discussed above, it is evident that penalty, assisted in great part by media amplification, may at times instruct some of the public to judge and classify (in this case) nomadism (and anyone practising this way of life or connected to nomadism by blood-ties) as illegitimate, disordered.

⁹ On 10 December 2006 the outcome of the first Appeal was ‘Quash conviction, direct retrial, grant bail’, <http://www.courts.ie/Judgments.nsf/0/C11AC1AFE2F4AB1D80257205003CB715>

In light of the apparent failures of state parties to resolve 'a particular perceived problem' (Rohloff, 2012: 75), in this instance unauthorised encampments (often, and for a range of reasons, leaving a mess, and being the antithesis of the civilising process), it is evident that resulting moral panics can act as catalysts for a decivilising offensive, no doubt poisoning public opinion on Travellers, and influencing the cultural mentalities and sensibilities of many towards these communities as well as perhaps impacting negatively on justice. Moreover, the inaction of state parties in terms of providing solutions to the problems faced by nomads across the UK and Ireland appears deliberate. Indeed, it is apparent that inaction by governments, combined with media amplification, has exacerbated the situation of many Travellers, the consequence being that they are portrayed as having failed 'to regulate their own behaviour', thus there is a need for corrective treatment (Sibley, 1981: 81) to punish these 'maladapted' (Van Ginkel, 2015: 1) citizens. Yet, as suggested above, when 'corrective treatment' (Sibley, 1981: 81) takes the form of killing in the name of otherness and while some media organisations fail to condemn such extreme methods (and the evident support of some members of the public for them), it appears that in many theatres within the 'punitive city' (Foucault, 1977: 113), Travellers (and the Roma) remain largely disempowered, and may be viewed as deserving of penalty and public outrage. Hence there appears to be no 'stage left', no emergency exit for these actors within hundreds of tiny theatres of punishment across European states. In fact, the two cases discussed above indicate that the 'Gypsy' remains largely decivilised as 'someone who lives in the state of exception as the outlaw subject of the law' (Fraser, 2007: 103).

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