

The Battle of Orgreave: why an inquiry is needed

Henrietta Hill QC, Doughty Street Chambers, draws parallels between the way police are alleged to have acted in south Yorkshire at Orgreave during the 1984/5 miners strike and at the terrible events in 1989 at Hillsborough football stadium, Sheffield. She concludes that an inquiry into Orgreave is required especially when rights to freedom of peaceful assembly, and trade union rights more generally, remain under the microscope following the recent passage of the Trade Union Act 2016.

Battle of Orgreave

The ‘Battle of Orgreave’ as it has become known has been described as a turning point in both industrial relations and policing in this country.

The ‘battle’ took place in the midst of the 1984/5 miners strike against pit closures. The National Coal Board claimed that it only wanted to close 20 pits, but the National Union of Mineworkers maintained – and subsequent events have proved them right – that more than 70 pits were on the NCB’s closure list. The NUM called for a mass picket on June 18, 1984, aimed at disrupting the supply of coke from the Orgreave coking plant near Rotherham. It followed a series of smaller demonstrations at the plant in May and early June.

The pickets gathered in the sunshine, and, they say, engaged in nothing more than ritual but ineffectual pushes against the police lines. The contemporaneous footage appears to corroborate the pickets’ version of events. Despite this, there came a point when dozens of mounted officers, armed with long truncheons, charged up the field, followed by snatch squad officers in riot gear, with short shields and truncheons. Many pickets were seriously injured by police baton strikes, and dragged back through the police lines to the temporary detention centre opposite the plant. Ninety-five miners were arrested and later charged with riot or unlawful assembly.

Almost a year later, in May 1985, the first of the trials, of 15 of the miners, commenced at Sheffield Crown Court. The trial collapsed after 48 days of hearings, when the prosecution abandoned its case as it became apparent that police evidence could not be relied upon. It also emerged during the trial that police were following new guidance from the Association of Chief Police Officers on public order policing, which permitted them to use force not only in self-defence, but also to ‘incapacitate’ demonstrators. This is legally dubious at best. The prosecution then dropped the charges against the other miners.

There was never any investigation into the conduct

of the police at Orgreave and at the trials. Civil claims brought by a number of miners were settled without any admission of liability or public ventilation of the issues. Important issues therefore remained entirely unanswered and unaccounted for.

Yet the distrust in the police which Orgreave engendered remained endemic in former mining communities, and was understandably passed down through the generations to, now, many grandchildren of the pickets.

There is a wider political context, namely the concern that the police were being used at Orgreave to break the will of the striking miners, who the then Prime Minister, Margaret Thatcher, had famously described as *‘the enemy within’*. In an interview for Channel 4 on May 10, 2016 the local Policing and Crime Commissioner, Dr Alan Billings, said that the policing of the miners strike is *‘the nearest we came in my life to a politicised police force. I think the police were dangerously close to being used as an instrument of the state’*, and many share that view.

Mrs Thatcher’s private office files and Cabinet Office records from 1984/5 have recently been released under the 30-year rule. They raise a range of issues about the extent to which national government was involved in the policing of the strike and the due process that followed any arrests. They show, for example, that the government suggested laying criminal conspiracy charges against union leaders for *‘inciting’* the pickets to violence, and appeared to want to *‘make an example’* of any miners who were convicted of criminal offences.

Orgreave Truth & Justice Campaign and links between Orgreave and Hillsborough

The Orgreave Truth and Justice Campaign was formed in 2013, committed to the securing of a full and independent inquiry into what happened at Orgreave. The campaign has the support of a large number of MPs and trade unions.

The work of the Orgreave campaign has become very high profile in recent months, in light of developments

in the Hillsborough case. In April 1989 a massive crowd crush had developed at the Hillsborough football stadium as a result of which 96 football fans died. The original inquest verdicts of accidental death were set aside in 2012 after a sustained campaign by the families, who never accepted the police account and its attempt to blame the fans for the disaster. Fresh inquests took place and in April 2016, the jury concluded that the fans had been unlawfully killed, and entirely vindicated the fans of any role in the disaster.

There are some key links between Orgreave and Hillsborough.

The two events took place around eight miles from each other, and just over five years apart. Both cases have at their heart South Yorkshire Police (although Orgreave involved officers from many other forces as well).

Both cases involve apparent serious wrongdoing by police. At Orgreave this involved alleged assaults, wrongful arrests and false prosecutions of the miners and perjury in court; at Hillsborough the inquest jury has now found that the police's serious actions and omissions contributed to the deaths of the 96 fans. The Crown Prosecution Service is currently considering whether any criminal charges should be brought.

Both cases appear to involve strikingly similar attempts by the police to manipulate the evidence: after Orgreave junior officers have come forward and said that parts of their statements, supposedly their own personal recollection of events, were dictated to them by senior officers; and in the Hillsborough inquest, many officers gave evidence that they were told not to write up their notebooks in the usual way, but instead to write undated statements on plain paper, which were then edited, often quite radically.

It is alleged that both cases also involve the police colluding with the media to portray a false picture of events and blame the innocent so as to conceal their own wrongdoing and failings: after Orgreave, apparently encouraged by the police, the media unfairly vilified the miners for provoking the violence when it is alleged that it was the police who instigated it; and after Hillsborough, apparently encouraged on by the police, the media unfairly blamed the fans for the disaster.

More fundamentally, it may well be that there was a direct chronological link between the two events: did the police's alleged abuse of power at Orgreave and attempts to suppress the truth about it foster the culture of impunity which allowed a cover up after Hillsborough to take place?

The role of public inquiries

After Hillsborough, the circumstances in which the 96 fans died meant that there had to be inquests to establish the causes of their deaths. No-one died at Orgreave (albeit that serious injuries were sustained by many of the miners), and so whether or not there is now an inquiry into what happened is a matter of ministerial discretion.

Under s1 of the Inquiries Act 2005 Act, a minister has power to set up an inquiry where it appears that '(a) *particular events have caused, or are capable of causing, public concern, or (b) there is public concern that particular events may have occurred*'. Recent inquiries instituted under this power include the Al-Sweady Inquiry (into allegations of unlawful killing and ill treatment of Iraqi nationals by British troops in Iraq in 2004) and the Leveson Inquiry (into the culture, practices and ethics of the press). In addition to statutory public inquiries, ministers also have the power to establish non-statutory inquiries, thematic reviews or panel reviews.

All of these inquiries share to some degree common purposes: (i) establishing the facts; (ii) ensuring accountability, identifying wrongdoing, blameworthy conduct and culpability; (iii) learning lessons; (iv) restoring public confidence in a public authority or the government; (v) providing an opportunity for catharsis, reconciliation and resolution; (vi) (in some cases) developing policy or legislation; and (vii) discharging investigative obligations derived from the ECHR.¹

The key themes that emerge from Orgreave remain very current. Groups such as Defend the Right to Protest continue to raise concerns about the policing of lawful protest, in particular inappropriate 'kettling', excessive force, mass arrests, collusion with the media, overcharging and police impunity at demonstrations. There remain concerns about the manner in which police officers record their accounts after serious incidents and about police links with the media. During the passage of the controversial Trade Union Act, which came into force in May 2016, the TUC alleged that the Bill '*threaten[ed] the basic right to strike*'; the International Labour Organisation called on the government to review parts of the Bill.

While some of the most controversial provisions of the Bill were dropped before it received Royal Assent, there remain concerns about provisions such as the new thresholds for strike action and new rules about identifying picket leaders to police. Gregor Gall,

1. Beer, *Public Inquiries*, paras. 1.01-1.10

Professor of Industrial Relations at the University of Bradford has said that overall the Act is *'expected to make proposed large strikes in both the public and private sectors more difficult to organise'*.²

Accordingly there is a real necessity for an O'Grave inquiry, so that this crucial point in the history of

industrial relations in this country can be properly analysed and truth and catharsis delivered to those most adversely affected by it.

2. Gall, G, The Trade Union Bill Is Now Law – Assessing the Campaign to Stop It, Huffington Post, 5 May 2016: http://www.huffingtonpost.co.uk/gregor-gall/trade-union-bill_b_9845574.html