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Amnesia and the erasure of structural racism in criminal justice professionals' accounts of the 2011 English disturbances

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journals.sagepub.com/home/sor**Chloe Peacock**

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Abstract

Though the 2011 ‘riots’ attracted a huge amount of political, media and academic attention, the state’s punitive reaction to the unrest received far less analysis, despite being characterised by exceptionally harsh practices at every stage from arrest to sentencing. Drawing on interviews with criminal justice professionals who were at the heart of this response, and focusing in particular on the Crown Prosecution Service’s unusually punitive approach, this article examines the imaginations, assumptions and claims that allowed professionals to variously justify and problematise this vindictive backlash. The article shows how an imagination of the disturbances as an apolitical and unprecedented outbreak of violence was central to many professionals’ accounts. Yet this imagination, I contend, requires significant erasure and elision. Forgetting England’s long history of unrest, and ignoring or dismissing the police killing of Mark Duggan that immediately precipitated the disturbances, were vitally important in allowing professionals to ignore the vital connections between the unrest and entrenched structural racism that has consistently underpinned post-war urban unrest – and to position the harsh law and order response as reasonable, proportionate, necessary and adequate. In doing so, the article makes a significant contribution to scholarship on the unrest, and on the importance of amnesia and ignorance - conceived as active, collective and inherently political processes - in normalising punitive and discriminatory state practices, both in the wake of the riots and in their longer aftermath.

Keywords

2011 riots, criminal justice, historical amnesia, structural racism

Introduction

It was almost like a breakdown of law and order. The society was in meltdown. The authorities had to step in and put in place some really harsh measures to make sure that the whole thing didn’t collapse. (Kofi, Senior District Crown Prosecutor, London¹)

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Sparked by the fatal shooting of 29-year-old Mark Duggan by a Metropolitan Police officer in Tottenham, North London, the ‘riots’² of August 2011 were marked by four nights of clashes with police, damage to property and looting in cities and towns across England. Widely perceived as ‘the worst bout of civil unrest in a generation’ (Lewis et al., 2011, p. 1), the disturbances were met with a striking response from the criminal justice system, characterised by exceptionally harsh practices at each stage of the process, from arrest, prosecution and remand to sentencing.

Employing a critical discourse analysis approach to examine interviews with prosecutors and other professionals involved in the criminal justice response to the unrest, this article traces a set of narratives about the unrest and its nature that were central in allowing professionals to frame the severe treatment of ‘rioters’ as reasonable, proportionate, necessary and adequate. It focuses on the approach of the Crown Prosecution Service (CPS) to the disturbances, which was especially punitive but received scant analysis (Lightowlers & Quirk, 2015).

The article takes these interviews as a lens through which to examine a broader set of discourses that dominated political and public debate in the wake of the unrest. In doing so, it builds upon and extends critical sociological analyses of the political, cultural and ideological processes that bolstered the violent criminal justice response to the unrest (Allen & Taylor, 2012; Jensen, 2013; Lambie, 2013; Sim, 2012; Slater, 2016; Tyler, 2013), and offers novel insight into the often inaccessible and obscure processes by which shared understandings and assumptions were translated into punitive policy and practices.

My analysis pays particular attention to the role of amnesia – conceived as an active, strategic and complex process – in discursive constructions of the 2011 ‘riots’. I show how professionals mobilised a widely circulating narrative of the disturbances as an unprovoked and unprecedented breakdown of law and order; and illustrate the forms of historical elision upon which this account relies. Ignoring and obfuscating crucial elements of historical and political context, I contend, effectively allowed prosecutors and other professionals to foreclose critique of the criminal justice response to the disturbances, and the need for structural, rather than penal, remedies. I argue that such processes of forgetting were especially important in erasing or minimising the significance of structural racism to the ‘riots’, in turn justifying and normalising a reaction to the unrest that disproportionately impacted young people from economically and racially marginalised groups.

In the following section I situate my analysis in relation to the existing literature on the 2011 disturbances, and on the political power of amnesia in shoring up structures of racism. Next I describe the research on which the article is based, before briefly outlining the criminal justice reaction to the disturbances, focusing on the CPS’s response. I then turn to examine the collective memory of the events that emerged in prosecutors’ accounts, showing how prosecutors articulated an imagination of the unrest as a moment of extraordinary violence that posed a grave danger to the city, the country, and to society itself, and necessitated an exceptional penal response. I argue that the coherence of this narrative relies heavily upon two forms of forgetting. First, I trace a collective amnesia about England’s recent history of urban unrest, which allowed professionals to disarticulate the 2011 unrest from the entrenched racism and state violence that have been at the heart of post-war disturbances. Second, I show how the omission or distortion of the

police killing of Mark Duggan allowed professionals to position the events as a meaningless and apolitical outburst. I then show how foregrounding Duggan's death, and acknowledging the historical continuities that the disturbances were embedded in, offer very different readings of the criminal justice response to them. I conclude by considering what this analysis contributes to our understandings of 2011 and more recent events, suggesting that sociologists continue to pay attention to how amnesia is mobilised in service of racist state practices.

Re-reading the unrest

The years since 2011 have seen the emergence of a substantial body of research on the unrest, from sociologists, criminologists, urban scholars (Millington, 2016), psychologists (Reicher, 2011; Stott & Reicher, 2011), geographers (Baudains et al., 2013), economists (Bell et al., 2014) and legal scholars (Banakar & Lort Phillips, 2014; Lightowlers, 2015; Roberts & Hough, 2013; Sokhi-Bulley, 2016), alongside less obvious disciplines such as psychiatry (Aiello & Pariente, 2013), psychoanalytic theory (Finchett-Maddock, 2012; Lowe, 2013), computing (Tonkin et al., 2012) and public health (McKee & Raine, 2011) and a number of cross-disciplinary and collaborative projects (Lewis et al., 2011). Among the diversity of theoretical perspectives proffered to explain the disturbances, some recurring themes can be traced. Many scholars have emphasised the aspects of the 'riots' that appeared to set them apart from earlier episodes of unrest, highlighting the importance of (then) new technologies and platforms like Blackberry messenger, Facebook and Twitter in enabling the surprising speed and scale at which the disorder spread (Baker, 2011; Newburn, 2015; Tonkin et al., 2012) and the seemingly unique prevalence of acquisitive crime and 'looting'. This led commentators to interpret the unrest as 'riots of defective and disqualified consumers' (Bauman, 2011; see also Moxon, 2011; Newburn et al., 2015; Platts-Fowler, 2013; Treadwell et al., 2013; Žižek, 2011 for a critique) who, within the context of neoliberal economic logic, 'ultimately found themselves with nowhere to take their dissatisfaction but to the shops' (Winlow & Hall, 2012, p. 465).

Others have argued that the analytical emphasis on looting and materialism often elided and obscured another vital factor underlying the unrest; instead stressing the role of contestation and resistance to long-standing, deepening economic, social and political inequalities exacerbated by the Coalition government's austerity agenda (Atkinson et al., 2012; Harvie & Milburn, 2013; McSmith, 2011; Newburn, 2015; Valluvan et al., 2013). This analysis is particularly valuable because it situates the disturbances in their historical context, foregrounding their connections with England's history of urban unrest since the middle of the twentieth century (Bowling & Phillips, 2002; Newburn, 2015). The widespread disturbances of the 1980s in cities including London, Bristol and Liverpool provide the clearest precedents and parallels, not least in terms of the context of a Conservative government, high unemployment, especially among young people, and increasing tensions with the police, with the spark very often provided by the assault or murder of a black resident at the hands of the police. Tottenham in particular is 'an area uniquely saturated with histories of conflict between the community and the police' (Gilroy, 2013), while others trace parallels with other episodes including the 1985 disorder in Brixton following the police shooting of Cherry Groce (Murji & Neal, 2011).

In the analysis below I explore how these contrasting and competing interpretations of the unrest were mobilised in media, political and professional discussions, and assess their implications, focusing in particular on the erasure and denial of structural racism. In doing so I build on sociological analyses of the harsh criminal justice reaction to the disturbances (Allen & Taylor, 2012; Jensen, 2013; Lambie, 2013; Sim, 2012; Slater, 2016; Tyler, 2013). While this work has been vitally important in identifying the representations and discursive framings that dominated media and political debate in 2011 and set the scene for the state's punitive response, very little critical research has looked inside the criminal justice system itself. By foregrounding the accounts of practitioners who were central to designing and delivering the criminal justice backlash to the riots, asking how they justify and make sense of this reaction, this article provides a novel empirical perspective and makes a significant contribution to existing sociological literature on the 'riots'.

My analysis shows how avoiding or obscuring the events that precipitated the unrest, and the longer historical continuities of which they are a part, was vital in enabling professionals to ignore or deny the role of structural racism in the unrest. In doing so I build on the work of scholars who have argued that acknowledgement of the importance of structural racism as a cause of the unrest was often conspicuously absent from political, journalistic and academic accounts in the wake of 2011, and this silence was arguably vital in licensing a response that did nothing to address the structural inequalities at the root of the unrest (Back, 2014; Gilroy, 2013; Murji, 2017; Solomos, 2011).

Conceiving of racism as the structurally differential distribution of disadvantages within society, enforced and maintained through institutional practices that benefit white people and disadvantage people of colour (Lander, 2021) – ultimately 'the state-sanctioned or extralegal production and exploitation of group-differentiated vulnerability to premature death', in Ruth Wilson Gilmore's (2007, p. 28) valuable conceptualisation – my analysis builds on a growing recognition of the political, cultural and ideological power of unknowing (or ignorance, broadly conceived) in normalising and perpetuating structures and practices of racism (Hesse, 1996; Jones, 2021; Mills, 1997; Sullivan & Tuana, 2007). Despite the continuing importance of racism in structuring contemporary economic, political and social inequalities, it is routinely ignored, denied, erased, rendered invisible or dismissed (Goldberg, 2015). This in turn legitimises the systems and structures that perpetuate racial inequalities, and renders illegible demands to address these inequalities, so that 'one of the most powerful ways in which white supremacy endures is through its denial' (Joseph-Salisbury, 2019, p. 64).

Processes of obscuring the historical roots of structural racism are especially powerful in obscuring its enduring effects in the present, and allowing it to persist and thrive. As philosopher Charles W. Mills (2007) emphasises, amnesia has been vital in normalising and perpetuating structures of racial inequality. Crucially, amnesia is conceived not as an individual, passive or accidental lack or loss of memory, but as an active, conscious and collective process of erasure, repudiation and mystification. In the UK context, the erasure of colonial history, in particular, has served to obscure its legacy in the racial hierarchies of the present (Gilroy, 2004; Hall, 1987; Hesse, 1996; Joseph-Salisbury, 2019; Younge, 2023). Alongside unambiguously deliberate, intentional and institutionally sanctioned obliteration – such as the systematic destruction of records of the crimes and

atrocities of colonial powers (Jones, 2021) – scholars such as Stanley Cohen (2001) and Michel-Rolph Trouillot (2015) highlight the complexity of this amnesia, showing how the telling of the past inherently involves selection, exclusion, silencing and elision that plays a vital role in shaping individual and collective memories of the past and understandings of the present. Building on these insights, and on emerging understandings of the multifaceted role of diverse forms of unknowing in normalising punitive penal practices (Barton & Davis, 2018; Mathiesen, 2004; Scott, 2018; Stanley & Mihaere, 2018), the analysis below traces how the forms of forgetting in practitioners' accounts point to a broader collective amnesia around the 2011 'riots' that obscures the salience of structural racism in making sense of the disturbances, and in doing so legitimises a penal response that simultaneously ignored, reflected and entrenched racial inequalities. In this way, I offer a new theoretical perspective on the state's response to the unrest, and extend emerging academic understandings of the role of amnesia and unknowing in legitimising criminal justice practice.

Researching the response to the unrest

This article draws on data and analysis from a broader research project on the cultural politics of punishment in the wake of the 2011 disturbances. Between February and October 2018, I conducted 14 qualitative, semi-structured interviews with criminal justice professionals who had in 2011 been barristers, solicitors, prosecutors, managers in local authority youth offending and probation services, a senior civil servant at the Ministry of Justice and a district judge (all of whom had been working in London) and a magistrate (based in a large Northern city affected by the unrest). Most of my approaches were made by email, or via interviewees putting me in touch with their colleagues; though some initial contact with individuals or organisations was facilitated by friends and academic colleagues. Some groups of professionals were far easier to access than others: while defence solicitors, for example, were relatively forthcoming in their responses to my approaches, the judiciary, in particular, proved difficult to access and I was able to interview only one retired district judge. My analysis in this article draws primarily on my conversations with three senior prosecutors at the CPS in London.

In addition, I analysed news coverage (focusing on print and online articles from national newspapers), policy reports and political rhetoric (including speeches, statements to parliament and press comments) in a 12-week period from the day of Mark Duggan's death, identifying a series of key themes, narratives and discourses that circulated in public conversations about the unrest. Interview transcripts, media texts and political rhetoric were analysed using critical discourse analysis (CDA). As such, I approach the interviews not simply as factual accounts of professionals' work in 2011, but as the product of a highly specific social setting and at a particular moment in time. Drawing on Fairclough's (2013) approach to CDA, I explore the discursive resources on which professionals draw, situating these discourses in the cultural and symbolic context within which they emerge, and considering the role they play in the establishment, reproduction and change of unequal power relations. I show how interviewees' accounts of the 'riots' reflect, reproduce and reinforce a broader set of public and political discourses that were in circulation in the wake of the unrest, and were vitally important in

normalising and legitimising the state's punitive response. In line with the theoretical focus of the article, I pay particular attention to what was left out, ignored or glossed over in professionals' accounts and in wider conversations about the disturbances.

Care was taken to ensure informed consent and to anonymise participants' accounts. Although CDA can raise complex questions about ethics given the potential discrepancy between informants' expectations or assumptions about the research and the kind of critical analysis their accounts are subjected to (Hammersley, 2014, p. 530), it is important to contextualise these concerns within the significant disparities of power that structure research within the criminal justice system. Organisations like the CPS and the judiciary retain tight control over the research process, often remaining inaccessible to critical researchers, and closely controlling the outputs of research about them (Baldwin, 2008); subjecting such participants' accounts to critical analysis poses little risk to individuals or institutions.³ Moreover, turning the critical academic gaze 'upstream' (Crossley, 2017) – towards the sites and processes where power is practised – represents an important methodological, ethical and political commitment. Drawing on *Policing the Crisis* (Hall et al., 1978/2013), this article takes the view that the individuals and institutions involved in defining and responding to crime warrant as much analytical attention as the crime itself or those who commit it. While a great deal has been written about the unrest and the motivations of the 'rioters', far less critical attention has been paid to those who have played vital roles in the punitive criminal justice reaction to the disturbances. Such an approach offers distinctive insight because it renders visible a complex process of narration and justification that ordinarily remains out of sight to sociologists and the public.

In line with other approaches to CDA, the article provides an in-depth analysis of a relatively small number of interviews (Dick, 2004), and does not make claims to generalisability, as the individuals whose accounts I examine are not necessarily typical of either their professions or other kinds of workers who were not included in the study. Nevertheless, the recurrence of narratives and claims about the disturbances and the criminal justice response across my conversations with participants from different parts of the criminal justice system, and their consistency across political, media and policy discourses, points to an important set of shared meanings that require sustained attention.

Discussion: Prosecuting the 'rioters'

Despite the academic focus on the causes of the unrest, the nature and scale of the criminal justice system's reaction was in many senses just as notable, and was strikingly harsh at each stage of the process from arrest to sentencing (Lightowlers & Quirk, 2015; Pina-Sánchez et al., 2017). Within a month of the disturbances, in London alone nearly 4,000 people had been arrested (Home Office, 2011), signalling an extraordinary level of police time and resources dedicated to locating suspects (Newburn, 2015). The most spectacular and memorable aspects of the courts' response included the highly unusual introduction of all-night sittings at a number of magistrates' courts to process the large numbers of people arrested, prompting serious concerns about due process, access to legal advice, and the quality of decision-making (Bawdon & Bowcott, 2012). More than 60% of those arrested for involvement in the disturbances were remanded to custody (compared to

around a tenth of people arrested for the most serious offences in normal circumstances) (Curtis, 2011) and nearly two thirds of riot-related cases, many of which would ordinarily be dealt with in the magistrates' courts, were sent to the Crown Court (Ministry of Justice, 2012), paving the way for far more punitive sentencing (Gilson, 2011). By August 2012, 3,100 individuals had been charged for riot-related offences, and over 2,000 had been tried, convicted and sentenced (Ministry of Justice, 2012). Of those convicted two thirds were sentenced to immediate custody – an increase of 24% compared to similar offences in 2010 (Ministry of Justice, 2012). Perhaps most remarkably, the average custodial sentence handed down for riot-related offences was 17.1 months – four times longer than the average sentence for comparable crimes the previous year (Ministry of Justice, 2012), pushing the prison population higher than ever before (Prison Reform Trust, 2011).

Largely reflecting wider disparities in the criminal justice system (Lammy, 2017), those from economically deprived neighbourhoods and minoritised ethnic groups were disproportionately likely to be affected. Forty-two per cent of young people appearing before the courts were, or had been, in receipt of free school meals, compared to the 16% average (Ministry of Justice, 2012). While black people made up only 3.3% of the overall population in England and Wales in 2011 – and 13% of the population in London, the most ethnically diverse area in the country (Gov.uk, 2018) – 39% of those charged with riot-related offences identified as black (Ministry of Justice, 2012). People of colour, and black people in particular, were less likely to be granted bail, and more likely to be sentenced to prison (Ministry of Justice, 2012).

While journalists and academics raised concern about the exceptionally long sentences handed down to 'rioters' by the courts (Ashworth, 2012; Bawdon, 2011) the CPS's role in this process received very little critical attention, despite its unusually proactive and adversarial approach playing an important role in driving the courts' reaction to the unrest (Lightowlers & Quirk, 2015). This 'prosecutorial zeal' (Lightowlers & Quirk, 2015) was reflected both in decisions to prosecute, and the kind of offences with which suspects were charged. My interview with the senior prosecutor I call Kofi highlights how the CPS effectively deviated from its usual policy and practices regarding decisions to prosecute,⁴ signalling a significant shift in policy that paved the way for the courts' remarkably harsh approach to remand and sentencing (Lightowlers & Quirk, 2015). When the disturbances began, Kofi was part of a team convened to liaise with the CPS's Director and central government and to coordinate the CPS's response, initially focusing on ensuring prosecutors were available to cover the large volume of cases appearing before the magistrates' courts, including the all-night court sessions. He explained that the papers provided to the CPS by the police 'were, literally, the barest minimum':

In a normal case we would be asking for a lot more. . . . But obviously we couldn't afford to be precious at that time, so really the barest minimum was acceptable to process these cases, in the hope that some of them would plead [guilty] because they were caught bang to rights and therefore there was no need for a file build.

The CPS was prosecuting cases with minimal evidence, leading to the prosecution of cases that may ordinarily have been dropped or returned to the police for further evidence. Equally striking was the CPS's approach to the public interest test in this context.

Kofi explained that ‘Obviously, in terms of public interest, it would almost always be in the public interest to proceed’ with riot-related cases:

Whereas before you would be thinking, this was an isolated incident, he has no previous convictions, it’s at the lower end of the scale – you know, we had a kicking in of a shop window, he’s offering to repay the shopkeeper, we think we can deal with this by way of a caution or out of court disposal – that wouldn’t be happening around that time.

This was reflected in legal guidance issued by the CPS stating that ‘[t]he serious overall impact of the disorder in August 2011 has been such that prosecution will be in the public interest in all but the most exceptional of circumstances’ (Crown Prosecution Service, 2011). Though aspects of the public interest test are, even in ordinary circumstances, somewhat underdetermined and open to interpretation, the speed at which the guidance was issued drew criticism, since it suggested that ‘a substantial policy decision had been made at speed and without consultation’ (Lightowlers & Quirk, 2015, p. 70). At the same time, the CPS was choosing more serious charges that carried considerably longer sentences, significantly raising the stakes for defendants (Lightowlers & Quirk, 2015).

‘Society was in meltdown’: Normalising the extraordinary response

The three prosecutors I interviewed framed the CPS’s approach to the disturbances as a vital means of ensuring public safety in the face of a frightening breakdown in law and order. Amar, who had been a Senior District Crown Prosecutor in London in 2011, recalled the period of unrest as a frightening time: ‘It felt like a breakdown in law and order. So people were getting quite terrified.’ For Amar the chaos was characterised by the looting of shops: by ‘five-handed robberies, and violent disorders and people just, you know, smash and grab and helping themselves to anything that moved’.

Kofi had similarly begun our conversation by recalling that:

. . . it was a really scary time for everybody. . . You just thought, there’s mayhem breaking out everywhere. And it wasn’t just isolated. . . it was Croydon, Notting Hill, Tottenham. So you’re thinking, oh my God, where’s this gonna end? (*Laughing*) Is it gonna end?!

For Kofi, this sense of the unrest being beyond prediction or control necessitated a swift and severe response: ‘The society was in meltdown. The authorities had to step in and put in place some really harsh measures to make sure that the whole thing didn’t collapse.’ Kofi framed the disturbances not just as a threat to retail and commercial properties, to particular neighbourhoods, or even to the city, but to society itself. In the face of such a danger, Kofi says, the authorities were obliged to take decisive action, not only to protect local businesses and residents but to safeguard society. Against the Hobbesian images of the unrest as frightening disorder, chaos, mayhem and lawlessness, the ‘measures that needed to be taken’ were clear: prosecuting as many cases as possible, as quickly as possible, to secure convictions that would bring the unrest to an end by deterring those rioting, or considering joining in.

These definitions of the disturbances resonated with the meanings that dominated media and political discourse in 2011. Recurring representations of lawlessness, anarchy and mindless mob rule created an imagination of the disturbances as pure chaos that could not possibly carry any important information about the social or economic conditions from which they arose (Kelsey, 2015). They also echoed political narratives that sought to swiftly close down explanations of the disturbances as a response to structural or systemic political failings, instead narrowly framing them as ‘criminality, pure and simple’ in David Cameron’s (2011a) well-rehearsed phrasing. This denial of politics crossed party lines: Sadiq Khan, then Labour MP for Tooting, echoed the same point, writing that the disturbances were ‘not a genuine outlet of political angst, nor a reaction to police conduct’ but ‘simply criminality on a devastating scale’ (Khan, 2011).

Framing the unrest as meaningless criminality, then, was an important mechanism for justifying the CPS’s adoption of unusually harsh and controversial prosecution practices that disproportionately targeted racially minoritised people. But as I show in the following sections, this understanding relies upon two distinct forms of amnesia. Drawing on other professionals’ accounts of the unrest, and media and political discourses, I argue that these forms of forgetting serve to obscure and ignore the disturbances’ political meanings – in particular, their coherence as a response to historical and contemporary structures of racism.

‘We don’t have much of a history of that’: Forgetting the historical context of the disturbances

The idea that the disturbances were entirely unprecedented was crucial to the prosecutors I interviewed, and as I show below, to broader political and media narratives that circulated in the wake of the unrest. But this claim effectively elided or minimised the historical context – most notably, the widespread urban unrest of the 1980s – which is vital for understanding the disturbances as more than a senseless breakdown of law and order.

Amar had worked alongside Kofi and other senior CPS staff in August 2011 to plan the organisation’s response to the disturbances in London. As he reflected,

People were being arrested and they were being charged and prosecuted very, very quickly. So, but I think you have to view that, and look at it in the sort of context of what happened at the time. And in this country’s history it’s quite rare.

While Amar acknowledged the speed at which people were charged and prosecuted, he was quick to point out that this needed to be seen in the context of the purportedly unusual nature of the events:

There was a lot of critical journalism after the event, after they’d finished, saying, look, you know, [the] criminal justice system had just shut down, and it was like everybody was just being locked up, etcetera. Well yes, it probably *did* feel like that. But then I think they were very unique circumstances. . . It was quite extraordinary at the time.

For Amar and others, the notion of the disturbances being unique and extraordinary was a crucial factor in justifying the criminal justice system's deviation from normal policy and practice. This imagination was central to my interviews with other professionals, too. David, who had been a magistrate in 2011, similarly told me that the disturbances were 'a very, very unusual set of circumstances, and something that the English justice system had never had to tackle, in modern history'.

Given England's 'long and very riotous history' (Murji & Neal, 2011), an interesting aspect of the media, political and policy response to the 2011 disturbances was 'the surprise that greeted them; as if we had not seen their like before' (Jefferson, 2012; see also Murji & Neal, 2011). Professionals' unwillingness to acknowledge this history signals a powerful 'historical amnesia' (Benyon, 1987, p. 167): a 'cycle of perpetual forgetfulness' (Hall, 1987, p. 50) that allowed the disturbances to be met with shock and bewilderment. This amnesia is vitally important to understand because it allows the vital connections between urban unrest and racism to be ignored. While scholars have rightly cautioned against drawing simplistic or totalising connections between distinct episodes of unrest, which each reflect complex and specific historical, political and spatial dynamics (Murji & Neal, 2011; Solomos, 2011), racism is the 'overriding theme running like a thread through most of the riots in post-war Britain' (Newburn, 2015, p. 50), both in terms of a broader context of racialised social and political inequalities and – most clearly – in racist policing practices that spark disturbances. Though the 2011 disturbances were unique in many ways, framing them as entirely unprecedented and anomalous obscures the role of structural racism in explaining them.

In some cases, professionals did recall earlier examples of unrest. As Roger, a criminal defence solicitor and head of a long-established London law firm, told me:

Brixton and Toxteth in the 1980s were deeply deprived areas with real problems. And I mean, the Scarman report was, you know, a real eye-opener to people. Whereas I don't think this set of riots was the same issue at all. I mean, certainly in deprived areas the kids thought 'Gosh, this is exciting', but it wasn't based on the deprivation or the racism which I think both Toxteth and Brixton probably were.

Roger clearly recalled the 1980s unrest but, far from highlighting the historical parallels between the two periods of unrest, drew a sharp dividing line between them, positioning 2011 as decisively *not* about poverty or racism, but solely about 'excitement'. Criminologists have drawn attention to the importance of understanding the emotional experiences of involvement in unrest, including excitement and pleasure as well as alienation, frustration and fear (Newburn et al., 2018). Nevertheless, as Paul Gilroy (2013) pointed out, the idea that 'thirty years earlier there had really been things to complain about, while nowadays, things were not so bad as to justify the rioters' "mindless violence" became a curiously common refrain in media and political commentary in 2011. An editorial in the *Daily Mail*, for example, made a clear-cut distinction between the two periods:

To blame [the riots on] the cuts is immoral and cynical. This is criminality – pure and simple – by yobs who have nothing but contempt for decent, law-abiding people. No, regardless of the

propaganda being pumped out by the Left-wing establishment, this is not a repeat of the political riots that scarred the early 1980s, which were sparked by mass unemployment and alleged police racism. (Daily Mail, 2011)

Political responses echoed this logic: contending that while the earlier disturbances were rooted in racism, as Scarman showed, what happened in Tottenham was mindless, copy-cat violence. The Parliamentary Home Affairs Committee observed that while there could have 'been an element of disengagement' among some of those involved, 'unlike some events in the past, including the riots in the 1980s, there does not seem to be any clear narrative, nor a clear element of protest or clear political objectives' (Home Affairs Committee, 2011, p. 31). These claims embodied a kind of perverse nostalgia, harking back to a golden age where civil unrest clearly and incontrovertibly signalled profound social inequalities. Like all nostalgia, this narrative appeals to a putative past that is largely imagined: indeed, far from universally recognising the unrest as a legitimate reaction against structural violence, media and government rhetoric in the wake of the 1981 and 1985 disturbances was dominated by discourses of a pathological black culture that framed the unrest as aberrant, irrational and entirely unjustifiable (Keith, 1993). The 1980s disturbances, then, were imbued with political legitimacy and credibility only in retrospect, providing an ideal of authenticity against which contemporary events could be compared and found to fall short.

This selective acknowledgement of history was also clear in my conversation with Martin, a senior civil servant who had led the prison service's response to the disturbances. Comparing 2011 to the 1985 Broadwater Farm disturbances in Tottenham, Martin recalled the earlier events as decisively more political:

They were a response to stop and search and stuff like that, and police intimidation, as were the Brixton riots and that sort of stuff. These [2011 riots] weren't a response to that. . . If I remember rightly, they came out of a single incident, didn't they?

I reminded Martin that it was the murder of Mark Duggan that had precipitated the unrest. After a brief moment of confusion, he recalled that Duggan's death had 'created the spark' for the unrest. 'But', he continued, 'it wasn't sort of brewing in Tottenham as far as I can tell, in the same way as Broadwater Farm, or Brixton, or Toxteth or any of that was brewing for quite some time.' In this way Martin positioned Duggan's killing as an isolated and anomalous incident, pulling it firmly out of its political context, ignoring its significance and obscuring the clear lines that run through England's recent history of urban unrest and connect it to patterns of racialised state violence.

'I can't really remember what triggered it': Erasing Mark Duggan's killing

Perhaps the clearest challenge to the notion of the 2011 'riots' as unforeseeable and entirely apolitical criminality is that these disturbances, like so many others in England's recent history, were a direct reaction to the killing by the police of a person of colour in a relatively deprived and over-policed neighbourhood. Mark Duggan's killing, then, in

some ways represented a sticking point in prosecutors' justifications of the criminal justice response to the disturbances, and broader narratives of the events.

A sense of amnesia about Duggan's killing was common in my interviews with prosecutors and others across the criminal justice system. In some cases, practitioners' narratives of the unrest simply left out Duggan's killing. Amar, for example, made no mention of Mark Duggan at all; rather, his account started when 'all was going wrong in London', with 'riots in Tottenham and Croydon and a whole host of other places'. As legal scholars note, 'where to begin' is a significant question: legal narratives are often tightly bounded and miss out vital context that would suggest different conclusions (Scheppelle, 1989). By eliding Duggan's death and cutting straight to the disorder, Amar maintains a coherent narrative in which the CPS's role was 'simply to assist the courts' in dealing with a dangerous and senseless outbreak of violence.

For prosecutor Kofi, Duggan's killing had slipped out of his recollection of events over the years:

- Kofi: I have to really think about how it actually came about, because I can't really remember what triggered it. There was something in Tottenham, was it?
- Chloe: Yeah, it was Mark Duggan, the police shooting.
- Kofi: Mark Duggan's police stop, that's right. He was killed, wasn't he? He was stopped because they suspected he was carrying a firearm, or something?
- Chloe: That's right.
- Kofi: And that's what was the trigger, yeah. . . It's very, what word am I looking for, inauspicious. It's just, you know, obviously a tragic event for those concerned, the shooting by officers of a person in the car. But, you know, you wouldn't hear that and think 'Oh my god, we're gonna be in conflagration tomorrow, the whole country's gonna be on fire.'

Rather than ignoring Duggan's death entirely, Kofi framed it as a personal and private tragedy but essentially an unfortunate and anomalous event, and the unrest as a disproportionate reaction that could not possibly have been anticipated.

Unlike Kofi and Amar, Jason – a senior prosecutor who had been in charge of more serious Crown Court cases during and after the unrest – *did* clearly recall Duggan's death. He remembered the disturbances being linked to 'a long-term issue' involving 'a significant proportion of the society in general being really disenfranchised and disillusioned by society in general, which is why they were rioting. You know, as a result of primarily, you know, the Mark Duggan case and others.' Initially, then, Jason pointed to Duggan's killing as a cause of the unrest. Pointing out that large sections of the population were disillusioned by 'the Mark Duggan case' *and others* suggested an awareness of the systemic nature of the issues of police brutality in Duggan's death. But he hesitated in his analysis when we returned to the topic later in the interview. Some, he said, 'would have been triggered by concerns about certain cases; others would have been triggered by their general view about politics, society in general'. But, he went on, 'It's easy to say "it was triggered by" – [that] initially it was triggered by the concerns over the Duggan case. . . But actually, were those people involved in it because of that? Who knows?' Jason's agnostic attitude ('Who knows?') signals an unwillingness to accept the political

salience of Duggan's death without robust evidence and fits into the broader organisational narrative offered by his colleagues, framing the unrest as a largely, if not entirely, criminal rather than political phenomenon.

Sentencers' accounts similarly dismissed or minimised the significance of Duggan's death in the unrest. Retired district judge Leonard told me that 'Although the riots appeared to start because of the shooting of the young man in Tottenham, that clearly wasn't the grievance, if there was a grievance, from other parts of the country.' Though he acknowledged that Duggan's murder had 'appeared' to play a role in the start of the unrest, it certainly could not explain the spread of the disorder to other towns and cities. Again this was consistent with the dominant political interpretation of Duggan's death: David Cameron insisted that it was 'simply preposterous for anyone to suggest that people looting in Tottenham at the weekend, still less three days later Salford, were in any way doing so because of the death of Mark Duggan' (Cameron, 2011b). This framing of Duggan's death as a one-off, isolated event that could not possibly be connected to unrest in other locations again obscures the systemic and structural violence that Duggan's killing in some ways represented or revealed, and that the state's response to the disturbances so completely failed to recognise, let alone address.

Like Leonard, magistrate David recognised that a police shooting had sparked the unrest – but, like in many others' accounts, Duggan's name had been lost along the way:

- David: I know this all started because some- the police shot and killed, and I can't remember the man's name, you'll probably remember it.
- Chloe: Mark Duggan.
- David: That's right, shot and killed him. And there's all sorts of rumours around that. There's allegations that apparently a police, one of the police's mobile phones would appear to have had a bullet embedded in it.

David had remembered that a bullet had become lodged in a police device, but not that the bullet had unambiguously been fired by a police officer, and that Duggan was unarmed when he was shot – instead implying that Duggan had shot at the police. David's recollection is perhaps not surprising when we consider how Duggan was represented by the media following his death. On the day of the killing *The Telegraph* for example reported 'A policeman's life was saved by his radio last night after gunman Mark Duggan opened fire on him' (The Telegraph, 2011) and an initial statement from the Independent Police Complaints Commission referred to a 'shoot out', though this was withdrawn within days (Prodger, 2014).

Duggan's killing represented a kind of 'uncomfortable knowledge' (Rayner, 2012) that challenged the CPS's narrative about the disturbances as a uniquely dangerous outburst of meaningless violence and criminality. For some, as I have shown, Duggan's death was simply omitted from their narratives, while for others it was neutralised by positioning it as an isolated incident, an individual tragedy unrelated to broader questions of police racism, and unconnected to the disturbances that followed it. Forgetting Duggan's death, or dismissing its significance, is an important means of maintaining the widespread and 'well-rehearsed disavowal that [the 2011 riots] had anything to do with

racism' (Back, 2014). While acknowledging the role of racism in causing the unrest would make clear the need for structural remedies, denying it serves to absolve the state of responsibility to respond in anything other than 'law and order' terms.

'A response to oppressive law and order practices': Centring structural racism

Turning briefly to interviews with more critical criminal justice practitioners points to the different readings of the unrest that emerge when Duggan's killing and the broader political context of the unrest are not ignored, but foregrounded. In contrast to prosecutors, whose accounts often began by emphasising the terror of the disorder, Ashley, who managed a youth offending service, emphasised that the disturbances needed to be understood within the context of the Coalition government's austerity agenda and its profound consequences for young people's opportunities and prospects. Ashley also framed the unrest clearly as the result of Mark Duggan's death, and – crucially – situated Duggan's death within wider patterns of discrimination and victimisation:

I think it was a culmination of tension and people feeling disempowered, powerless and discriminated against. I think it was a combination of all those factors. 'Cause there had been tensions between certain groups, BME young people, in particular, also some white young people who are from working-class backgrounds, or from lower- less affluent backgrounds. So tensions had been brewing for quite a while in a way.

While others had claimed that the issues leading to the 2011 unrest had not been simmering 'in the same way as Broadwater Farm, or Brixton, or Toxteth', Ashley was clear that tensions between the police and marginalised young people that had been building over a number of years were at the heart of the disturbances. For Ashley, it was this context that needed to be addressed if future disturbances were to be avoided. Rather than pointing to prosecution and conviction as the best way to bring the disorder to an end and prevent it from occurring in the future; Ashley argued that meaningful change in social, economic and political inequalities was needed. 'Otherwise', he said, 'we're just going to see a repeat of these issues that we saw in 2011.'

This understanding of the unrest as a response to discriminatory criminal justice practices was also taken up by defence solicitor Sadie:

What sparked the riots was a response to oppressive law and order practices which impact particular communities in disproportionate ways. And yet it seems to me that the outcome of the criminal justice system in relation to the riots was basically exactly the same thing: an oppressive law and order policy which impacted on particular communities in disproportionate ways. So we basically re-enacted Mark Duggan in a different format.

Like Ashley, Sadie saw the disturbances as a direct response to Mark Duggan's killing, and positioned Duggan's death not as an anomaly but as part of a wider pattern of racist policing practices. Moreover, she emphasised how the criminal justice reaction to the unrest was not only inadequate but actively counterproductive, perpetuating the racist

violence that had led to the unrest. Putting Duggan's death front and centre enabled a very different view of the prosecutorial reaction to the disturbances – as, at best, an irrelevant and woefully inadequate response that fails to address the manifold social inequalities underlying the events; or at worst, a brutally upscaled re-enactment of the discriminatory criminal justice practices that led to the unrest.

Conclusions

This article has examined the shared meanings and definitions of the 2011 'riots' that emerged in my conversations with criminal justice professionals, and the broader forms of forgetting and erasure that served to justify and normalise the state's extraordinarily harsh approach to the events, focusing in particular on the CPS's approach to the disturbances. In doing so it offers new insight into the discursive constructions that shaped public, political and policy debate on the 'riots', and shows how a set of narratives about the unrest were mobilised not just in media and political spheres but within the criminal justice system.

Prosecutors told a story of the disturbances as disorder of the most fundamental kind: a frightening and chaotic breakdown of law and order, and a grave danger to public safety. Against this backdrop, swiftly prosecuting as many 'rioters' as possible was framed as a legitimate, necessary and proportionate measure to protect the public. The coherence of this imagination, I have argued, is contingent upon processes of amnesia and elision. Echoing broader political and media narratives, professionals' accounts often ignored or dismissed England's history of urban unrest, the entrenched racism and state violence that have been at its heart, and its most recent manifestation in the police killing of Mark Duggan. In contrast, more critical criminal justice professionals put the historical continuities, and Duggan's death, at the centre of their accounts of the unrest. Doing so opened up different ways of thinking about the criminal justice response: not as a benevolent restoration of public safety, but as an emblematic example of deeply racialised and classed processes of criminalisation and punishment.

Drawing on scholars who have argued that amnesia is a vital process in sustaining structures and practices of racism (Mills, 2007), I have shown that obscuring and evading this history has been important in underpinning a criminal justice response that disproportionately targeted marginalised communities, and dismissing demands for structural changes that address the root causes of the unrest. Taking a CDA approach, we can read these accounts as reflective of, and constitutive of, a politics of punishment that offers penal solutions to profoundly structural political, social and economic problems (Simon, 2007).

This analysis points to the sociological value of attending to the wide range of forms of unknowing and obfuscation that are mobilised to justify and sustain the classed and racialised harms of the criminal justice system (Barton & Davis, 2018; Mathiesen, 2004; Scott, 2018; Stanley & Mihaere, 2018) and racist state practices more broadly (Hesse, 1996; Jones, 2021; Mills, 1997; Sullivan & Tuana, 2007). In light of the Conservative government's ongoing determination to deny the importance of structural racism, this remains an urgent project. The Black Lives Matter protests of summer 2020 were heralded as an unprecedented reckoning with racism in Britain and globally; a moment

where previously unacknowledged forms of structural racism became ‘seemingly irrefutable’ (Olusoga, 2020). Yet the government, far from addressing these issues, has rushed to deny or obfuscate structural racism. Published in March 2021 and a key response to the protests, the Sewell Report (Commission on Race and Ethnic Disparities, 2021) was widely criticised for erasing systemic racial inequalities (Day et al., 2021) and intentionally ignoring the deep-rooted and pervasive racial bias in the criminal justice system (Knox, 2021), with its own commissioners and informants levelling serious accusations of denial and distortion (Iqbal, 2021; Quinn, 2021). The ongoing implications of this obfuscation, and the shifts it serves to normalise and legitimise (not least, the introduction of a series of punitive measures that seek to silence anti-racist protest and promise to disproportionately target racially minoritised communities) will require sustained sociological scrutiny and political contestation. Attending to the ways that memory and forgetting, knowing and unknowing, are mobilised in public and professional conversations about urban unrest, and crime more broadly, offers a valuable sociological tool for thinking through the vital connections between practices of punishment and the inequalities they perpetuate.

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Notes

1. All research participants’ names used in this article are pseudonyms.
2. While ‘the riots’ is perhaps the most widely used term for these events, and appears often in the interviews and scholarship I draw on in this article, it is a contested term that arguably implies illegitimacy (Keith, 1993). Following critical commentators who have suggested we read the events as protest (Akram, 2014), counter-conduct (Sokhi-Bulley, 2016), uprising (Trott, 2014) or insurrection (Darcus Howe, cited in Gough & Glenton, 2011), I choose to use the terms unrest or disturbances, foregrounding their complex political and social dimensions.
3. In contrast, critical research on the state and powerful organisations poses considerable risks for researchers, and there is arguably a need for more nuanced understandings of traditional conceptions of research ethics that have been developed primarily to protect research participants (Alvesalo-Kuusi & Whyte, 2017).
4. The Code for Crown Prosecutors sets out a two-step process for deciding whether to prosecute a case: an evidential test (requiring the police to have sufficient evidence to provide a realistic prospect of conviction) and a public interest test.

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