

THE ATHENAEUM CLUB TALK LUNCH HILLSBOROUGH

“Unaccountable Power, patronising disposition: Hillsborough”

I am honoured that this is my second opportunity to address the Club. The first occasion Lord Runcie was in the Chair. He spent most of the dinner adjusting his hearing aid. When he introduced me he confessed he could hear very little, but added that being deaf never got in the way of taking part in a good discussion!

That evening I was standing in for Cardinal Hume who sadly had just died. Shortly after his funeral my chaplain took a call from a tv researcher who wanted to interview me. “What about?” asked my chaplain. “We’d like to ask him what he thinks his chances are of succeeding Cardinal Hume as Cardinal Archbishop of Westminster?” The chaplain declined. But I said to him, “We should have done the interview! How very ecumenical of the Pope! No matter that I have a wife and three children!”. But now to be serious although Liverpool is a city of infectious laughter as well of tragedy and tears.

35 years ago this week in 1989 97 Liverpool fans were ‘unlawfully killed’ at the Hillsborough Football Stadium in Sheffield. 12 years ago the Hillsborough Independent Panel published its Report which prompted the Prime Minister at the time to say that the Families had suffered a ‘double injustice’. 11 years ago the High Court under the presidency of the Lord Chief Justice, the late Lord Igor Judge, quashed the original Inquest verdict of ‘accidental death’. 8 years ago at the second Inquests under the Coroner, Sir John Goldring, the Jury returned a determination of ‘Unlawful killing’. 6 years ago the then Home Secretary, Theresa May, commissioned a Report on how we could learn from the Families’ experiences so that their pain and suffering would never be repeated. The Government eventually responded to this Report just before Christmas on December 6th, some 34 years after the tragedy. The title of my Report? “The Patronising Disposition of Unaccountable Power.”

This phrase came to mind while chairing the Independent Panel. As we accessed a million documents and scrutinised them as a Panel trying to understand the implications for the Families and Survivors it seemed to me that these words aptly summarised what they had endured for so long.

In this 35th anniversary week it is a poignant privilege to reflect on this narrative because Sir John Goldring, the late Lord Igor Judge, Lady May and I are all members of this Club, although I hasten to say that there was never any collusion between us in the Club. Yet it is to the Club's credit that four of its members had a crucial role in undoing one of the great injustices of our times.

I became Bishop of Liverpool in 1998. Shortly after my arrival Trevor and Jenni Hicks who had lost both their teenage daughters, Sarah and Victoria, at Hillsborough came to ask me to preside at the 10th of the annual Memorial Services held each year at Anfield. As I listened to them I could see that there was an open wound defying healing. Without rancour or rant they told me quietly of the way they had been treated by the police and others simply trying to find answers as to how and why their daughters and then 94 other fans had died. At each turn they were rebuffed and patronised.

Ten years later I was invited to preside at the 20th Anniversary. After all those years well over 30,000 people came to Anfield. The Memorial was in two parts – the first a service with the lighting of candles, prayers and songs led by a local Gospel Choir; the second was like a rally with various speakers rousing the crowd with denunciations of those obstructing the truth including the Sun newspaper. Andy Burnham, a local lad now Secretary of State for DCMS, was invited to speak. As he began to read from a prepared script a lone voice shouted out from the stands 'Justice for the 96'.

With that the whole stadium stood and chanted. If you had gathered them beforehand to rehearse it they could not have been more pitch-perfect or more in unison.

Andy was clearly shaken and returned to London to persuade the Prime Minister, Gordon Brown, to do something. In negotiations between Downing Street, the Home Office and the Ministry of Justice the proposal to set up an Independent Panel emerged which was then developed by a senior civil servant at the Home Office, Ken Sutton, who is here as my guest today. In the process of Ken consulting with the Families and other interested parties I was eventually asked by the Home Secretary, Alan Johnson, to chair the Panel.

When it was announced not a few questioned it. 'Why a bishop and not a judge?' It is worth pondering when a community is failed by the Police, the Press, Politicians, Parliament and even the Judiciary to whom do they turn? When Anne Williams, who lost her teenage son Kevin and campaigned for the rest of her life for a second inquest, heard from her daughter that the Panel was to be chaired by a bishop her weary response was 'At least he can't lie!'

Margaret Aspinall, who lost her teenage son, James and for many years chaired the Hillsborough Family Support Group wrote me a letter:

"From the moment of our arrival at Hillsborough to identify James' body and for the twenty years that followed, we felt the full brutal force of the English legal system. It was never a level playing field. Rather than holding those to account, it always felt as though it was putting our loved ones, friends and fellow supporters on trial."

The Hillsborough Independent Panel was neither an Inquiry nor a criminal investigation. It did not question any one under oath. It interrogated documents on the basis that the papers, accessed and analysed by experts in different fields, would tell their own story.

In the countless media interviews about the outcome of the Panel's work I recall saying often that 'truth has its own pressure'.

It may take years or decades to come to the surface but as in the cases of the Infected Blood community and the Sub-Postmasters the truth is ultimately irrepressible even though justice may be more elusive.

For the record it is important to describe the process and the character of the Independent Panels that I have chaired and to differentiate them from Public Inquiries under the 2005 Inquiries Act. I pay tribute to my colleague Ken Sutton who with his team painstakingly engaged with families and survivors to ascertain the issues and the questions to which they wished to find answers. This thorough consultation enabled him to draw up the Terms of Reference for the Panel's work. (Too often Terms of Reference are drawn up at short notice without adequate research into the issues). When this is done effectively and the Terms are shaped but not defined by those affected it gives confidence to the families that they are being listened to. And the trust of the families is key to securing public confidence. Equally important is that this also lays the foundation for the formation of the Panel so that you appoint experts in different fields that can apply their expertise to the range of issues raised by the documents. Thus to the Hillsborough Independent Panel the Home Secretary appointed an expert in data access and freedom of information (Christine Gifford), a Medical Director and Epidemiologist (Dr Bill Kirkup), an Assistant Chief Constable (Paul Leighton), a lawyer specialising in Coroners' Courts (Raju Bhatt), a leading Archivist (Sarah Tyacke), an academic and authority on the Hillsborough narrative (Professor Phil Scraton), a TV Producer, Katy Jones, who had researched the Drama-Documentary on Hillsborough by Jimmy McGovern and a media specialist (Peter Sissons). The work was done in specialist groups and the whole Panel met in plenary session more than 30 times.

As Chair I saw my responsibility as ensuring that each expert was able to apply their own expertise and insights to the accessed documents so that the Report would 'add to public understanding' of what happened on that tragic day and in its aftermath.

From the outset we agreed amongst ourselves that we would not drip-feed our findings to the media and that when we published our Report it would go to the families first. Understandably there was a history of distrusting those in authority. They feared that our Report would be doctored by powerful lobbies. The 'Families First' principle was essential to gaining the confidence of the families and survivors.

We held regular meetings with the families throughout the process to keep them abreast of our work and to continue to listen to their concerns. Although it was not in my job-description I found myself often drawing on my pastoral experience not least when confronted by the pent up anger of those who had felt frustrated and patronised for years by those in authority. Sometimes legal processes can be devoid of empathy and even alienate those for whom they have been set up to serve. One of the many challenges for the Panel was that there were three separate family groups. Outsiders might imagine that all victims would be united by having suffered the same tragedy. The opposite is true for reasons that we could explore further during questions, but when one Panel member expressed surprise at the bitter division I reflected that many marriages don't survive grief so why should friendships especially when they have been forged out of grief. It is one of the ongoing challenges of both Panels and Inquiries as to how you blend the forensic with empathy without prejudicing the outcome.

The Panel reported on the 12th September 2012. We spent some time deciding where we should do it.

We wanted to protect the families from the media on such a sensitive day and to do it in a place that would honour the memory of their loved ones and allow them to reflect and remember them with dignity.

Choosing Liverpool's Anglican Cathedral was a unanimous decision and also suited my own particular role as both Chair and Bishop. The Report was bitter sweet. Largely due to the painstaking work on the post-mortem documents by Dr Bill Kirkup it offered up the possibility that between 41 and 58 of the 96 might have lived had there been an appropriate emergency response by the police and ambulance service. The brevity of this talk doesn't allow any more details of that day but its significance lay in leading the Attorney General to apply successfully to the High Court to quash the original inquests. Fresh inquests were ordered.

Sir John Goldring was appointed the Acting Coroner who opened the Inquests by inviting the bereaved families to offer the Court Pen Portraits of their loved ones. This transformed the tone of the Inquests and allowed the Jury to see beyond the then number 96 and into their lives and to hear their human story. The introduction of these personal statements has become a model for other inquests and inquiries. It is an important example of a judge balancing the forensic with empathy without prejudicing the outcome

The Jury returned a determination of 'unlawful killing' and exonerated the fans of any responsibility for their own deaths. But as one mother then said, "If they were unlawfully killed, who then was responsible for their deaths?". Various court actions followed, but with the exception of one conviction on the grounds of Health and Safety no-one has ever been brought to account for the unlawful killings much to the continuing dismay of the Families and Survivors.

But some consolation came to the Families with the decision of Theresa May when Home Secretary to commission a report that would ensure that the Families' 'perspective was not lost' and that lessons would be learned and embedded across Government.

Time again prevents me from going into detail but this Report offers harrowing details and testimonies from family members of how the Families and Survivors were treated by the Police, the Coroner, the Press and certain Politicians. It is called, 'The Patronising Disposition of Unaccountable Power '.

The Report which I was asked to author with the help of Ken and a small team brought forward 25 points of learning. The three main ones were: A Charter for those bereaved through public tragedy; A Duty of Candour to be laid upon the Police and all public bodies; Proper participation in and an equality of arms at Inquests.

Our Report did not coin the title the 'Hillsborough Law', but covered much of its ground stopping short of calling for legislation. It was our conviction that what was required from public bodies and national institutions was a change of culture as much as a change in the law.

34 years after the tragedy the Government responded to my Report on the 6th December 2023 just before Christmas. Although Families and Survivors expressed disappointment at the lack of a new law the fact is that the Government responded in detail and positively to all 25 points of learning. The Deputy Prime Minister signed the Charter on behalf of Government pledging to put the needs of the aggrieved above protecting one's own reputation; new legislation has been brought forward to make Chief Constables responsible for enforcing a Duty of Candour on their own force.

The Government has also put in place changes to funding the legal costs of the bereaved at contested inquests so that the Hillsborough Families who were forced to fund their own legal costs 35 years ago would today be spared such an unjust humiliation.

There are countless Reports from Inquiries and Panels whose recommendations have remained on the shelf. It is significant that the Government has responded in detail and it is a tribute to the dignified tenacity of the Families and to the truth of their cause.

Although the proposal to establish an Independent Public Advocate was not one of the 25 points of learning there has been consultation with and contributions from the Hillsborough Families and the Independent Panel that have shaped its progress through Parliament. Had there been an IPA in place on the 15th April 1989 the fate of the Hillsborough Families and the Survivors would have taken a different turn and would, in my humble opinion, have helped to protect them from the many manifestations of the patronising disposition of unaccountable power.

Lord Blair, Ian, this talk is grossly inadequate and its many omissions fail to do justice to the 'double injustice' suffered by the Families but I would like to end with three brief but personal reminiscences.

Firstly, I shall never forget that shortly after we began the Panel's work Margaret Aspinall said to me that this was the very first time in over twenty years that they felt listened to, that they were being taken seriously. We should not underestimate the therapeutic potential and value of Panels and Inquiries.

Secondly, for three months prior to the publication of the Panel's Report I read every day in my prayers the parable that Jesus told of the widow who sought justice and was frustrated at every turn. But she would not give up. When I told this at the 27th Anniversary of the tragedy at Anfield, with these six words the thousands of people in the stadium stood and applauded.

It spoke to me of that basic moral instinct to live in a fair and just world. That parable is filed in my memory under 'Hillsborough'.

And thirdly and lastly, Ann Williams never lived to see the culmination of her life's work to secure a fresh inquest for her beloved son Kevin.

When she heard the summary of the Panel's Report in Liverpool Cathedral she already knew that she was dying. But in that place she was transfigured by the news that she was right all along.

Her stooped body straightened and her face radiated.

As she was dying in the home of her brother I was asked to visit her. I wanted to take her something. On the mantle piece in my study stood a marble model of the Pieta, Jesus taken down from the cross being cradled by his mother. It had been given me by my late mother on return from a visit to Rome. I wrapped it.

Towards the end of my time with Ann I asked her if she would like me to say a prayer with her. She readily agreed. Before holding her hands I offered her my gift and explained its provenance.

She unwrapped it slowly. "How did you know?", she asked gently. "How did I know what?".

"How did you know that the last gift that Kevin gave me when he came back from a visit to Rome was a miniature pieta?".

Ann died shortly afterwards. She never lived to see justice, but from the patronising disposition of unaccountable power the truth had already set her free.

The Right Reverend Bishop James Jones KBE

The Athenaeum Club

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