

WHEN IS ANONYMITY “FAIR”?

The announcement this week of a call for anonymity, in respect of those accused of Sexual Offences, highlights a number of important issues. Amongst the most interesting are firstly, the famous v the non-famous; secondly the innocent v the guilty; and thirdly Sexual Offences v all other crimes.

Taking the last matter, despite all that is said by our Law Makers, the approach by the Criminal Justice System to Sexual Offences, as opposed to all other crime, is significantly different. Witness, Section 41 YJCEA 1999, as to cross-examination of the victim; and Section 1(1) Sexual Offences (Amendment) Act 1992 as to anonymity of the victim. I do not take issue with either of these two pieces of legislation and have worked with them both, happily, for many years. And they each demonstrate a genuinely different approach to sexual offences from other crimes.

Looking then, at the famous v the non-famous. There are very good examples from each camp, where serious injustice has been done. When a person, normally a man, has been named and shamed – for that is the media purpose in naming a suspect at such an early stage - and thereafter is not prosecuted, how do we recompense the innocent? For the evil of being named and shamed where no trial takes place, is that being a suspect is Big News! And a trial would give an opportunity, in public, to clear one’s name. Without a trial, there is little that an individual can do to achieve the same level of publicity.

Turning to the final issue, many may say, that it should be a relief in these circumstances, not to face a trial. But, that tends to suggest that the suspect, is in truth guilty, and should be relieved not to face the consequences of his actions. This however, fails to protect the innocent, those **falsely** accused. Our system of justice has a long history of protecting the rights of the innocent. And in these days of crippling cut-backs, any issue which enhances the Criminal Justice System should be considered.

There is undoubtedly a need to name a person who is charged and sent for trial. And we all, post Savile, understand the force in the argument, that multiple allegations and victims, may enable justice, in a right and proper way. No one wants to return to the male dominated views of the past, leaving, often female victims, without justice.

So surely, we should look at **when** a suspect should be named. Has the time now come for the Criminal Justice System to protect the innocent suspect? Should we deny the media the right, to name and/or give details which would identify a person, before they are even arrested? Or interviewed? Or charged? Or sent for trial? “Falsely Accused Individuals for Reform” might have a point!

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