

Racism and the criminal justice system



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What are the implications of Racism and Policing for the human rights of individuals in the criminal justice system?

Human rights are basic rights such as freedom, fairness, equality and diversity etc. It belongs to everyone regardless of ethnicity, gender, race or religion. Human rights are protected under the Act of Human Rights 1998 to set out values and essential rights. To make sure the human right act is followed in accurate way in relation, the criminal justice system has been designed. This system contains set of practice and government institutions such as courts, police, prison and probation service, which all work together to uphold social values and human rights. However, cases like Stephen Lawrence and Mark Duggan have caused many concerns, especially regarding the police force. This is mainly because “ much of policing is controversial and conflictual” (Newburn, 2012: 607). Therefore, this essay will highlight particularly natural right core concept, human right history, the Stephen Lawrence case, stop and search, police brutality and implication of racism on the criminal justice system.

There are many core concepts that hold different views such as: natural, constructed, transformative and pragmatic. The main world view I will be focusing on is natural human rights which was influenced by John Locke who has identified three different rights which are life, liberty and property. Constructed right is the belief that rights are socially construct by society and it is a social norm to follow them. Transformative rights are concerned with cultural and social rights rather than political issues as it believes in releasing people from constraint and irrational structure that limits individual’s self- development. Unlike natural right worldview, pragmatic

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view point discusses that there is no absolute truth and human rights do not need any philosophical theories instead human rights should be put into practice.

Human right act came into force in 1998 and Human Rights have been developed since Magna Carta in 1215 as it allowed people the chance to have a trial before imprisonment. Further development took place through Bill of Rights in 1689 and throughout the years developed into Human right act 1998. The human right act allowed members of the public to enforce their rights and made it possible to breach public and it required public institutes to comply with European conventions of Human Rights (ECHR). Despite having legislation rights to equality which is a crucial concept of Human Rights is violated as black and Asian ethnic minority are not treated the same as white ethnic groups. This impacts on the government bodies of criminal justice system as equality is not promoted between police and different ethnic groups causing conflict.

There have been many conflict and debates regarding contemporary policing and especially British ethnic minorities have experienced difficulties with the police or many individuals have felt that police are biased. There was an increase in controversies regarding racism after the Scarman Report in 1980 and Macpherson Report in 1999 was published. These reports outlined problems for the police and how different ethnic minority communities were treated as public members felt that their human rights were being obstructed by the police.

An inquiry was announced by the home secretary- Jack Straw and it was led by Sir William Macpherson. MacPherson report highlighted the figures to show that institutional racism exists and human rights are violated in Police organisation. The Lawrence case mainly highlighted that “ Institutional racism is about stereotyping; it is about being unwitting; it is about ignorance” (Green, 2003). In the case police lacked in co-ordination and understanding once they arrived at the crime scene. A prior assumption was made by the police that it was a “ fight”. Therefore, rather than following correct procedures to save life of Stephen, they decided to question his best friend Duwayne Brooks who was with Stephen at the time of the incident. According to Brooks “ Their prejudices aren’t just against black people, but all kinds of people. With the police it’s not just about race, but about class, too”. (Taylor, 2014) This infers that ethnic minority communities such as black communities are “ over policed” and not compared to white community.

As stated in the natural right theory, you have to be a human in order to lose your rights. Due to the over policed environment created by the police, Stephen Lawrence lost one of his main human rights in article 2 which states “ everyone’s right to life shall be protected by law” (Participation, 1998). The police officers at the scene “ wrongly thought that the best thing was to leave him and allow the paramedics to take over” (Macpherson, 1999: 77). As a result, police did not conduct first aid as soon as arriving at the scene was one of the reason why Stephen lost his Human Rights. Right to life is the most crucial rights and, once it is breached you cannot reverse the result or resolve the violation.

Article 2 of Human Right 1998 is not the only article that has been violated in the Stephen Lawrence case. According to article 14 of human right act 1998 “rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion.” (Participation, 1998). The tension and violation of the human right article 14 had impact on the government, court and police influencing the Criminal Justice act of 2003 allowing one person to be prosecuted or trailed for the same offence twice. This was a major breakout for the case as scientific evidence was used to prove Dobson guilty for the murder. The implication of the act effected the police and the court . The legislation was created to make sure criminal trails ran effectively. The act “attempts to reopen a case merely because there is a feeling, either amongst the police, or prosecutors” (BBC, 2006). This eventually scraped the double jeopardy rule and judges were obliged to give 30 years sentence in cases including murder or any dangerous offences hence, justice could be served as seen in case of Stephen Lawrence’s murder. Macpherson report has some aspect of positivism worldview as racism being one of the factors that took Stephen’s life which is the most basic and natural right of a human according to two treaties of the government identifies by Locke (1689).

The Macpherson report written by Sir William Macpherson is considered to be one of the most reliable sources in the Stephen Lawrence case after the Scarman report on Brixton riots. The Macpherson report presents the fact that “racism exists within all organisations and institutions” (Macpherson, 1999: 22) hence, it violated Human Rights and impacted on the criminal justice system which led to recommendations being made. It uses mixed

methods from qualitative and quantitative methods. Qualitative methods include interviews with police officers and SIO and quantitative methods include statistics such as “ racist incidents rose 6% in 1997/98 to 13, 880” (Macpherson, 1999: 361), showing biased opinion blaming the police and the entire organisation for not conducting duties properly and using racism as one of factors affecting their job. The weakness of this source is that it was written in 1999 which means that large amount of changes have been made since then such as “ 40 police forces are now using the latest version of the Holmes criminal investigations and incident management system” (Bicknell, 2014) to store and retain information. However, I would consider Macpherson report as reliable source as it was the first time in history where faults of the police were identified and presented to the public also, the government gave full authorisation.

On the other hand, many were in support of the police officers and detectives in the case of Stephan Lawrence such as, Janet foster (2008) who published an online journal article in 2008 on police and society- an international journal of research and policy. The online article described the murder of Stephan Lawrence from the perspective of the detectives who were blamed for making assumptions and not treating the case seriously. The article suggests that the Stephen Lawrence case was treated as ‘ the organised politics of race, not the organised politics of murder’ (Foster, 2008: 4). The public portrayed the police negatively after the MacPherson report. For instance, the article suggests that the Lawrence family hired a solicitor and “ it contributed to the breakdown in communications between the police and the family” (Foster, 2008, p5). Therefore, the family felt that police were

not listening to their requests. The article suggests that police were not able to communicate properly because solicitors and others were involved in the process unnecessarily. Nevertheless, this source written by Janet Foster can be considered as a reliable source as many personal interviews were conducted with detectives and police officers personally and qualitative data was collected through the interviews whereas, in the Macpherson report testimonies were presented that blamed the police officers. However, the weakness of this source is that it can be considered biased for the police service as it does not mention some of the mistakes made by the police such as the police not making arrests in the golden hour period when enough evidence could have been collected however, “ delay in making the arrests has led to the problems” (Macpherson, 1999, p: 123).

Macpherson report agrees with the idea that not only black and Asian minority are more likely to be searched but also more likely to be arrested than white people. Instead of viewing black or ethnic minority groups as victim they are “ turned into perpetrators” (Macpherson, 1999, p: 361). In 2011/12 1, 235, 028 arrests were made and individuals were categorised as “ 102, 424 black; 37, 628 mixed race; 72, 443 Asian; and 17, 444 “ Chinese or other” (Soady, 2013).

Figures show that “ black people are up to 17. 5 times more likely than white people to be stopped and searched by the police” (Andrews, 2015). This is a breach of the human right as many police forces misuse the powers to complete their duties. Police forces in London and Manchester have received many complaints as the public are not pleased with the police dealing with situations in the black community. According to the section 1 of Police and <https://assignbuster.com/racism-and-the-criminal-justice-system/>

Criminal Evidence Act 1984 police officers are able to search a person or a vehicle for theft, weapons and etc, the search has to be conducted on reasonable grounds. However, it has been found that “ 27%, either no grounds had been recorded or the officer had entered a reason which would not justify a search, such as speeding” (BBC, 2013).

This had a critical impact on the criminal justice system because, in 2014 the home secretary appointed HMIC to examine if police use stop and search powers effectively including strip searches and if the searches are necessary and lawful. The “ report found that 15% of stops may have been carried out without reasonable suspicion of criminality” (Dodd, 2016). As the result of police forces following correct stop and search procedures were so disappointing, it eventually led HMIC to make ten recommendations. One of the recommendations required police officers to note down individuals race and ethnic background as it was found that there are no records of the stop and searches conducted by the police. Therefore, HMIC recommended to “ introduce a nationally agreed form for the recording of stop and search encounters” (HMIC, 2015). If the police use the forms to record information, then HMIC will be able to gain sufficient evidence on if “ black young men are much more likely to be stopped and searched than white men” (Halliday, 2015).

Stop and search has had a major effect on the police service and many inspectors are speaking in the media regarding this topic. The Guardian newspaper has published many articles regarding police institution being racist. The newspaper supports left wing and the left wing of politics is known to work with social justice system. The source does not show any <https://assignbuster.com/racism-and-the-criminal-justice-system/>

biased opinions because, according to newspaper police commissioner Bernard Hogan-Howe has stated that after stop and search cases and Stephan Lawrence inquiry “ his force had to take such accusations on the chin” (Halliday, 2015). This infers that police have been portrayed very badly after serious cases occurring in the past. However, it also suggest that there is truth in regards to institutional racism and “ we’ve got to accept that”(Halliday, 2015). Even though many statistics are not presented but, I will consider this source as credible as qualitative methods have been used such as interviews with commissioner and president of NBPA- Janet Hill and their opinions have shown that there is lack of faith between the institute and the public.

Stephen Lawrence was not the only case where public lack faith in the police as police have been blamed for institutional racism many times. After the Stephen Lawrence case, Metropolitan police are trying to “ reform the force and restore public trust in officers.” (Halliday, 2015). However, London riots occurred in 2011 . Mark Duggan was a 29 year old black British man shot by the police in Tottenham. The police stated that officers were suspicious of Duggan having possession of a gun after he came out of a taxi however, according to evidence and witnesses Duggan was only holding a phone. Nevertheless, “ the killing had been lawful” (Wollaston, 2016) causing a devastation for the family and the public. The shooting “ sparked a wave of violence across the UK” (Morgan, 2014).

The shooting was defined as lawful but, Duggan still lost two of his main human right, article 2 right to life and article 3 which states that “ No one shall be subjected to torture or to inhuman or degrading treatment or

punishment.” (Participation, 1998). When Duggan walked out of the minicab he was threatened by the police to “ put it down” (Casciani, 2014). Even when Duggan had his hands up in the air as witnessed by the minicab driver he was still shot in the chest. In relation to the Human Rights Duggan suffered physically as he was shot with lethal force and mentally as he was threatened in public which is considered as inhumane under the Article 3 of human rights. Due to the violation, public were outraged and caused the worst riots in the history of Britain. To black members of the public the death of Mark Duggan “ symbolised the most extreme end of a spectrum of targeted, unjust and brutal treatment” (Rusbridger, 2011). Therefore, it had large impact on the police as more officers were deployed to be on the street to stop any crimes.

In conclusion, I support the natural right theory which believes that humans should be given their most basic rights such as right to life, freedom and property. The whole concept of natural rights is that laws are not constructed by the government instead it derives from nature. However, society has evolved and legislations have to be written to be considered as rights. Factors such as race should not affect the rights that every human deserves. In cases like Stephen Lawrence and Mark Duggan who were young black men were discriminated and had their natural rights such as right to life and freedom taken away from them.

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