

Racism in the criminal justice system: the impact of New Labour policy

Coretta Phillips and Ben Bowling describe some of the specifics of discriminatory treatment of minority ethnic people in the criminal justice system.

Race equality in the public sector, and in criminal justice in particular, was placed centre-stage at the start of New Labour's first term. One of the first things that the New Labour government did in coming into office was to commission a public inquiry into the Metropolitan Police Service investigation of the racist murder of Stephen Lawrence. When the subsequent Macpherson report was published in 1999, the government fully endorsed most of the recommendations. It is particularly significant that the government accepted the inquiry team's findings that 'institutional racism' played a part in the flawed police investigation. Indeed, they went further still, with Jack Straw (then Home Secretary) declaring that all 'white-dominated organisations', including his own department, were afflicted with a racist culture, procedures and practices that tended to exclude or disadvantage people from ethnic minorities.

This willingness to address the issue of widespread racism in the criminal justice services was an exceptionally positive sign, especially after so many years of a Conservative government that seemed, at best, indifferent to the experiences of black and brown Britons. Since 1999, New Labour has initiated and presided over a massive reform programme, including the establishment of a ministerial priority for the police service "to increase trust and confidence in policing amongst minority ethnic communities"; improvements in operational policing and prosecution of racist incidents; training for racism awareness and cultural diversity; local and national targets for the recruitment and progression of more minority ethnic staff; and enhanced penalties for racially aggravated offences introduced in the *Crime and Disorder Act 1998* and the *Race Relations (Amendment) Act 2000*, which brought the police service and other public authorities into the ambit of race relations legislation for the first time. It seems inconceivable that these developments could have occurred under a Conservative government. Despite these steps forward, it's worth considering what *real* impact this has had on minority ethnic groups' experiences of criminal justice in England and Wales.

A cultural shift – too small?

There is evidence of a sea change in attitudes towards racism and race equality within the criminal justice services. The analysis by Foster and colleagues (2005) of the impact of the Lawrence Inquiry on policing indicated that most officers were now intolerant of the use of racist language, though more subtle forms of exclusion might still operate against minority ethnic staff. Improved community consultation and accountability mechanisms and greater internal scrutiny of police behaviour are positive changes in service delivery.

It is also noteworthy that the British Crime Survey recorded a 13% fall in racist incidents between 2002-04 and 2004-05 whilst at the same time increased reporting to police forces seems to indicate greater confidence in the police by victims (Home Office 2006). Burney and Rose's (2002) study of the implementation of enhanced penalties for racially aggravated offences in the *Crime and Disorder Act 1998* similarly pointed towards greater professionalism in the policing and prosecution of racist offences, which reflected a genuine commitment to respond to victims more effectively. It is Macpherson's wider definition of a racist incident that potentially criminalises the treatment of Indian Bollywood superstar Shilpa Shetty by 'celebrity' Jade Goody in the Big Brother House. The media and political frenzy which surrounded this episode is testimony to the changing racial politics of late modern Britain, which seeks to define 'Britishness' against a backdrop of ethnically and religiously diverse urban centres where crime problems are most manifest.

Whilst changes in the criminal law and the implementation of a programme of reform in criminal justice are worthy achievements and potentially an important step towards reducing ethnic inequalities in service provision, the picture is not entirely rosy. Some issues persist, including the fact that minority ethnic communities still have lower levels of confidence and trust, particularly in the police. Foster *et al* (2005), for example, found that many minority ethnic communities still perceived and expected to be treated in a discriminatory manner by the police, an experience amplified for young people. Investigative journalism using covert methods to gain insight into contemporary police culture such as *The Secret Policeman* in 2003 (four years after the Lawrence Inquiry), unearthed blatant and extreme racism among trainee constables. The collapse of inappropriate disciplinary cases against senior police officer Ali Dizaei and numerous other minority ethnic officers is unlikely to dent the widely-held view that policing still has a long way to go to meet its commitment to fairness, justice and equality for all.

In tandem with this, empirical research and service inspections continue to uncover examples of unequal treatment of minority ethnic groups across the criminal justice system. In policing, despite a multitude of managerialist attempts to regulate the use of stop and search powers, and to improve corporate accountability through external scrutiny by community representatives, there remain stark differences in the rates at which black people are stopped and searched. In 1997-98, the rates of stop and search were 19 per 1000 for the white population, but seven times higher at 139 per 1000 for black people and twice as high for Asians at 45 per 1000 (Home Office 1999). By 2004-05, the level of

disproportionality was only marginally changed with rates six times higher for black people but still at twice as high for Asians. The levels of disproportionality are even starker when Section 60 of the *Criminal Justice and Public Order Act 1994* Stop and Searches are examined (Home Office 2006). Whilst the reasons for this disproportionality are complex, it is widely agreed that the disproportionate use of Stop and Search against minority communities is a problem: it seems inherently unfair and has a range of negative consequences in terms of public support for the police, willingness to join the criminal justice professions, and contributes to the criminalisation of minority ethnic communities (see Phillips and Bowling *in press*).

Within youth justice, concerns have arisen regarding the harsher prosecution and sentencing outcomes experienced by black, Asian and mixed-race young people. Feilzer and Hood's (2004) comprehensive analysis of 31,000 Youth Offending Team records considered the role of legally and socially relevant factors which might explain harsher outcomes at various stages of the youth justice process, but concluded that practices were consistent with racially discriminatory treatment. The Commission for Racial Equality's (CRE) formal investigation of Her Majesty's Prison Service produced equally sobering findings. The CRE laid 17 findings of unlawful racial discrimination at Brixton and Parc prisons and Feltham Young Offenders Institution. It included failings to protect prisoners and staff from racist abuse, violence, intimidation, not meeting the religious and cultural needs of Muslim prisoners, and disadvantaging some black prisoners in access to jobs, earned privileges, or in disproportionately taking disciplinary actions against them. The Prison Service was castigated for ineffective race equality systems, procedures and practices, which failed to provide equivalent protection for minority ethnic prisoners and staff (see full discussion in Phillips and Bowling *in press*). The *cause célèbre* was the failure to prevent the racist murder of Zahid Mubarek, a young Londoner of Asian origin, who was beaten to death after being placed in a cell with a white racist cellmate, despite manifest evidence of the latter's violent racist intentions.

Such practices across the criminal justice system throw doubt on claims that the race equality reforms of New Labour have made racism, discrimination and inequality things of the past.

The persistence of racialised socio-economic inequalities

Within the criminal justice field, it is the slogan '*tough on crime, tough on the causes of crime*' which has summed up New Labour's approach to tackling crime and inequality. Other contributors to this issue of *Criminal Justice Matters* have outlined the problematic way in which the first part of the slogan has been interpreted by ministers in the last ten years. It is also worth evaluating the effectiveness of the second part of the slogan, particularly in how it pertains to minority ethnic groups. There have been numerous ambitious and positive policy developments framed by the social exclusion agenda, which it is anticipated will have an impact on poverty and inequality in the medium to long-term. That said, for minority ethnic groups, and particularly black groups who remain most affected by the intrusive and coercive powers of the State, socio-economic inequalities appear stubbornly resistant to change.

Minority ethnic communities remain geographically concentrated in urban neighbourhoods where unemployment, social deprivation, and poor housing conditions are greatest. Whilst secondary school attainment levels present a very mixed picture with high attainment levels for some minority ethnic groups, those of black Caribbean and African origin fare poorly. Studies of labour market outcomes indicate higher levels of unemployment, and lower occupational attainment and earnings for minority ethnic individuals. This contributes to persistent socio-economic inequalities for most minority ethnic groups, particularly blacks who are most likely to become enmeshed in the criminal justice system (see Phillips 2005 for an assessment of these patterns of ethnic inequality). Thus, despite some success from focused attempts to improve outcomes across these areas, there has been no amelioration of inequalities *between groups*. The consequences of such inequality can be seen in the striking, and growing, minority ethnic prison population. Any suggestion of a cultural shift in terms of the perceptions of, and treatment of, minority ethnic groups has to confront the low progress levels in the decade since New Labour came to political office. Despite some much-trumpeted successes, solving the root causes of disadvantage and discrimination remains more aspiration than achievement.

Coretta Phillips is Lecturer in Social Policy at the London School of Economics and Political Science. **Ben Bowling** is Professor of Criminology and Criminal Justice at King's College, London.

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