

Institutional Racism: Scotland Still Has Far to Go

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The recent conviction of two of the five prime suspects in the killing of Stephen Lawrence in 1993 has received well-deserved press attention, including at a local level in Scotland. The continuing interest in the case at such a distance (in terms of both time and geography) shows its deep and lasting impact.

However, perhaps due to a comparative lack of media coverage, it is often forgotten that Scotland has its own history of racially motivated murder and institutional racism.

In 2000, Dr. Elinor Kelly compiled a detailed article for Scottish Affairsⁱ outlining compelling evidence of racial bias in Scotland's criminal justice system. The case studies examined included that of Axmed Abuukar Sheekh, whose murder was so poorly prosecuted in 1989 that it led Lothian and Borders Police Force to recognise what would come to be known as institutional racism, with procedural changes to help combat it introduced in that area three years before Stephen Lawrence's murder.

The MacPherson Inquiry report of 1999 was of immense importance in pushing forward the concept of institutional racism, defining it (although with a caveat that the definition could not be set in stone) as:

“The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people”ⁱⁱ.

This improved public understanding of racism as something which need not be a deliberate act of hatred, but a structural injustice brought about by ignorant and naive decision making. MacPherson may have brought institutional racism into the light, but it was not a new phenomenon.

Despite the lessons learned from previous failures of the system, a depressing pattern emerges in Scotland. Further examples given by Dr. Kelly include the failure to recognise a racial motive in the murder of Glasgow teenager Imran Khan in 1998, despite his killer's known history of racism and the fact that he was killed during a clash between rival groups of white and Asian youths. The 'gang' related element stifled debate on the racial tensions which arguably influenced those on both sides of the confrontation.

The cases of Surjit Singh Chhokar and Simon San have also highlighted failings in Scotland's criminal justice system. Two prosecutions for the murder of Surjit Singh Chhokar in 1998 have fallen through, with a judicial inquiry criticising the Crown Office's performance and Former Lord Advocate Colin Boyd, QC apologising for "incompetence, ignorance and institutional racism". The Chhokar family's lawyer Amer Anwar is now calling for a retrial in light of the recent reform of the double jeopardy rule in Scotland; it was a similar legal change in England which allowed Stephen Lawrence's killers to be tried againⁱⁱⁱ. A similar campaign has been launched in Axmed Abuukar Sheekh's case, with hopes that advances in DNA technology could help to secure a conviction^{iv}.

The family of Simon San repeatedly raised their feeling that his murder in 2009 was racially motivated, and evidence was available to support this. Failings within Lothian and Borders Police and the Crown Office meant that the evidence was not taken seriously by the investigating officers and was not submitted to the Court. Although information had been provided to the Crown Office regarding racial motivation, in Court the Advocate Depute denied that there was any evidence to support the family's claims^v. A racial motivation charge was originally brought but later dropped in the case of Nachatar Singh Bola, murdered in Renfrew in 2010. His family was not informed that it was to be dropped until it was announced in Court^{vi}.

Examples such as these show that the Scottish Police and Crown Office are still failing to address racism consistently in the investigation and prosecution of serious violent crime.

Of course, the criminal justice system is not the only area where institutional racism may be uncovered in Scotland. Institutional racism has been examined and challenged within the NHS^{vii}, the housing sector^{viii} and education^{ix}, and raised by community groups to challenge policies with discriminatory impacts. For example, campaigners in Glasgow identified institutional racism in the decision making process on the closure of Govanhill Pool, the only nearby pool offering culturally appropriate swimming sessions^x. Despite its necessary focus on the investigation into Stephen Lawrence's murder, the MacPherson Report stressed that "Racism, institutional or otherwise, is not the prerogative of the Police Service. It is clear that other agencies including for example those dealing with housing and education also suffer from the disease. If racism is to be eradicated there must be specific and co-ordinated action both within the agencies themselves and by society at large, particularly through the educational system, from pre-primary school upwards and onwards"^{xi}.

There is some evidence of a movement towards this both within Scotland's public sector and at a political level. A recent CRER report on Policing in 21st Century Scotland From A Race Perspective^{xii} identified a range of reviews and research reports which address race equality. These acknowledge continuing difficulties in areas such as perceptions of Police accountability and racism; monitoring and reporting of race equality related statistics; representation of BME individuals within the Police Forces and underreporting of racist incidents. Institutional barriers were acknowledged within the Independent Review into Policing and Race Relations in Scotland^{xiii} and The Stephen Lawrence Inquiry: An Action Plan for Scotland^{xiv}. Issues of accountability, governance and transparency about progress (or lack of) are of vital importance in tackling institutional racism; despite the series of recommendations, action plans and procedural changes made over the past decade, a clear picture of improvement is lacking.

Often instead, there often appears to be a focus on statistical data at the expense of qualitative information on practice. For example, data on racist incidents is now reported annually at a Scotland-wide level but the quality of information collection and how that data impacts practice is not fully understood.

On some issues, there is little qualitative or quantitative data with which to assess race equality impacts. Despite the high profile of disproportionate use of stop and search powers against young BME people in parts of England, there is no evidence of this in Scotland – quite literally, because no current information is published at national level. Another common difficulty occurs where data is available, but reported in an inconsistent or conflicting way^{xv}.

The Commission for Racial Equality's Independent Review into Policing and Race Relations in Scotland was completed in 2005, making 63 recommendations. It was noted at the time that Scotland's Police Forces had engaged with the process largely in an open and positive way, yet sadly there has been no public, transparent attempt to explore progress towards meeting the recommendations.

In practice, the cases outlined here suggest there is still far to go. Lothian and Borders Police were one of the first Forces in Scotland to introduce improved recording of racist incidents following criticism of their investigation of Axmed Abuukar Sheekh's murder, yet twenty years later grave mistakes were made in the case of Simon San. This demonstrates the danger of complacency; unless race equality is mainstreamed successfully, failings can occur in even the most dedicated Police Force. It also shows that good data collection procedures are

of little use if they do not translate to good practice in the everyday work of Police Officers, Crown Office staff and the judiciary.

These issues are all the more pressing in light of the current reform of Scotland's Police Services, however decision makers may choose to deny them; Justice Secretary Kenny MacAskill famously addressed a SEMPERScotland police conference in 2009 by denying the existence of institutional racism in Scotland's Police Forces (for which he faced a strong rebuttal from Doreen Lawrence, mother of Stephen)^{xvi}. If Scotland is to avoid repeating the shameful errors of the past, further exploration and cohesive action on race equality mainstreaming at both local and national levels is urgently needed.

ⁱ Dr E. Kelly (2000) Racism, Police and Courts in Scotland. First published in Scottish Affairs, winter 2000, no. 30; available online from Runnymede <http://www.runnymedetrust.org/bgRacismPolice.html>

ⁱⁱ The Stephen Lawrence Inquiry: report of an inquiry by Sir William MacPherson of Cluny, Feb. 1999

ⁱⁱⁱ Glasgow Herald online, 5th January 2012

http://www.heraldscotland.com/mobile/news/home-news/lawyer-calls-for-chhokar-retrial.16050862?_=974863dcfbcf3bcb11403d53c7287d5946d29c6.

^{iv} Deadline News agency: <http://www.deadlinenews.co.uk/2012/01/11/murder-case-reopened-after-25-years/>

^v The Firm online law journal, 23rd August 2011

http://www.firmmagazine.com/news/2546/Family_calls_for_inquiry_after_police_%26_Crown_Office_bungle_racist_murder_investigation_.html

^{vi} Herald online, 30th January 2011; available from: <http://www.heraldscotland.com/news/crime-courts/when-the-crown-decided-the-murder-was-not-racially-motivated-it-was-like-a-bomb-had-exploded-in-the-room-1.1082623>

^{vii} Dr. R. Gardee and J. Singh (2001) Fair for All: Improving the Health of Ethnic Minority Groups and the Wider Community in Scotland. Edinburgh: Scottish Executive

^{viii} Martin MacEwen (2005) A New Framework for Tackling Institutional Racism in Scottish Housing Rights. International Journal of Discrimination and the Law 2002, vol.5 no. 207

^{ix} R. Arshad et al. (2004) Minority Ethnic Pupils' Experiences of School In Scotland. Edinburgh: Scottish Executive

^x P. Hopkins (2004) Everyday Racism in Scotland: A Case Study of East Pollokshields. Scottish Affairs, Autumn 2004, no. 49

^{xi} The Stephen Lawrence Inquiry: report of an inquiry by Sir William MacPherson of Cluny, Feb. 1999

^{xii} Coalition for Racial Equality and Rights (2011) Policing in 21st Century Scotland From A Race Perspective. Glasgow: CRER

^{xiii} Law at Work (2005) An Independent Review of Policing and Race Relations in Scotland. Commission for Racial Equality

^{xiv} Stephen Lawrence Inquiry Steering Group (2001) The Stephen Lawrence Enquiry: An Action Plan for Scotland. Edinburgh: Scottish Executive

^{xv} Coalition for Racial Equality and Rights (2011) Policing in 21st Century Scotland From A Race Perspective. Glasgow: CRER

^{xvi} Scotsman, 1st June 2009 http://www.scotsman.com/news/scottish-news/edinburgh-east-fife/macaskill_s_no_police_racism_claim_angers_boy_s_mother_1_1040627