

Consent, Resistance and Justice

Race and Policing in England
and Wales

Runnymede: Intelligence for a Multi-ethnic Britain

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Introduction: Racism and Policing in Britain

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This edition of *Perspectives* focuses on racism and policing in Britain. It brings together academics, practitioners and activists to examine, and offer their outlook on, the state of policing and its effects on black and minority ethnic communities in Britain today. In recent years the US has been in the spotlight for police killings of black men and women, including the 2014 killings of Michael Brown in Ferguson, Missouri, Tanisha Anderson in Cleveland, Ohio, and Eric Garner in New York, as well as the protest movements which have followed. Britain is no stranger to racialised police violence. Following these and other fatal police shootings, solidarity protests with the #BlackLivesMatter movement drew attention to the long list of unaccounted-for deaths of black men and women in Britain. Systemic and institutional racism persists in policing despite its recognition in the Macpherson Report more than fifteen years ago. In Britain, black and minority ethnic people are disproportionately represented in the criminal justice system at every level, from arrests to stop and search, to imprisonment, to deaths in custody. Successive governments' counter-terrorism policies have resulted in racial profiling and over-policing of Muslim and Asian communities, and have fed a pervasive Islamophobia now affecting British and other European societies.

Contributors to this collection have tackled these issues head on from multiple perspectives, incorporating the voices of those affected by racialised policing and those who campaign on their behalf, together with scholars in the field. Each of their short contributions seeks to provoke critical reflection and forward-thinking on key issues

where race and policing intersect. The collection is organised into three parts. The first, Taking Stock – The State of Policing, sets out the key contemporary issues in race and policing within a historical context. The second part, Racism and Counter-Terrorism, examines the racial and religious profiling that is at the heart of counter-terror policing in Britain and examines the impact this is having on Asian and Muslim communities in particular. The final part, Considering a Way Forward, brings together accounts from grassroots and community organisations of their experiences and strategies when taking up the challenge of scrutinising and seeking accountability for police actions. Included in this part are comparative perspectives on practice and policy from across Europe.

As the editors of this collection, we consider that the insights it offers provide not only a useful summary of the key issues around race and policing in Britain, and how these connect with experiences and struggles in the US and across Europe, but also a framework to contextualise and inform current academic, legal and policy debates about policing, racialised violence and accountability for police actions.

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SECTION I: TAKING STOCK – THE STATE OF POLICING

1. Dying for Justice

Harmit Athwal

Institute of Race Relations

On 23 July 2015, home secretary Theresa May announced an independent inquiry into deaths in police custody in England and Wales, so moved had she been by testimonies from bereaved families she had met. Whether or not such an inquiry can throw light onto the murky world of deaths in custody, where the knee-jerk reaction for officers is to close rank, and allow for PR to take over, ultimately helping legal teams to justify bringing causes of action, remains to be seen. But the fact May has issued a statement is a huge testament to the tenacious campaigns of families who have refused to be fobbed off, worn down by waiting, priced out of justice, and left to quietly acquiesce to a deeply unfair system, which rarely brings closure.

The family of Jean Charles de Menezes is one such family. Amidst the current hysteria about nipping homegrown extremism in the bud, it would be easy for a nation to forget the shooting (in a case of mistaken identity) of the Brazilian electrician. But just a day before May's pronouncement, the tenth memorial for Jean Charles de Menezes was held at Stockwell tube station, to remember him and the years that have passed since his death by shooting at close range in July 2005. That his family and friends continue to mark the anniversary and attend the annual United Families and Friends Campaign remembrance march for those 'killed in custody' is testament to the strength of the family-centred campaign. It is also indicative of the protracted fight so many families in the UK have to wage in order to obtain some semblance of justice following a death which involves officers of the state.

Shooting deaths are, fortunately, few and far between in the UK. However, the deaths that have occurred, which include in recent years Azelle Rodney, Jean Charles de Menezes and Mark Duggan, have been significant. The death of Azelle Rodney involved legal challenges which saw the law changed to enable an inquest/inquiry to be held. It was also the first case to result in a murder prosecution of a police officer,

although he was acquitted. Disquiet over Mark Duggan's death and police handling of information to the family resulted in disturbances that spread across the UK in August 2011. Ultimately the inquest into his death brought in a perverse verdict where a jury found that though he was not (as alleged by police) holding a gun when he was shot (a gun was later found on waste ground), he had been lawfully killed.

De Menezes' death at the hands of the police – he was shot seven times by firearms officers – is just one of the cases detailed in the Institute of Race Relations' recent report *Dying for Justice* (DfJ),¹ based on 509 cases of BAME deaths in police and prison custody and immigration detention since 1991 that the IRR has tracked. Young men from BAME communities, and it is overwhelmingly young men, die in police or prison custody or immigration detention often as a result of neglect or use of force – or a combination of the two. The report highlights the frequency with which BAME people die in incidents involving police or prison officers who use undue force in restraint or a lack of care for those suffering from mental health problems or other forms of ill-health.

According to figures from INQUEST, a disproportionate number of people from BAME communities die in police custody; since 1990, they number 151. Its statistics, covering the period 2002–2012, are even more striking: of 380 deaths in police custody in England and Wales (or as a result of contact with the police), 69 were from BME communities – 18 percent.

Of the 509 cases of BME deaths in custody in suspicious circumstances that the Institute of Race Relations analysed from its database of cases between 1991 and 2014, the majority, 348, took place in prison, 137 in police custody and 24 in immigration detention. One in three of the total deaths was as a result of self-harm, and in 64 cases the person was known to have mental health

problems. Medical neglect was a contributory factor in 49 cases, and in 48 the use of force appears to have contributed to a person's death.

According to the Institute of Race Relations, of the 137 deaths in police custody, 126 were male, 11 were female, 78 were Black or Black British, and 31 were Asian or Asian British. Sixty-one percent of all such deaths occurred in the London area: 51 people died while in a police station or cell; 49 died on the street; and 17 died in their homes. In terms of contributory factors to deaths in police custody, only 61 people had actually been arrested before their death; 9 had been detained under the Mental Health Act; 34 died following a police chase; and 6 died after a stop and search. The use of force contributed to the deaths of 39 people, and 29 deaths were linked to the use of physical restraint; 7 deaths were linked to the use of CS gas; and in 10 cases people died after falling from balconies after police had called at their homes.

DfJ does not compare BAME and white death rates, or assert that people from BAME communities are the only ones who die in custody. White working-class victims of state brutality and neglect, and their families, also feel the contempt and lack of care of the system. Rather, the report tries to flag up the processes – which run from austerity measures and media portrayals to diehard closing of ranks and blatant cover-ups – through which a death takes place with impunity. How BAME people are treated is in fact the litmus test of the whole system. Though some cases do explicitly show how people are stereotyped as violent, volatile and/or mad, which results in the use of disproportionate levels of force.

One of the most disturbing findings in *DfJ* is how lessons are not being learned. The same mistakes regarding dangerous restraint techniques or the detention of the mentally ill are repeated over and over again, despite repeated recommendations from coroners at inquests or from official bodies such as the Prisons and Probation Ombudsman or the Independent Police Complaints Commission.

It is true that no police officer has been successfully prosecuted in the last 20 years over a BAME death in custody, but the last six months have seen two (unsuccessful) prosecutions. The first prosecution, mentioned above, was over the death of Azelle Rodney. Then, at the end of 2014, three G4S guards were prosecuted for and subsequently cleared of the manslaughter of Jimmy Mubenga, who died on board a plane at Heathrow in October 2010. But the families of Rodney and Mubenga had to fight tooth

and nail to see that charges were brought – they lodged legal challenges, participated in hearings at the European Court of Human Rights, and challenged the Crown Prosecution Service over its failure to prosecute at lengthy inquest proceedings where unlawful killing verdicts were returned.

DfJ, which contains case studies, analytical commentary and statistical breakdowns, shows how and why families have little confidence in the organisations whose remit is to investigate the deaths of their loved ones and hold officers to account. For most families, other than finding out what exactly happened to their loved ones, are seeking the prosecution of those to blame. However, despite inquest juries having delivered unlawful killing verdicts in at least twelve cases and numerous other critical verdicts as well, no-one has been convicted for their part in these deaths.

It is in fact down to the families of those who have died in custody, their lawyers and support organisations like INQUEST and the United Families and Friends Campaign, that any changes have been made to the ways such deaths are investigated by official bodies. These changes have affected, for example, the coroners' and inquest systems, the funding of inquests (which is again under threat), and the procedures of the Police Complaints Authority (resulting in the formation of the Independent Police Complaints Commission).

Half of *DfJ* is devoted to the struggles that take place after a death, with contributions from families, lawyers and campaigners: Deborah Coles, Co-Director of INQUEST recounts the organisation's work in holding the state to account; lawyer Ruth Bunday on the impact a death can have on a family; and lawyer Daniel Machover on the Azelle Rodney case and the legal routes the family had to pursue. Lee Bridges (Professor Emeritus, University of Warwick School of Law) analyses the failures of the Crown Prosecution Service and questions whether decision-making on deaths in custody should be taken entirely from its hands. Community voices are represented by campaigner Stafford Scott who, with others, recounts the numerous struggles associated with Tottenham (around the violent deaths of Cynthia Jarrett, Joy Gardner, Roger Sylvester and Mark Duggan), and Janet Alder writes on campaigning for her brother Christopher. The significant role of the media is analysed by community film-maker Ken Fero, who explains the history behind the influential film *Injustice*, while Ryan Erfani-Ghettani explores press demonisation of custody victims.

While Theresa May's inquiry is to be welcomed, it must be remembered that deaths do not just occur in police custody, nor is it just the police who are 'at fault'. Numerous associated agencies that deal with deaths in custody need reform, from the Independent Police Complaints Commission to the Crown Prosecution Service. The crux of the matter is not, as Theresa May has it, 'procedures and processes', but accountability.

Notes

1. *Dying for Justice*, co-edited by Harmit Athwal and Jenny Bourne, is available to download for free at <http://www.irr.org.uk/news/dying-for-justice/>.

2. Race, Law and the Police: Reflections on the Race Relations Act at 50

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The police hold a special place in the relationship between state and citizen and are central to discussions of fairness, justice and equality before the law. The police are the coercive branch of government with which the general public has the most frequent contact. As policing scholar David Bailey puts it, 'the police are to government as the edge is to the knife'. Public encounters with the police shape experiences of government and, as a corollary, attitudes towards the state and democracy more generally. The police must, of course, abide by the law as well as enforce it.

According to the Rotterdam Charter, as well as being the public authority that exists to serve and protect the public, the police should be guardians of racial equality. They might be expected to be at the forefront of protecting vulnerable minorities from racist violence and to act fairly in investigating crime and in bringing offenders to justice. However, research evidence shows that not only have the police generally failed to provide equal protection under the law, the police – more than any other organisation – have been repeatedly and persistently accused of racism and racial discrimination against black and brown citizens and denizens of the British Isles.

Policing is an area of public policy where anti discrimination law has been an abject failure. In fact, police powers were exempted from the first three Race Relations Acts of 1965, 1968 and 1976. It should therefore be no surprise that the law made no impact on police racism, since the British police had, for the first 35 years of anti-discrimination legislation, no duty to avoid discrimination or to protect equality. It was only in 2000 that an amendment in the law brought the police under the scope of the 1976 Act. This is a paradox worthy of further consideration: how could a situation arise where a central branch of the British state was free to discriminate with

impunity? This article explores why the police were exempt from anti-racial discrimination law until 2000, the consequences of this exemption, and the circumstances that led to their eventual inclusion.

The Janus Face of Anti-Racial Discrimination Law in Great Britain

The Race Relations Acts were envisaged by the United Kingdom Government as part of a package to deal with Britain's growing black and minority ethnic population in the post-colonial period. Strict controls on immigration from the New Commonwealth were accompanied by measures to foster integration, including laws prohibiting racial discrimination. Immigration controls designed explicitly to reduce numbers of citizens arriving from the former colonies in the Indian subcontinent, Africa, the Caribbean and elsewhere were posited as a prerequisite to, and corollary of, the integrative measures necessary to improve 'race relations'. In other words, the price of protection from discrimination was strict control over the rights of entry, work and settlement of people from countries of the former Empire.

Race relations were therefore inextricably locked into concerns about 'coloured immigration'. And, as indicated by the very terms of debate, immigration was framed as a race issue: the growing numbers of minority ethnic citizens in Britain was perceived as a source of conflict. The state accepted responsibility for promoting the integration of those already here, but only while moving towards a stricter regime to keep others out. As Roy Hattersley expressed it in his infamous aphorism: 'Integration without control is impossible, but control without integration is indefensible'. Immigration control was thus *essential* to integration measures; it was a move to manage domestic 'race relations' while legitimising

the institutionalisation of racist restrictions on entry and vigorous efforts to deport those who broke conditions attached to their entry.

This underlying logic of control may explain why police powers were exempt from the Race Relations Act between 1965 and 2000. The British police were the *de facto* guarantors of the security of the general population in the face of what were perceived to be the dangers of post-war immigration. To make the police liable, in law, to be held to account for allegations of racism and racial discrimination might have undermined them in this role. The exemption of policing illustrates the basic contradiction in the government's 'race relations' policy: on one hand it accepted that racial prejudice and discrimination were social ills that had to be legislated against and that the exclusion of a large section of society from access to basic public services purely on the grounds of colour was unacceptable; yet on the other hand, the government continued to use racist criteria to police the entry of Commonwealth citizens into the country and relied upon the police to carry out immigration control on the basis of these criteria.

The effect of this contradiction shaped the domestic policing of minority ethnic communities. As Paul Gordon pointed out in the early 1980s, 'since it is impossible to tell a "legal" immigrant from an "illegal" one, the answer is to suspect all who *appear* to be immigrants'. Thus the police, under the imperatives of the state, used their powers disproportionately to stop, search, question, and detain black people. In effect, black people in Britain were not to be protected; British society was to be protected from black people. Using powers in the Immigration Act 1971 (which drew a distinction between those immigrants with a right to work but no right of settlement) to detain and question those suspected of breaching immigration law, the police carried out extensive 'passport raid' operations on workplaces, places of entertainment and homes in search of 'illegal immigrants' in the 1970s and 1980s. The level of harassment borne by the black community led the general secretaries of the Transport and General Workers' Union and the General and Municipal Workers' Union to compare life for black people in 1980s Britain with apartheid in South Africa.

Given the central role they were playing, it could therefore be argued that the British government could not allow policing to be held up for scrutiny under anti-discrimination legislation. There were certainly concerns, such as the worry that it might besmirch the good name of the police, or that it would undermine police enthusiasm for enforcing

the law. As the 'best police in the world', the British police were a source of pride respected by the majority of the population. Ultimately, however, the source of the problem was the Janus-faced government policy: the British state was deeply invested in controlling immigration through racist criteria, while simultaneously espousing the values of integration and anti-discrimination. To allow the police to be held to scrutiny for their racist practices would shatter this illusion.

Consequences of the Exemption

By the end of the 1970s, it was clear that black people, and minority ethnic communities more generally, were 'over-policed but under-protected'. There are numerous examples of this tendency, but in what follows we examine *over-policing* through the use of the power to stop and search and *under-protection* of victims of racist violence.

Stop and search

During the 1970s and early 1980s, over-policing was conducted under the guise of section 4 of the Vagrancy Act 1824 – the so-called 'sus' law – which empowered the police to stop, search and arrest a person suspected of loitering with intent to commit a criminal offence. The Police and Criminal Evidence Act (PACE) 1984 was introduced after the repeal of 'sus' to regulate police powers. According to PACE Code of Practice A, the primary purpose of stop and search powers is to 'enable officers to allay or confirm suspicions about individuals without exercising their powers of arrest'. In relation to s.1 PACE (1984), s.23 Misuse of Drugs Act (1971) and s.47 Firearms Act (1968), the police must have 'reasonable grounds' to suspect that a person is in possession of stolen or prohibited articles. There must be an *objective basis* for this suspicion, based on accurate and relevant facts, information, or intelligence.

'Sus', in its targeting of black youths, was an important part of the process by which the police criminalised black people through disproportionate use of these powers. In comparison with white people, black people are six times more likely to be stopped and searched while Asian people are twice as likely to be. PACE gives the police the power to stop and search, but does *not* penalise actions taken without these powers (i.e. a stop *without* reasonable suspicion). While a person who refuses to submit to a stop and search commits a criminal offence (obstruction of a police officer in the course of his

duty), the legislation does not penalise police officers who act outwith the law. The police exemption from the provisions of 'race relations' legislation meant that racially discriminatory acts could not be challenged on grounds of discrimination, and the use of stop and search to criminalise minority ethnic communities continued well after the passage of the first two Race Relations Acts.

Racist violence

Figures presented to Parliament in 1980 indicated a rise in documented incidents of racist violence against black victims from 2690 in 1975 to 3827 in 1979. Real numbers are likely to be higher as research by the London Region of the West Indian Standing Conference and the Runnymede Trust noted the police tendency to play down attacks as mere delinquency, and to dismiss or deny the racist motives. The general picture of the police response to racist violence is a failure to provide adequate protection. A 1978 report by the Bethnal Green and Stepney Trades Council stated that Bengali victims of attacks frequently expressed no confidence in the police, considering them to be indifferent or actively prejudiced. A Home Office study of 1981 demonstrated that black people were between 50 and 60 times more likely than white people to be victims of racial attacks.

These reports had little demonstrable effect. The Runnymede Trust carried out a survey a year after the Home Office's publication to assess its impact, and concluded that police forces had not yet shown that they fully understood the significance and seriousness of racial violence:

It would be hard to overstate the effect of police action or inaction on relations between the police and black people. In the eyes of many black people, the police have singularly failed to afford them the basic protection a police force is supposed to offer the public, while at the same time it has enforced the law in a biased manner against them. (Gordon 1983: 57)

Victims of racial attacks, as 'consumers' of police services, continued to be less satisfied with the police response. Bowling's (1999) study *Violent Racism* demonstrated that the most common complaints amongst those dissatisfied with police response was that the police did not do enough, failed to keep the victim informed, and seemed uninterested. A small minority felt generally satisfied with police response in their area, and less than a third were at all satisfied. Moreover, there were indications that many police officers were unsympathetic to the victims of racist violence, tended to blame them for their own

misfortune, and minimised the role of racism in the violent attacks that targeted minority communities.

Failure to bring police powers into the ambit of anti-discrimination legislation between 1965 and 2000 allowed police the impunity to discriminate. No law required them to use their powers fairly, either in their response to racist violence or in the use of the power to stop and search. Minority ethnic communities were forced to defend themselves against racist violence and were subjected to discriminatory treatment at the hands of authorities. Police failures to respond to victims from a minority ethnic background or to protect them from racist violence is a clear case of a failure in service provision. It is one that could not be remedied by law since they were excluded from the scope of race relations legislation.

The Race Relations (Amendment) Act 2000

In the summer of 1993, Neville and Doreen Lawrence requested that a public inquiry be held into the murder of their son Stephen. This was refused by the Conservative Home Office Minister, Peter Lloyd, but Jack Straw, then shadow Home Secretary, promised a public inquiry if Labour were elected. The Stephen Lawrence Inquiry was set up on 31 July 1997 under the chairmanship of Sir William Macpherson, and its findings were published on 24 February 1999. Public attention focused on the issues of racist violence, victimisation, and police inaction. The Lawrence Inquiry concluded that the investigation into the murder was marred by professional incompetence, institutional racism and a failure of leadership. Institutional racism, defined as the 'collective failure of an organization to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin', could be seen in discriminatory attitudes and behavior, and in processes amounting to discrimination through prejudice, ignorance, thoughtlessness and racist stereotyping. Since these had the effect of disadvantaging minority ethnic people, the inquiry recommended that the 'full force of Race Relations legislation should apply to all police officers, and that Chief Officers of Police should be made vicariously liable for the acts and omissions of their officers relevant to that legislation'.

The Government accepted this recommendation, bringing the police within the scope of anti-discrimination law with the Race Relations (Amendment) Act 2000. This placed a 'general duty' on specified public authorities to *promote race equality*, and, importantly, made Chief Officers

of Police vicariously liable for acts of discrimination carried out by officers under their direction and control, providing for compensation, costs or expenses awarded as a result of a claim to be paid out from police funds. It placed a positive duty on Chief Officers of Police to ensure that officers under their direction and control did not racially discriminate.

Conclusion

The development of anti-discrimination legislation and policies aimed at promoting greater equality of opportunity for all British citizens has been a contradictory process. At the outset, 'race relations' legislation was part of a dual strategy that combined racist immigration laws with measures to reduce discrimination. As a result, the police found themselves in the paradoxical position of being required to enforce racist laws yet somehow expected to be guardians of fairness and equality. It is for this reason, we suggest, that the police were exempt from anti-discrimination legislation for the first

35 years of the Race Relations Act. Much damage was done in the two generations between 1965 and 2000, and the legacy of impunity can be seen in persistent disproportionality in the use of police powers, criminalised minority ethnic communities and a troubling lack of confidence and trust in the police. Fifteen years ago, the Lawrence Inquiry may have set the context for policy change, and The Race Relations Amendment Act (2000) can be seen as an important step forward. However, there is as yet little evidence that this law has contributed to change much. Rather, it is cultural and political change that has slowly begun to alter the way the police service functions in our society. Police culture has itself changed, in part due to the increasing diversity in the composition of the police force. Is the law too little too late, we wonder, to reverse the iniquitous effects of half a century of discriminatory policing? If the 'full force' of anti-discrimination legislation is insufficient to bring about fundamental change in police practice, how can the government, police leaders, lawyers and activists ensure that the police act with fairness, justice and equality?

3. Police Violence, Justice and the Struggle for Memory

Matt Bolton

Defend the Right to Protest

In December 2013, hundreds of protestors brought the US #blacklivesmatter movement to London, staging a die-in at Shepherd's Bush Westfield shopping centre. The Metropolitan Police's reaction to the protest – which was supported by many staff and shoppers, who came out of the stores to raise both their hands and voices – was as depressingly predictable as the decision not to charge the officers responsible for the deaths of Eric Garner and Mike Brown. Replicating the strategy from two anti-fascist protests in 2013, demonstrators were kettled, arrested en masse – 76 this time – and then herded onto a fleet of pre-hired double-decker buses.

The media response was a little more unusual, in that there seemed to be genuine incomprehension at the protest. 'What's it got to do with Westfield?' asked the Daily Mail, baffled that 'Hundreds of protesters cause[d] chaos for Christmas shoppers at London mall "die-in" over AMERICAN cop choke-hold death, thousands of miles away'. The Evening Standard even reported one policeman as describing the die-in as 'the worst protest ever. There's no message.'

Perhaps the policeman should have been listening to the crowd a little more carefully. Amid the chants of 'We can't breathe' and 'Hands up! Don't shoot!' carried over from the protests in Ferguson and New York, were others with an origin closer to home. Chants like 'Who killed Mark Duggan?' or 'Who killed Azelle Rodney?' Or 'Justice for Jimmy Mubenga!' That last one certainly should have been familiar, given that at the time of the protest three G4S security guards were on trial for his manslaughter, Mubenga having died in their custody while being deported from the UK. His last words, like Eric Garner's, were 'I can't breathe'. The verdict? Not guilty, after evidence of two of the guards' virulent racism was ruled inadmissible.

And if the policeman had been looking, he might have seen Marcia Rigg, sister of Sean, lying on the floor amid the protestors. Sean died at Brixton police station in 2008, after police officers used 'unsuitable force' while he was being 'restrained in the prone position'. No police officers have ever been held accountable for his death – just as they haven't for the other 642 men and women in England and Wales

who died in the custody of police officers from 1996 to 2011. Indeed, no police officer has been convicted for a death in the UK since 1971.

The message of the Westfield die-in, then, could not have been clearer. It was that what happened to Michael Brown in Ferguson, to Eric Garner in New York, to Tamir Rice in Cleveland, was not merely a 'US problem'. The devaluing of black life and the impunity of the police, free to kill and kill again, is not something that just happens 'over there'. The British media's bewilderment merely underscores what Harmit Athwal and Arun Kundnani have described as the 'complacency about Britain's own history of institutional racism and its manifestations in police violence'.

The connection between events in the US and the UK was underlined in February 2015 with the 'Ferguson Solidarity Tour', a series of public meetings co-organised by the United Families and Friends' Campaign (who bring bereaved families together under one banner), Defend the Right to Protest (DtRtP) and NUS Black Students. DtRtP was set up in the wake of protests against the tripling of student tuition fees in 2010, when student Alfie Meadows was nearly killed by a police baton and then, alongside dozens more, charged with violent disorder. The initial campaign opposing violent police tactics against protestors has now developed into a broader challenge to state violence in all its forms, with the organisation acting as a point of connection between struggles against institutional police racism and deaths in custody, spying on campaigners, and attacks on the legal aid system.

The Ferguson tour strengthened those connections, with Patrisse Cullors, the LA activist who co-founded #blacklivesmatter, speaking alongside representatives from British justice campaigns. Attendees were thus able to hear the extraordinary lengths that both the US and the British state continue to go to in order to avoid its agents being held to account for their lethal violence. 'Independent' investigatory bodies, led by former police officers who fail to arrive on the scene of the death for hours, take years to write useless reports, and even co-author police press releases telling

outright lies in the wake of police killings. ‘Lost’ CCTV tapes, cameras that ‘weren’t working’ at the crucial moment. Footage that is cut and spliced to rewrite history. Coroner’s inquests that never begin, officers who are never charged, or retire before investigations even start. Stories leaked to the press, portraying victims as ‘yobs’ or ‘gangsters’, reversing the order of events, blaming them for their own deaths.

There’s rarely anything exciting about these struggles for justice. Occasionally they act as the spark igniting a petrol trail of racist policing and immiseration, and uprisings on the scale of London in 2011 explode into life. For most of the time, though, such campaigns consist of interminable legal processes, battles to access documents and funds, weekly vigils outside police stations (state agents, of course, have unlimited public funds at their disposal). The never-ending succession of delays and dead ends prevents those who are left behind from coming to terms with their loss, suspending and expanding the moment of grief until it starts to consume their lives. The women who overwhelmingly lead the campaigns – the mothers, sisters, partners of the dead – in effect work full time, unpaid. The entire weight of the state is thrust upon their shoulders, as the various agencies scramble to cover each other’s backs, while outwardly presenting only the icy, impassive face of denial and silence. Everything is turned upside down – a loved brother becomes a thug, a cherished son a drunken hooligan. ‘You think you’re going insane,’ Marcia Rigg told a DtRtP conference last year. ‘And it’s only when you talk to other families going through the same thing that you realise you’re not, and you see the pattern.’ Solidarity here is not an optional extra, something to strive for. Organisations like UFFC are absolute necessities, because it is only by understanding other similar cases that a single case begins to make any sense at all.

If nothing else, the state’s paranoid, aggressive reaction to these campaigns demonstrates how dangerous, how deeply political, they are. Because what does it mean to demand ‘justice’ for Sean Rigg or Jimmy Mubenga? At the very least, it means a demand that they be counted as people worthy of recognition, of equal treatment in the eyes of the legal and political system. It is an insistence that the formal right of ‘equality before the law’ – itself a right that had to be wrenched from the hands of the white, male ruling class during a long, bloody struggle – should become a concrete reality. It is a demand that the killing of a loved one should be treated in the same way as any other murder, and that the same laws should apply to the police as to the rest of society.

The fact that this is a demand that has to be made again and again indicates the extent to which it strains the limitations of formal equality under capitalism.

This formal equality corresponds to the ‘equality’ of the wage relation – a ‘fair day’s work for a fair day’s pay’. That this ‘equality’ hides exploitation, the extraction of surplus value for which the worker is not paid, is bad enough. But given capitalism’s tendency to produce a surplus population – with automated production meaning increasing numbers of people unable to exchange their labour power for a wage, and thus excluded from the world of ‘value’ altogether – the material roots of even formal equality are being eaten away.

At such a moment, the call for ‘justice’, so often an abstract liberal plea, becomes the most concrete of all demands. There is nothing abstract about the daily reality of systemic exclusions predominantly experienced by black and brown people, whose very existence becomes the symbol of what it means to be outside the world of value – a world whose borders are protected by a police force granted almost total impunity from the law. The ‘justice’ that is demanded on the streets of Ferguson or Tottenham, the insistence that black lives are of value, therefore becomes a direct challenge to the production of exclusions that capitalism depends on. Police violence and police racism are not therefore an aberration, the regrettable behaviour of a few ‘bad apples’: it is a necessity for the reproduction of the capitalist class relation. That is why the campaigns face such relentless opposition, so many obstacles and obfuscations.

Underpinning the law’s ideological power in capitalist society is its appearance as a norm, as being ‘just the way things are’. Unlike the law, however, which has a time and place of ‘sovereign decision’ by the legislature, when it comes to dealing with people deemed surplus to capital’s requirements, the police usually act first, and decide later. This means that the law has to be retrospectively changed around them, which becomes clear when looking at judicial inquests after a police killing. Whereas a state killing under the death penalty (for all its horror) follows a legal decision, an inquest is the means by which a legal decision regarding a killing can be made after that killing has already taken place. The inquest’s primary function, from the state’s point of view, is to ensure that the death is presented in such a way that, like the law itself, it too becomes ‘inevitable’, that no other outcome was possible: the police were in fear for their lives, the victim ‘looked like a demon’ and grabbed the gun, the fans were drunk

and uncontrollable. The initial killing is followed by a second 'character assassination', as Carole Duggan, Mark's aunt, put it.

This is perhaps one reason why the number of 'unlawful killing' verdicts remains minuscule – and that even when juries do find that verdict, police officers are rarely, if ever, prosecuted. But it is also why it is so critical for the families to hold on to the memory of those who have died, to refuse to allow the state and the media to recast a loved one in the mould of the latest 'folk devil'. The state, whether in the US or UK, knows only too well the power

of controlling the past, of eradicating memory and flattening history, in order to give the present the character of inevitability. The families do too. As Janet Alder (sister of Christopher, who died in a Hull police station in 1998) said: 'I saw what happened in Ferguson and I was inspired. When we hear that someone dies, we need to get out on the streets and unite. We need to close the police stations down. We need to close everything down.' This is what it means to hold onto the memory of the dead. This is what it will take to overcome the limits of formal equality and the world of value, in order to prevent history from being swallowed up by fate.

4. The Violence of Deportation and the Exclusion of Evidence of Racism in the Case of Jimmy Mubenga

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Last year three former G4S guards (Detention and Custody Officers) were acquitted of the manslaughter of Jimmy Mubenga, killed while being deported by plane from the UK in October 2010. Several passengers on his flight reported having heard him say 'I can't breathe' shortly before he died while being restrained. The violence entailed in deportation stretches far beyond the actions of the security guards escorting the deportee. Mubenga, having been torn away from his wife and five children, was being removed from a country that had been his home for 16 years. He had served his two-year sentence for an assault, and yet the Home Office saw fit to punish him a second time, a fate which frequently befalls foreign criminals, who can be subjected to an automatic deportation order after serving a 12-month sentence. For sentences of less than 12 months, the Home Office may still deport if it is considered to be 'in the public interest'. Arguably, deportation can never be in the public interest, even in the case of the most serious foreign criminals. Crime is in part a product of the society in which it takes place. Deportation serves to obscure this fact. It is in the public interest to take responsibility for the causes of crime as well as the rehabilitation of criminals. In Mubenga's case, his deportation order ultimately led to his death.

After initially declining to bring charges against the guards involved, the Crown Prosecution Service reviewed its decision after an inquest's finding of unlawful killing. The inquest jury's verdict followed years of campaigning for justice by Mubenga's widow, Adrienne Makenda Kambana, and media investigations into the circumstances surrounding his death.

However, when it came to the manslaughter trial of the three former G4S guards involved, the judge refused to allow crucial evidence to be heard by the jury. This included evidence relating to the continued use of a banned restraint technique which obstructed breathing, that of 'Carpet Karaoke'. According to the coroner's report, this is a 'technique adopted for controlling disruptive deportees in an aircraft seat. It comprised pushing a deportee's head downwards so that any noise that he or she made would be

projected towards the floor ("singing to the carpet") and not through the plane upsetting the passengers or causing the captain to require disembarkation (so aborting the removal)' (Coroner's report, para.67).

Also withheld from the jury was the 'unlawful killing' verdict of the inquest jury, the findings and recommendations of the coroner's report and, critically, evidence relating to racist text messages found on the mobile phones of two of the guards who restrained Mubenga. Despite the judge having the discretion to allow the admission of evidence relating to 'reprehensible conduct' by the defendants if it appeared to be important in helping the jury to understand the evidence as a whole or to counter defence claims of good character, the judge insisted that allowing the evidence relating to the racist messages to be heard would be prejudicial to the defendants and prevent a fair trial.

The position of the trial judge was contrary to that adopted by the coroner, Karon Monaghan QC, at the inquest, who had attached a high degree of significance to the evidence relating to the racist text messages, arguing that they 'were not evidence of a couple of "rotten apples" but rather seemed to evidence a more pervasive racism within G4S' (para. 43). She went on to note that the text messages, along with other evidence of racist material shared and commented on by G4S guards on social media, point to 'what appears likely to be a casual widespread racism' (para. 44). She concluded: 'It seems unlikely that endemic racism would not impact at all on service provision' (para. 46). The presence of widespread racism within G4S created the 'the possibility that such racism might find reflection in race-based antipathy towards detainees and deportees and that in turn might manifest itself in inappropriate treatment of them ... This may, self-evidently, result in a lack of empathy and respect for their dignity and humanity potentially putting their safety at risk, especially if force is used against them' (para. 46). and that this is especially important 'when the functions being performed by those providing detention and escorting services are necessarily targeted at groups defined by nationality, national origins and therefore "race"' (para. 48).

As Frances Webber has observed, the trial judge's decision to exclude this evidence 'prevented the jury from contextualising or properly weighing the evidence the guards gave of their respectful, professional treatment of Mubenga. The exclusion of relevant evidence meant that the case actually lacked part of its context, and the defence suggestions that Mubenga was just too big, strong and vociferous, and brought about his own demise, won the day' (Guardian, 19 December 2014).

Mubenga's death is one of more than 500 since 1991 in which a black or minority ethnic person has died as a result of interaction with police or prison or immigration officers or their private proxies. There has not been a single conviction. The exclusion of evidence that the guards who restrained Jimmy Mubenga had racist text messages on their phones and had forwarded some of these on to others raises the question of whether the legal system is capable of delivering justice for victims from racialised minorities. For a judge to exclude evidence that the guards who restrained Mubenga, an Angolan man, held racist views about black African men suggests at best ignorance of the pervasiveness of racism and structural violence faced by black and minority ethnic people in Britain today and, at worst, that the racism said to be 'endemic' in G4S by the coroner has

also found a home in the judiciary. A consequence of the courts' denial of the relevance of racism is the perpetuation of its violent consequences for racialised minorities along with their deepening mistrust of the legal system and doubts about its capacity to deliver justice.

Since Mubenga's death, the government has been called on to cease contracting out deportation to private security firms in the interests of accountability in cases like Jimmy's. While this would be a step forward in terms of accountability, in view of the statistics on deaths in police custody, along with the CPS's record of not prosecuting officers involved, we should be cautious about expecting better treatment of deportees by state officials or higher levels of accountability where they act unlawfully. There have also been calls for a review of 'restraint techniques' used in the course of deportation. While this is crucial, the fact remains that deportation of migrants against their will is always a violent act. The political costs of recognising this are of course monumental, considering the political industry of scapegoating migrants for votes. This, together with the politicisation of immigration policy, creates a breeding ground for the sort of racial hatred of the guards who restrained Jimmy Mubenga.

SECTION II: RACISM AND COUNTER-TERRORISM

5. Racial and Religious Profiling in Post-9/11 Counter-terrorism Policing

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The Post-9/11 era has seen dramatic use of racial and religious profiling to effectuate counter-terrorism policing in the United Kingdom. Whether unconscious or intentional on the part of law enforcement, the effect remains the same – the disproportionate targeting of racial and religious minorities under the rationale of security against domestic terrorism threats. This piece provides a brief overview of some salient aspects of this phenomenon.

Defining Post-9/11 Racial and Religious Profiling

What do we mean by the term profiling? The concept originated in the United States in the 1990s amidst claims of systemic disparate treatment of racial and ethnic minorities by law enforcement in making traffic stops, street stops and arrests for low-level criminal offences. While law enforcement officials then (and even now) often define profiling as the *exclusive reliance on race or religion* to determine whom to stop, question, search or arrest, critical legal scholars define profiling as *any use of race or religion*, even where it is just one of several factors used to determine whom to stop, question, search or arrest. This piece employs the broadly construed definition of profiling to analyse post-9/11 law enforcement counter-terrorism practices in the United Kingdom.

For many in law enforcement (not to mention the general public), the post-9/11 threat of Al Qaeda or ISIS inspired terrorism in the United Kingdom justifies the profiling of Muslim communities. According to this rationale, Muslims are at worst predisposed to terrorism, or at best Muslim communities are where foreign terrorists might hide themselves. Regardless of the justification, however, profiling of Muslims post-9/11 appears to not only contravene the spirit (if not the letter) of the Human Rights Act 1998, the Europe Convention on Human Rights 1950, and democracy more generally, but also rests on the flawed assumption that Muslims can be easily identified by police. Because Muslims

hail from all races, ethnicities and nations, relying on police work to distinguish Muslims is always ineffective. Not only is this practice unfair to the vast majority of Muslims who have nothing to do with terrorism, but profiling also erroneously ensnares many non-Muslims, leaving bona fide terrorists ample opportunity to carry out their plots while police chase false leads. Post-9/11 profiling is therefore too broad-based to be an effective terrorism prevention practice, even in support of the worthy goal of preventing terrorism. Police must use tools other than profiling to halt all sorts of terrorism threats in the United Kingdom; this necessarily involves their working in conjunction with rather than in opposition to Muslims and other communities.

Neutral Counter-terrorism Laws with Disproportionate Effects

While the specific tools used by UK law enforcement to profile are facially neutral, meaning they do not explicitly target Muslims or ethnic minorities, they have nonetheless been implemented in ways that have disproportionate impacts on Muslims and ethnic minorities.

Some of the primary counterterrorism tools used by UK law enforcement for post-9/11 profiling are the provisions of the Terrorism Act 2000. This Act formalised a host of exceptional legal powers for combatting suspected terrorism that were first implemented during the Northern Ireland Troubles, including relaxed criminal prosecution rules, travel restrictions at ports and airports, the proscription of various ‘terrorist’ organisations, and vastly expanded police powers to stop, search, question, detain and arrest individuals suspected of engaging or planning to engage in terrorism-related activities under Section 44 and Schedule 7. The data show that policing under both Section 44 and Schedule 7 has disproportionately impacted racial and ethnic minorities in the United Kingdom.

Section 44 of the Terrorism Act 2000, for example, codified police powers to question, stop and detain in designated areas without requiring reasonable suspicion. Government data consistently show significant disproportionality in the rates of stops, questioning and searches of Blacks and Asians compared to Whites, with Blacks stopped at rates of up to 10 per 1000, Asians at 8 per 1000, and Whites at 3 per 1000, peaking in the years following the 7 July 2005 terror attacks. Qualitative data from Black, Asian and Muslim communities further illustrate the significant targeted use of Section 44 to stop, question and search ethnic and religious minorities not only for suspected terrorism offences, but also for involvement in routine criminal activities like robbery and knife crime. The severe racial disproportionality in police use of Section 44 was a significant factor in the European Court of Human Rights' decision to strike down the provision in the case of *Gillan and Quinton v The United Kingdom* (2010).

Similarly, government data on Schedule 7 of the Terrorism Act 2000, which permits UK police and border control to stop, question, search and detain without reasonable suspicion at the UK's ports, airports and borders, show that Blacks and Asians are stopped, questioned and detained at higher rates than Whites. Qualitative interview data bolsters these findings, with Asians, particularly Asian Muslims, reporting high rates of stops, questioning and detentions under Schedule 7, particularly since the 7 July 2005 attacks. The disproportionate racial and religious effects under Schedule 7 have been so significant that the UK's Independent Reviewer of Terrorism Legislation, David Anderson, has urged law enforcement to reduce racial disproportionality in use of Schedule 7, asserting that it reflects either actual unconscious racial bias by law enforcement or, at minimum, creates the appearance of such a racial bias.

Another controversial post-9/11 counter-terrorism policing tool with disproportionate effects has been the Prevent strand of the UK's CONTEST counterterrorism strategy. First developed in 2003, the Prevent strand was designed to facilitate law enforcement engagement with communities directly to prevent radicalisation and deter terrorism. Although the statutory language of Prevent

emphasises tackling extremism in all communities, critics argue that in practice Prevent activities are concentrated in Muslim communities to root out both violent and non-violent extremism. Critics of the Prevent programme assert that only Muslim communities have been singled out for engagement by law enforcement, creating a Muslim 'suspect community', erroneously labelling all Muslims as criminals. Critics point to the lack of Prevent resources deployed to prevent Far Right, Nationalist and other types of terrorism as evidence that Prevent is being used to profile and criminalise the United Kingdom's Muslim communities. And the evidence from qualitative data supports claims that Prevent has primarily been used in Muslim communities.

Most recently, in the wake of the January 2015 terror attacks on the Parisian offices of satirical magazine *Charlie Hebdo*, the UK government passed the Counter-Terrorism Security Act 2015, which among other provisions places an affirmative duty on schools, universities and other institutions to police all extremist speech, meaning any views expressing opposition to democracy, British values, liberty, the rule of law or tolerance, even if that speech is non-violent or violates no criminal law. Members of Muslim communities, along with university leaders, academics and civil liberties advocates, argue that these new police powers will be used to further criminalise Muslims, along with others who disagree with UK government counter-terrorism policies or other such programmes. It remains to be seen whether provisions of the Counter-Terrorism Security Bill 2015 will follow the similar trend of disproportionately targeting the United Kingdom's ethnic and religious minority communities.

Conclusion

While the post-9/11 era has experienced an increase in domestic terrorism threats from Al Qaeda, ISIS and their adherents, seemingly neutral UK counter-terrorism laws have in practice been used to disproportionately police racial and religious minorities. While the threat of a domestic terror attack is used to justify policing Muslims and ethnic minorities more heavily, the UK's reliance on profiling is not only ineffective policing, but creates problems both for the legitimacy of the police and the safety of the nation.

6. Policing Muslim Communities in Partnership: 'Integration', Belonging and Resistance

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The recently implemented Counter Terrorism and Security Act 2015 (CTSA 2015) has placed a statutory duty on schools, colleges, universities and other public-sector bodies to actively demonstrate they are tackling 'radicalisation'. The Act, which is part of a wider counter-terrorism state strategy attempting to address 'non-violent extremism', has been widely criticised by civil liberties groups, academics and campaigners for being ill thought-out, a threat to free speech and ultimately counter-productive. In particular, many of the criticisms have centred on the assertion that Muslim individuals, groups and communities will continue to be the specific targets of this latest approach. Despite protestations to the contrary, given what is known about the impact of previous iterations of UK counter-terrorism policy, it is indeed certain that Muslims in particular will bear the brunt of this latest intensification. Whilst partnership working between the police and other agencies has existed in various forms in the context of counter-terrorism policy over the past decade, the new formalised approach as mandated by the CTSA 2015 demonstrates a marked departure from previous policy. This new mandatory partnership policing in the context of counter-terrorism is significant for requiring non-police agencies to take on what are essentially policing responsibilities, such as teachers and lecturers monitoring students for signs of 'radicalisation'. In problematizing these developments I make reference to two research projects: my PhD study, which examined partnership policing; and my on-going research collaboration with Professor Scott Poynting, which focuses on the integration demands placed upon British Muslims. The potential is for the CTSA 2015 and this new partnership-policing approach to intensify what is already known about UK counter-terrorism policy and the policing of the Muslim community; that it is implemented despite an evidence base, is fundamentally racist by explicitly targeting specific minority groups, and ultimately leads to the further alienation and marginalisation of an already demonised and criminalised group.

Counter-terrorism Policing *beyond the Police*

My PhD research consisted of an extensive ethnographic study examining partnership policing across three different marginalised communities in order to understand the relationship between police officers, partner agencies and residents. In contrast to findings from previous studies, my research found that police working in partnership with typically social-welfare oriented agencies, such as the local authority and housing departments, did not result in 'softer' policing. Rather, due to the dominance of the police within these partnerships, the role of policing was extended *through* these agencies. For instance, staff from partner agencies actively explored and pursued enforcement opportunities against local residents, prioritising a punitive over a welfare focus, and 'success' was frequently measured through such a police-centred lens. Some of the findings and lessons from my PhD could be readily applicable to the implementation of the CTSA 2015, in particular those aspects of the requirement for specified authorities such as schools, colleges and universities to have a mandated responsibility for tackling 'radicalisation' and 'non-violent extremism'.

Perhaps the key element of the CTSA 2015 for those working within the specified authorities is the compulsory requirement for them to engage in the policing of counter-terrorism. The extensive academic literature on the subject points to the racialised way in which the so-called 'war on terror' has taken place, with BME communities and those regarded as 'Muslim' subjected to intense police scrutiny through the discriminatory PREVENT and Channel government counter-terrorism initiatives.¹ Through the extension of such widely discredited programmes, there is little if any scope for a meaningful and positive outcome that does not result in stigmatizing and criminalising Muslim and BME communities. This new method of partnership policing imposes a dangerous responsibility on individuals such as teachers, lecturers and health workers – individuals whose work is in the field of

education, social welfare, healthcare, not criminal justice and counter-terrorism. The consequences of this cannot be overstated. The monitoring and reporting of Muslim students to the authorities, based on abstract reasoning such as a change in perceived levels of religiosity and dress sense, will severely damage and rupture the social bonds that young British Muslims, an already demonised group, have with institutions and in spaces where they previously felt safe to express their views and engage in public life in the same manner as their non-Muslim peers. It is likely too that the singling out and criminalisation of minorities will occur not only because of preconceived biases, prejudices and misconceptions, but also because the CTSA 2015 *compels* individuals within the specified authorities to engage with it. Failure to do so, remarkably, could potentially result in prosecution.

‘Integration’ and Belonging – the Marginalisation of British Muslim Communities

My on-going research collaboration with Professor Scott Poynting, examining the integration demands made on British Muslims, brought out a number of themes which related to how this group experiences marginalisation and criminalisation. Nazia, an IT professional in her mid-40s, spoke of how her peers had gone to significant lengths to evidence their Britishness:

I think some of them spend a lot of their time trying to prove that they belong, you know, to the extent where you see whenever there’s an event they’ll have a British flag out, you know? And it’s just like, ‘Well, nobody else has to do that.’ You know, it’s not expected from anybody.

Nazia further spoke of the divisions she believed were being created by consistent demands placed on Muslims to integrate in Britain:

So I think actually when they question the community’s integration and all the rest of it, what they’re actually doing is just increasing the divisions, because now people are having to justify being here or belonging or feeling British. And, you know, you shouldn’t have to justify it. The fact that you live here should be enough.

Sharaz, a youth worker in his early 30s spoke of the external pressures he and his friends faced in order to balance their British and Muslim identities:

You have to work very hard to ‘integrate’ in inverted commas ... I think there’s a lot of effort that me and my mates put in to try and be British, try and live up to a certain expectation or what the people, the wider community, have in mind of how we should act and I think there’s more of ... an added pressure to be extra British because ... we’re from a different ethnicity and particularly ... of a particular religion. So there’s that added pressure that we, something happens, we have to go and condemn it. We have to come out and say, ‘No’, and then we’d have to make an extra effort, you know, to be nice or to go and do something unconventionally good that may oppose their view of our religion, if you know what I mean.

These views are typical of those from British Muslims in our study, many of whom felt conflicted, alienated, marginalised and criminalised as British Muslims. Several respondents also made reference to not feeling as though they belong in Britain at all, having to face discriminatory policing and frequent hostility from members of the general public and a biased media. The CTSA 2015 is likely to significantly affect the sense of belonging felt by British Muslims, and the young people of this community in particular. In schools, colleges and universities, young British Muslims can anticipate an unprecedented level of scrutiny directed at them, focusing directly on their appearance, changes in behaviour, attitudes and opinions. The consequences of allowing counter-terrorism policy and practice to be pursued within educational, healthcare and public-sector settings can only lead to deleterious outcomes for British Muslims. One outcome is likely to be the silencing of, or at the very least the marginalisation of, British Muslim voices within these institutions.

Requirements, Consequences and Resistance

It has rightly been pointed out that the CTSA 2015 has potentially substantial consequences for individuals, communities and groups across Britain and particularly those engaged in political protests and campaigning. However, it also has to be accepted and acknowledged that it is British Muslims and BME communities in particular that will face the ramifications of this legislation. Following a trajectory of racialised policing under the guise

of the 'war on terror' British Muslims face an often biased and hostile media, an increase in anti-Muslim attacks, consistent demands to integrate, and now, it appears, suspicion and monitoring by their fellow citizens including teachers, lecturers and doctors. What is abundantly clear from the development of counter-terrorism policy over the past decade and now from the introduction of the CTSA 2015 is that British Muslims are not afforded the same status as other citizens. Possessing British citizenship certainly does not immediately translate into *acceptance* as a fellow Brit. The requirement for schools and colleges to teach and demonstrate 'British values' through their curricula perhaps evidences this most starkly.

However, despite the counter-terrorism policing gaze extending to schools, colleges, universities and other institutional settings, there is ample evidence of the potential for resisting the processes of criminalisation. The Universities and Colleges Union (UCU) and National Teachers' Union (NUT) have both passed motions at meetings during their National Congress that condemn the introduction of PREVENT into their work. Similarly, the National Union of Students' (NUS) at their national conference voted to oppose PREVENT. It is important that this type of opposition exists, but even more important that it sustains beyond rhetoric. It is also the role of civil liberties groups, human rights organisations and social justice campaigns to highlight the abuses of PREVENT and support the individuals who will undoubtedly be impacted by its latest implementation. Indeed, many such groups have carried out advocacy and casework over a number of years for affected individuals and groups with little to no funding.

Another way in which this latest counter-terrorism initiative can be resisted is through local grassroots community campaigns. Police monitoring groups such as the Newham Monitoring Project (NMP) have been in existence for decades, campaigning around the issues of police racism, violence and harassment and operating completely independently from state organisations and accountability structures. In recent years new police monitoring groups have emerged in the UK, such as the Northern Police Monitoring Project (NPMP) based in Manchester, of which I am co-founder and joint convenor. The work of organisations such as NMP, NPMP and other police monitoring groups will likely have to adapt to meet the new demands set out by the CTSA 2015, which formally extend counter-terrorism policies and practices beyond the role of the police. This resistance is urgently required in order to respond to what ultimately amounts to a continued intensification of the policing of the British Muslim community.

Note

1. PREVENT is a government counter-terrorism initiative first established in 2006 with the remit of preventing terrorism. Channel is part of the PREVENT strategy and is a multi-agency 'de-radicalisation' programme tasked with identifying and working with individuals who are believed to be at risk of being drawn into terrorism. Both PREVENT and Channel have been widely criticised by human rights groups, Muslim civil organisations and community groups, academics, student bodies, trades unions and anti-racism campaigners.

7. Policing British Asians

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Context

The policing of minority ethnic groups in the UK has been and continues to be framed by contention and controversy, as this *Perspectives* collection underscores. Discriminatory police practice, evidence of under-protection towards Black and minority ethnic groups and the charge of institutional racism have resulted in a fractured and acrimonious relationship between the police and ethnic minorities. Black people are disproportionately more likely to be stopped and searched, arrested and held in custody by the police, and this pattern has persisted over the decades. In comparison, the policing of Asians in the UK has been influenced by differential policing practices and pliable stereotypes. Tracing the ways in which Asian people have been policed over the years demonstrates the mutually constitutive nature of the police and the state, and the enduring and unintended consequences of police profiling. Anti-Muslim sentiment in the UK has increased over the last decade and requires analysis which attends to its socio-political complexity (Malik, 2013) and which recognizes the historical and culturally situated nature of racism (Hall, 1980). The symbiotic relationship between societal perceptions and discretionary police practice mean that the two factors are hard to understand separately. This relationship is further complicated by the fact that the police are also tasked with policing acts of racism committed against citizens.

South Asians, who had migrated from India, Pakistan, East Africa and Bangladesh from 1945 onwards to the UK, were perceived as law-abiding and more likely to be victims than offenders by the police.¹ Academic scholarship presented reasons for the ostensibly inherent law-abiding nature of Asians, including the tight-knit structure of families and associated high levels of social control.² In addition, culturally specific notions of *izzat* (family honour) and shame, and factors such as the drive towards educational and economic prosperity were thought to explain the apparently low inclination towards offending by Asians.³ Research showed that police stereotypes of Asians perceived them as likely to be involved in crimes of fraud and forgery and in possession of false nationality documents. Asians who called the police to report being victims

of crimes such as burglary were then scrutinized about their right to remain in the UK.⁴ Unacceptable responses from the police have resulted in a culture of mistrust towards the police amongst Asians and a lack of willingness to contact them for help in the event of victimization.⁵ This is problematic given the high proportion of Asian people who are victims of crime and racist violence.⁶

The intersection of gender and race are important in analysing the policing of Asian people. Reinforcing the stereotypes of subservience associated with Asians, Asian masculinities have been presented as effeminate and anachronistic. Perceptions of Asian communities as closed, tight-knit, and self-policing have at times been used by the police to justify a lack of intervention, exemplified by the under-protection offered to Asian women suffering domestic violence. Cultural barriers justified the intervention of community leaders who were at times enlisted by the police to act as gatekeepers and mediators for domestic violence cases. Problematically, however, community leaders, who tended to be older males, often enabled perpetrators to contact women who had fled or discouraged women who wanted to take action against their partners. Within wider British society, which was already understood to have held racist and negative views of minority ethnic groups, community leaders would have been keen not to draw attention towards the community in any way that might label them as problematic.⁷

The criminalisation of forced marriage in the UK (now integrated within the Anti-social Behaviour, Crime and Policing Act 2014) further underscores the complexity of the relationship between Asian communities and the police. Culture, tradition and emotional pressures have been used to obscure the exploitation of and violence used against women that forced marriage can involve. Furthermore, the conceptual slippage between forced and arranged marriage has prohibited concerted police action and understanding of the issue, despite knowledge of its on-going practice. Arguably, the ascription of cultural causes to deviant and criminal acts committed by Asian people serves to criminalise and racialise them on the basis of their ethnicity

whilst masking the straightforwardly criminal and exploitative nature of the practice. In addition, the reluctance of Asian women to report such instances to the police are because of concerns that their husbands, partners, fathers and brothers may be treated unfairly and with brutality by the police,⁸ thus demonstrating the spiral of victimisation that women often endure because of the history of police race relations in the UK. Campaign groups have also expressed ambivalence towards the criminalisation of forced marriage as women may worry about reporting instances to the police because of concerns about their own or their partner's (the perpetrator's) insecure immigration status in the UK. The new legislation means that the CPS can prosecute without the consent of the victim, thereby ironically reducing the potential for the police being viewed as a source of help or protection for women.⁹

Categorisation and Counter-terrorist Policing

Meaningful understanding about the policing of Asians in the UK continues to be hampered by the fact that the Asian category is often not disaggregated in the presentation of official statistics collected by the police. Any differences in stop and search, arrest and police detention among Pakistanis, Bangladeshis and Indians are masked as they are all subsumed within the Asian group. The London terrorist attacks in 2005 increased the focus on British Asian Muslims in particular. The British nationality of the perpetrators raised debates about the sense of belonging that Asian Muslims felt towards the UK, and provided a renewed impetus to the 'culture clash' thesis and its misconceptions about the existence of clear cultural boundaries between groups.¹⁰

Understanding the relationship between Asians and the police over the years is complicated by the interaction of stereotypes and reified assumptions about culture, religion, values and community. Stereotypes of Asians are pliable in their application. For example, on the one hand social control and tightly knit communities have explained low offending levels; but, on the other hand, these self-same characteristics have later come to explain violence, involvement in crime and susceptibility to radicalisation because of religio-cultural frustration. My own research has tried to unpack the application of such stereotypes and to chart the criminalisation of Asians through capturing how this group is policed.

Implementation of the UK's counter-terrorism strategy has resulted in the closer policing of British Asians and particularly Asian Muslims. Alongside surveillance and intelligence-gathering approaches, the police have tried to increase trust amongst Asian communities and networks in order to encourage the reporting of suspicious activity. Unsurprisingly, these two policing approaches have been regarded as contradictory and made Asian Muslims suspicious towards the police. Furthermore, the direct policing of British Asians by stop and search has increased. In 2011/2012 10.3% of Asian people were stopped and searched despite making up only 6.4% of the population. During the implementation of s44 (1&2) of the Terrorism Act 2000 (which did not require officers to be accountable to the safeguard of reasonable suspicion), the number of Asian people stopped and searched rose significantly – to 19% in 2007/8.¹¹ Following controversy the legislation was withdrawn and stop and searches under terrorist legislation dropped. However, the changed policing styles have remained, as now Asians are increasingly more likely to be stopped under the Police and Criminal Evidence Act 1984 and other legislation. Furthermore, recent policing figures from the Metropolitan police indicate that, during the latter part of 2014, stop and search under the revised Terrorism Act 2000 (which now requires reasonable suspicion) rose for Asian groups in particular. In line with previous attrition rates under the Terrorism Act, only 6% of the stops resulted in an arrest.¹²

The figures are clear in highlighting the increased police attention towards British Asians. My interest was in understanding the police–citizen interaction further and capturing the impacts of being policed upon those who were stopped and searched. In interviews with those who were stopped and searched under terrorist legislation, a number of themes related to identity, belonging and intra-ethnic group boundaries emerged. One participant felt aggrieved that he was presumed to be a practising Muslim, and highlighted how the assumption of everyone who was born into a Pakistani or Bangladeshi family being a Muslim was taken for granted by the police:

The police see that I'm a Muslim, but I'm not. I am a British Pakistani but not Muslim. The fact that in their eyes, I can be nothing other than Muslim is what gets me. (Sameer, 24)

Concerns about misrecognition were highlighted by British Asian Sikhs who were stopped and searched, and described how being labelled Muslim generated resentment between Asian groups:

I'm tired of it, I've been stopped around four times by the police and I'm sure it's because they think I am Muslim. To them we are all the same, but the reality is that Sikhs, Hindus, Muslims, we are all different and there is more than just religion or the threat of terrorism that should be a sign of our identity. (Harpreet, 19)

I also talked with family members of those who had been stopped and searched, and some of the women talked about how they had been subjected to racist abuse yet felt unable to report it to the police:

I don't see the police as a source of support in these matters really, so I didn't even consider reporting it. (Halima, 29)

I'm used to the long looks and sniggering as I walk down the street... It's because of my hijab... some of these things would not be possible to classify as racist abuse, but you can feel it. Trying to explain that to the police would be impossible. Islamophobia is not a priority and won't be taken seriously, especially not by the police. How could they possibly be impartial? (Sajda, 32)

If we consider the ways in which anti-Muslim sentiment has unfolded over the last decade and how changes in the policing of Asian groups have been either reflective or constitutive of this change, new questions about the relationship between race and policing arise. The policing of Asian Muslim men has shifted indelibly, and perceptions about the influence of culture, religion and family have changed in accordance with these new understandings. In order to mitigate the enduring marginalising and criminalising effects of increased policing towards Asians, there is arguably a need to go beyond dominant conceptualisations of race as a colour-coded phenomenon¹³ in order to acknowledge the current modalities of racism that increasingly shape the experiences of Asian minority ethnic groups in the UK.

Notes

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SECTION III. CONSIDERING A WAY FORWARD

8. Against Police Brutality

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Imagine the scene. It is a warm summer Sunday afternoon. You plan to meet with a friend but your phone battery is empty. You decide to use the nearest phone box. As you end the call and turn around to leave, two police officers face you at the door. They tell you that you were acting suspiciously and they want to stop and search you.

In July 2013, this happened in South London to Jason, a man of African heritage in his 30s. Incredulous at the assumption that he was a drug dealer because he used a phone box while being Black, he calmly and peacefully refused to be stopped and searched. The woman officer responded to his protest by emptying her CS spray into his eyes. As Jason then screamed for help, the male officer reacted by punching him in the face, which was followed by a litany of blows to his neck and back as the two officers wrestled him to the ground. Jason was taken to a police station and searched. The search proved fruitless, but Jason was later charged with 'obstructing the police'. Jason and his mother called for solidarity from local Black activists, and this is how the London Campaign Against Police & State Violence (LCAPSV) began.¹

Since our inception, we have supported several victims of police violence. In one case, in Brixton, a young African-Caribbean man was grievously assaulted by Territorial Support Group officers after they pulled him over for greeting an African-Caribbean pedestrian (his uncle) while stationary at a red traffic light, which they deemed to be suspicious. Though the police cracked one of his ribs, he was arrested for 'assaulting a police officer' and later charged with 'obstructing a drug search'. We supported him through the trial, and when he was found not guilty, we referred him to police civil action lawyers.² Another involved a young Ghanaian man from West London who, when asking why his friend was being stopped and searched, was pushed repeatedly by a police officer until he fell through a barbershop front window. Fortunately the fall did not cause any serious injuries and though he was immediately arrested, he was not charged. However,

the traumatic experience had a serious impact on his mental health.

In May this year, an investigation by The Independent revealed that over 3000 police officers from the Metropolitan and West Midlands Police are under investigation for brutality. Of the officers under investigation, 98% were still on duty.³ In London, 55% of complainants were Black, Asian or from another racialised group. In June 2012, Newham Monitoring Project, an anti-racist community organisation which supported our campaign's development, submitted evidence to the Home Affairs Select Committee,⁴ stating that the 'current police complaints system frequently disadvantages a layperson'. Most complaints are handled internally by the Department for Policing Standards, which has been accused of having an overt bias to absolve officers of any wrongdoing. This was corroborated last year, when Channel 4 Dispatches revealed that the Metropolitan Police Service upheld 20 out of 4730 (0.4 %) allegations of racism made against officers between 2005 and 2012.⁵

It is well known among the various African, Caribbean and Asian communities that over 99% of complaints alleging racism are dismissed by the Met Police. LCAPSV encourage police brutality survivors to make a formal complaint. This is not because we have faith in this action resolving the problem, but because documenting the matter can provide useful evidence in a civil case. The impunity that police officers enjoy when they break bones, crack skulls and take away lives is egregious. The number of complaints made is not representative of the actual level of police brutality. Such instances are regular occurrences in the daily lives of radicalised communities, but are unreported and thus not recorded. Instances of police violence frequently happen following a stop and search and for this reason, much of the work of LCAPSV is on this issue.

Consider that Ministry of Justice Data recorded for 2011/12 shows that 91% of stop and searches (under PACE Section 1) in England and Wales did not lead to

an arrest.⁶ Jason's experience would be among the 9% that did. Even fewer arrests, less than 10% of that 9% (or 0.9% overall) result in a conviction. Racialised people, especially Black people, are regularly subjected to this humiliating intrusion of personal space and violation of body autonomy.

The reason given by police for over 50% of the PACE Section 1 stop and searches in London in 2013/14 is drugs.⁷ Release, a drugs and human rights charity recently conducted a study into drug policing called *The Numbers in Black and White*.⁸ It found that people who identified as 'White' were twice as likely to use or have taken drugs than people of African heritage. However, in London, people described as 'Black' were six times more likely to be stopped and searched for drugs.⁹ This racial bias is amplified not only in relation to arrests and convictions, but also in sentencing where black people are four times more likely to be convicted than white people.¹⁰ Black people receive the highest average custodial sentence (20 months).

Since the death of Mike Brown in Ferguson, Missouri and the uprisings that followed, commentators in the press and on social media have made favourable comparisons between racialised police violence in the UK and the US. While the situation in the US is horrific, it is misguided to understand racialised police violence solely through the context of unarmed people shot by police officers. While the rates of Black deaths by police action in the US are simply not comparable with UK levels, even from a proportional perspective, we must recognise that racialised violence is not limited to fatalities.

The reality is that people of African descent are incarcerated at a greater proportion in England and Wales than in the United States.¹¹ The Metropolitan Police strip-searched 134,000 people between 2009 and 2014,¹² and the government's own statistics show that African-Caribbeans are more likely than any other ethnic group to be strip-searched by UK police.¹³ In the same period, 48% of recorded strip-searches in British Youth Offending Institutions were conducted on Black and Asian children.¹⁴ Mass incarceration, police brutality and institutional strip-searches are all examples of racialised police violence. This enduring racialised aggression deeply resonates with the African-American writer James Baldwin's description of the policing of 1960s Harlem, New York which he described like the policing of an 'occupied territory'.¹⁵ In our work, a searing, never fully answered question is: 'why is police violence and the criminal justice system so heavily racialised?'

The Metropolitan Black Police Officers Association in 2012, answered it by declaring that the Metropolitan Police was still 'institutionally racist'. Last year the Met Commissioner, Bernard Hogan-Howe, accepted that this may be the case because '[British] society is institutionally racist'.¹⁶ Unusually we are inclined to agree with Hogan-Howe. However, while Hogan-Howe seems to accept the term 'institutional racism', there is scant evidence that he understands it. His proposal to 'drive racists out of the Met' casts the problem as one of individual morality rather than structural power. This is further emphasised when Hogan-Howe calls for positive discrimination in Met Officer recruitment. This involves a problematic assumption that racist ideas and outcomes cannot be internalised and reproduced by racialised people. The term 'institutionally racist' means that racist outcomes produced by the Metropolitan Police and the society it serves are a function of the policies and practices and ideologies that govern these institutions.¹⁷

The activities of LCAPSV can be categorised under four broad areas: (1) Legal and moral support for survivors; (2) Outreach work in the community; (3) Police monitoring; and (4) Political campaigning against stop and search and state-sanctioned violence.¹⁸ The focus of our day-to-day work is on helping people withstand and resist the psychological trauma associated with criminal charges and the court system. Our campaign started as a response to the physical violence meted out by state agents. Most of our members have been affected by racist police violence either directly or through a family member. We do not consider ourselves to be a service, but a community based on mutual aid, survival and care.

Notes

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9. Building Collective Capacity for Change in the Policing Policy of Stop and Search

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Stopwatch & Reclaim Justice Network

In the absence of a proven link to crime reduction, and even though only 9% of the one million stops per year lead to an arrest, the police power to stop and search remains a major source of tension, particularly within black and minority ethnic communities. In this article the focus is on the context in which this contested police power operates and to what effect. I draw on the example of StopWatch to demonstrate how to achieve change by building collective capacity. I argue that despite the legislative, regulatory and policy frameworks in place, the activist role remains key in stimulating collective debate and facilitating change.

The Context

Disproportionality, or disproportionate representation, based on ethnicity is a core challenge for the criminal justice system in England and Wales. The Home Affairs Select Committee (HASC) report on *Young Black People and the Criminal Justice System*, published in May 2007, noted that stop and search was still a cause for concern and that black people were twice as likely to enter the criminal justice system as a result of stop and search. The power has been, and remains, a central historical flashpoint in relations between black communities and the police. The indiscriminate use of stops and searches triggered riots in Bristol in 1980 and in London, Liverpool, Manchester, Birmingham and elsewhere in 1981. The Scarman report,¹ as a result, called for a new approach to policing black communities.

Several decades later, the same concern regarding the over-use and unlawful application of stop-and-search powers lingers. *Reading the Riots*,² a social research inquiry report published after the 2011 riots, which deals with many of the above-named cities, referenced enduring ill-treatment, racial profiling and harassment from the police. The lack of respect and courtesy from the police towards those they habitually stopped was a key element of the discontent expressed in the complaints against them.

Britain aspires to be a free, fair and just society but the persistent disadvantage of minority ethnic groups is by now well-documented. This is the case in several areas, including criminal justice,

education, employment, housing and health. Ethnic disproportionality in the criminal justice system is an indisputable fact. Although criminal justice agencies have begun to accept this, in varying degrees, based largely on their own data, they have failed to interpret and understand disproportionality data in a manner that ensures their own practices are not discriminatory. The seriousness of this can hardly be overstated: it means frequently missed opportunities for diverting young black people and first-time offenders away from the criminal justice system and ultimately prison. This process starts with policing.

Numerous research and inspection reports over the years have confirmed how the justice system operates in silos. In relation to ethnic disproportionality the ability of the system to serve the collective interests of communities it serves, particularly marginalised groups, has been challenged. The result of its failure is clear: more young people from black and minority ethnic groups now enter the system and stay in it for longer. Without a change, of course, disproportionality will never be redressed. But who is best suited to make change happen?

Building Collaborative Initiatives – the Voluntary and Community Sector

Successive governments will continue to introduce new crime and justice policies that claim to be effective responses to the problems of crime and social disorder. In relation to policing, the coalition government introduced some key changes and policy initiatives. These were intended to improve accountability and transparency and to put high ethical standards, integrity and strong leadership at the heart of policing. A renewed focus on stop and search in 2013 re-established the importance of public scrutiny and interest in understanding the human cost and impact of such police powers. Stop and search has been reported repeatedly as the single issue that has ‘poisoned relationships between young black people and the police’, an activity that causes ‘immense resentment’, and as ‘traumatic’ and ‘humiliating’ for those who

experience it. At grassroots level, and among many of those who have worked at the frontline of youth services and voluntary sector organisations, people have maintained that stop and search creates more harm; it exacerbates exclusion and tends to worsen outcomes for both individuals and for communities. There is much to learn from their experiences.

Turning collective community knowledge into meaningful impact for policy change depends on a number of factors, including a means of approaching communities meaningfully and a way of stimulating community involvement and debate. A key role has been played by frontline, voluntary and community sectors in bridging the gap between communities and policymakers. However, since the financial crisis of 2008 and a government response that is organised around 'austerity measures', the vitality of frontline services has been put under threat.

Frontline service providers often work to tie together the threads of the formal criminal justice system, using their talent, time, resources, energy and skills to fill in the gaps that the criminal justice system ignores or to assist those it leaves in its wake. Without appropriate resources, individual organisations find it difficult to act collectively, collaborate and maintain consistency of purpose. Communities are a repository of information and knowledge that should be better harnessed to address social problems. So far, the community engagement policies led by criminal justice agencies or other government departments have not led to high levels of trust and confidence in the communities they have sought to consult. Collective initiatives and networks are able to broker community knowledge, create opportunities, challenge the status quo, raise awareness about critical issues and amplify messages learned in the process. They create the pre-conditions, opportunity and the motivation to bring people together in a joint conversation with communities.

Despite the perennial barriers that frontline service providers face, new conversations and models of working are emerging that challenge current thinking and practice on critical policy issues such as stop and search.

About StopWatch³

StopWatch came together as a coalition, in 2010, amidst ongoing concerns about the excessive use of stop-and-search powers and the mounting ethnic disproportionality in stop-and-search statistics. With the aim of addressing excess and disproportionate stop and search, promote best practice and ensure

fair and effective policing for all, a coalition of legal experts, academics, citizens and civil liberties campaigners was formed. Since forming in 2010, StopWatch led wide-ranging campaigns against the disproportionate use of stop and search, the increasing use of exceptional stop-and-search powers and the weakening of accountability mechanisms. This includes legal and policy analysis, media coverage and commentary, political advocacy, litigation, submissions to national and international organisations and community organising.

The Home Secretary's review of stop-and-search powers in 2013 is a notable example of StopWatch advocacy. The submission to this review, put together after lengthy consultation and discussion with different groups, was successful in getting many issues recognised. This helped facilitate a positive impact on the final recommendations made by government. It included a review of Code A of PACE 1984, the inclusion of strip searches and traffic stops in Her Majesty's Inspectorate of Constabulary (HMIC) review, increased oversight and authorisation requirements for Section 60 searches and the introduction of the 'Best Use of Stop and Search Scheme' for police forces. Putting such intrusive powers on the agenda, subject to scrutiny and leading to a policy change and with a view to eliminating unfair and inappropriate use of the powers, was a good outcome achieved through collective work. Statistics are now proof that as a result of such pressure on local police forces from civil society – including StopWatch – there is a decrease in the use of some police powers. More specific recommendations made by StopWatch to the review of PACE's Code A have resulted in a more robust guidance in the use of the stop-and-search powers and to the definition of 'reasonable suspicion'.

But we must 'stop and think' about the real 'levers' that have contributed to StopWatch's success.

First, StopWatch demonstrates well what collectives can do successfully when they work with community knowledge; they get the data, organise it, understand it in context and package it to give visibility and meaning to the real issues experienced by individuals and communities.

Second, the mix of academics, young people, activists and lawyers brings the narrative of those on the receiving end of police powers to life in a unique and powerful way. Each group brings its own expertise to the work. Through dialogue and discussion the most pertinent issues are brought together. The quality of dialogue and being accountable to each other are additional strengths.

Other organisations campaign successfully too but there is a unique and unrivalled strength to be drawn from working as a coalition.

Third, the operating structure of StopWatch is based on the value and importance of engagement and collective deliberation. The right to opinion and action should not be at the convenience of systems of representation offered by state structures. The manner in which StopWatch works proves that collective power improves the quality of power and also becomes more efficient in bringing about change. Gandhi's concept of *sarvodaya* (the uplifting of all) through collective capacity building is instructive. StopWatch has achieved outcomes that benefit all minority ethnic groups, particularly young black people, by advocating change in specific powers of stop and search through individual cases, such as Section 60 cases.

Finally, StopWatch has managed to create a political and social space for expressing the anger and frustration felt by many members of the black community. It has facilitated a safe space for young people to raise questions about the potential harms and consequences of stop-and-search powers; these are issues of which many in society have little first-hand knowledge. It also allows an in-depth exploration of experiences of discrimination, criminalisation and alienation of specific black and minority ethnic groups. StopWatch youth programme has engaged with other organisations outside London to support and establish local networks that can affect change on stop and search in their local areas.

Conclusion

A society that aspires to be fair, effective and efficient needs to be challenged to think innovatively, and to examine, measure and evaluate system-led practices that discriminate. StopWatch is an instructive example that builds collective capacity for policy change through a dialogic approach. Elsewhere other initiatives such as the Reclaim Justice Network have added strength to the concept of building collective capacity for criminal justice policy change by challenging the notion of 'penal excess' and not just in relation to prisons and punishment. Recent reports on stop and search have questioned the competence, honesty and reliability of some policing activities. The StopWatch model of working makes it easier to judge its trustworthiness. It is this quality that needs to be nurtured, and public institutions including the police should explore this aspect more carefully if they are to enhance levels of police legitimacy within minority ethnic communities.

Notes

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10. Police and Crime Commissioners: Reconnecting the Police to the Public?

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Police governance has become increasingly centralised over the last few decades, with power concentrated in the hands of chief constables and the Home Secretary at the expense of local police authorities which had previously been deemed responsible for representing local communities, including those from minority ethnic backgrounds. However, the ability of police authorities to effectively represent their local communities has itself been questioned because, as research has shown, they were largely deemed to have been 'out of touch' with people locally (many people had no idea that police authorities ever existed), were costly and bureaucratic and, ultimately, police authority members were characterised as architects of their own decline for not sufficiently exercising their powers to scrutinise the decision-making of chief constables. The introduction of police and crime commissioners across England and Wales presents organised communities with a new channel for influencing policing priorities but, as discussed below, police and crime commissioners are still hampered by some of the problems that affected their predecessors.

This article is an attempt to bridge the gap identified between academic research and practice by seeking to inform the activities of those involved in the public scrutiny of policing and does so by drawing upon the preliminary results of a project undertaken by the author. It investigates how the governance of policing has changed in modern times and assesses the impact of those changes upon opportunities for communities to shape policing priorities, with a particular focus on the recently introduced Police and Crime Commissioners.

Who Are the Police and Crime Commissioners?

Police and Crime Commissioners (PCCs) were introduced by the previous Conservative/Liberal Democrat coalition government as part of a wider localism agenda and a way of reconnecting the 'police to the public'. By replacing the police authorities across England and Wales with officials directly elected by the public, they have an incentive to respond to and address the priorities of their

communities, including the specific concerns of minority ethnic populations although, conversely, the seeking out of popular mandates also raises the potential for non-majority social groups to be eclipsed by the interests of the majority. Also, there are some obvious limitations in that chief constables remain operationally independent from PCCs and so limit the extent to which they can bring about change.

PCCs inherit the responsibility of the police authorities to ensure that their chief constable is operating a police force that is efficient and effective. This gives them a wide remit to hold chief constables to account, but they also have the legal powers to set the priorities of their police force, make decisions relating to their budget, and hire and dismiss their chief constable. It is important to bear in mind that PCCs' powers go beyond police forces. They may commission crime-reduction initiatives or other services, and they have the authority to coordinate local criminal justice programmes. This may be where they can have the greatest impact.

Because they wield such an enormous remit, Police and Crime Panels were also set up as a way of scrutinising PCCs, although, in what can be seen as a somewhat contradictory role, they are also expected to assist PCCs in their duty to ensure that their police force is operating efficiently and effectively. Panelists are drawn from already elected local councillors representing the wards that fall within the jurisdiction of the police force.

What Opportunities do PCCs Create for Communities?

The strongest of all powers that PCCs have is to dismiss their chief constable, but neither those commissioners interviewed nor their deputies were comfortable about the notion of readily exercising this power, often referring to it as a 'nuclear' option. Instead, they preferred to rely upon other, 'softer' means of persuading chief constables to implement changes.

First and foremost, the election of PCCs means that they have an incentive to represent the public and be outwardly facing. The fact that they are not police officers – though many come from a policing background – seems to be providing at least some community groups with an official channel with which they can more comfortably engage rather than with their chief constable. Whether PCCs are able to meet community expectations and implement priorities, however, is a task for each individual PCC.

Police and crime plans are, like any public document, key sites of action. What goes in becomes a priority for the police force and an issue the chief constable has a statutory duty to give ‘regard’ to. However, what ‘regard’ actually means has never been defined, and operational independence restricts the PCC’s reach, but what it seems to do is provide one official channel through which communities can address historic concerns on policing.

PCCs’ power is seen in their ‘moral voice’ combined with their authority. They are able to bring attention to key issues affecting communities and are known to have significantly raised the profile of many, such as deaths in police custody, mental health, and domestic violence. Academic research plays an important role in identifying what these issues are likely to be, and provides an evidence base for what works and what does not; but, ultimately, it is for communities to voice their concerns and provide the mandate that PCCs seek.

Here, paying closer attention to what PCCs can do outside of their immediate role may help communities understand how they seek to influence change, and the role of communities in relation their aims and objectives. They may commission bodies, charities and groups to carry out services designed to prevent crime or, as has been the case with Nottinghamshire PCCs, research into what affects local minority ethnic populations. Both of these provide PCCs with an evidence-base for formulating their priorities and, if conducted properly and with the buy-in of communities at large, can provide commissioners with a way of obtaining a mandate whilst also negotiating their way through the local politics and intra-community tensions between various community groups.

Conclusion

PCCs represent a break from a long history of centralised control over policing, and seem to provide at least some community groups with an important avenue for influencing police priorities. Yet, the role of PCCs should not be overstated.

PCCs were introduced in a blaze of controversy: their election turnout was one of the worst in living memory and they were accused of cronyism after a number of them appointed members of their campaign team as deputies. The Home Secretary herself acknowledged this in a speech marking the first year anniversary of PCCs in which she characterised the current cohort as a ‘mixed picture’ but positive overall. Whilst some consider the low turnout and the lack of diversity amongst PCCs as undermining their legitimacy, they have a higher profile in comparison to their predecessors – if not always for positive reasons – and they still have their mandate to represent the public. Understanding how communities are impacted by and respond to changing landscapes of police governance is important to gaining a grasp of local power dynamics. Whilst some community group members have become heavily involved with the PCC structure, others with more direct access to police officers have abstained and preferred to maintain those earlier relationships.

This article has highlighted some of the ways community groups have sought to influence policing through PCCs but, as with the example of reforms to the use of stop-and-search powers, the role of powerful national public bodies persists, notably that of the Home Office and Her Majesty’s Inspectorate of Constabulary. Whilst PCCs may now be a defining feature of local police accountability and scrutiny, the need for national standards and pressures to bear upon specific aspects of policing is still important and, therefore, PCCs represent just *one* avenue of influence for communities.

Notes

1. Police protocol terminology.
2. The Pioneers: Police and Crime Commissioners, one year on with Theresa May, 7 November 2013. Available at <http://www.policyexchange.org.uk/modevents/item/the-pioneers-police-and-crime-commissioners-one-year-on-with-theresa-may>.

11. Deaths in Custody in Europe: The United Kingdom in Context

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The convergence of institutional racism and police violence has been debated hotly in the media in recent years, particularly in Europe. It is not the case that the United States is exceptional in its police brutality generally, although it is apparent that the magnitude of police violence (and other forms of civilian violence, particularly gun violence) is simply of a different order. Deaths in police custody, jails and immigration detention centres occur in Europe and, predictably, racial and minority ethnic populations are disproportionately affected.

The United Kingdom occupies an interesting and quite central position in European discussions on how to conceive of state accountability for deaths in custody. This is because, relative to other European countries, the United Kingdom has the appearance of requiring a higher standard of protection against and accountability for deaths. This perception is based on a number of features of UK legal policy.

First, the UK regards a semi-independent coroner's inquest as necessary to fulfil its obligations under Article 2 of the European Convention on Human Rights (ECHR).¹ Such inquests are known as Article 2 Inquests. Because the Convention is a regional law document governed by the Council of Europe, the interpretation of the precise ways in which different Council of Europe member states comply with the law is open to interpretation by the states themselves. Thus, other Council of Europe member states, while they also have an obligation under Article 2 to prevent the arbitrary denial of the right to life, they understand this obligation and conceive of the corresponding measures in different ways. The UK may be the only European country with a mandatory coroner's inquest that has a specific compliance mandate under Article 2 ECHR.

Second, in the UK, there is an Independent Police Complaints Commission (IPCC) that is tasked with investigating police activity with the aim of assuring police are held accountable for improper behaviour, including unwarranted violence. The commissioners of the IPCC are elected, and though the Chair of the commission is appointed by the Crown, neither the Chair nor the commissioners can have worked for the police in any capacity prior to their appointment.

The IPCC oversees the police complaints system, plays a role in the appeals process and undertakes its own investigations into allegations of police misconduct, e.g. following instances of death in police custody.

Third, the presence of rigorous civilian organising sets the UK apart from other countries in terms of the degree to which deaths in police custody are monitored and the families of the deceased are supported or organised. Inquest is a non-governmental organisation that assists families in shadowing coroner's inquests and gives legally informed opinions on issues particular to each inquest. The Institute of Race Relations provides broad statistical analysis on the racially disparate impact of deaths in police custody, jails and immigration detention centres in an effort to identify structural racism.² The United Friends and Families Campaign is a national coalition of families of those who have died in police custody or other state institutions, but have not received justice, due, for example, to inadequate investigation. These types of civilian engagement are not as developed elsewhere in Europe as they are in the UK, likely due in part to a lack of cooperation or transparency on the part of law enforcement agencies elsewhere, and other administrative, social or political barriers. For example, in many continental European countries, statistical information about the racial or ethnic background of those subjected to police violence is not disaggregated by race, and in some countries, the collection of racial data is actively discouraged or prohibited for fear that collecting racial statistics will bolster racial ideology.

Fourth, the Macpherson Report³ has brought the language of institutional racism into mainstream social and political critiques of policing generally, and deaths in custody in particular. The Macpherson Report was pivotal in the UK for defining institutional racism in a way that was both robust and accessible. This definition has been regarded in other parts of Europe, mainly by community groups, as locally relevant.

However, in the UK, despite these four aforementioned aspects, there is a general sense of dissatisfaction at the degree to which the state still evades

accountability. There is a concern that inquests are a formality, as are IPCC investigations, and that this renders them largely ineffectual for the purpose of prosecution. Indeed, there have been very few prosecutions of police officers for deaths in custody.

Why then should the rest of Europe follow the lead of the UK, or at least strive to change the structures and systems of accountability for deaths in custody? If prosecution is the only aim of such change, then any response based on the number of prosecutions in the UK would be fatally flawed.

Some might also argue that a shift in focus, from scrutinising the prosecution to scrutinising the inquest proceedings, is of little consequence, since inquest decisions are not binding. However, having participated in discussions around deaths in custody in Germany, it is relevant to note that the burden of doing the work of the coroner falls in Germany directly on the families and friends of the deceased, and there is no assurance that such work ever garners a sufficient media platform from which it can be heard by a wider audience (as a coroner's inquest generally might). Furthermore, access to evidence and legal guidance is many times a matter of chance, good fortune, the whim of the police and prosecutorial services, and the financial capabilities of families and friends in Germany. This is not so far from the UK situation, as autopsies, organising and legal counsel costs money in the UK as well, and this can present a financial burden for families and friends. However, in other places in Europe, this can be much more acute. In Italy, until recently, pro-bono legal advocacy was not permitted, so even cases of great interest needed to be backed financially. In Germany, there is no right to private action against the police in cases of death in custody, so the prosecution has total power over the investigation

and the approach. This means that, unless the family or friends have the funds for assertive legal advocates who will challenge the prosecutor's judgment where necessary, families and friends have little power or influence in the actual legal trial.

A more persuasive answer as to why other European countries should follow the UK's lead, to some extent, demands that prosecutions are put to one side for a moment. The larger social awareness of the problem of police brutality and death in custody may be more achievable if it can be documented and discussed frankly. The UK system allows for a broader scope of social involvement through providing an increased level of transparency and access to information and fostering of social discussion closer to the circumstances in which the deceased died, even if the system in the UK leaves communities frustrated and wanting a greater sense of justice. While the UK system may be inadequate in general, some aspects of what it provides must be seen as prerequisites in the rest of Europe for moving forward—simply the making visible of systemic racism and police violence is at stake, and that is crucially lacking in the rest of Europe.

Notes

1. For a summary of relevant case law and procedural aspects of this obligation, see Leslie Thomas, Adam Straw and Danny Friedman (2008) *Inquests: A Practitioner's Guide*, 2nd edn. London: Legal Action Group.
2. See Harmit Athwal and Jenny Bourne (2015) *Dying for Justice*. London: Institute of Race Relations.
3. *The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny*, Home Office, Cm 4262-1, February 1999.

12. Improving Black Experiences of Policing in the European Union

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From a human rights perspective, policing can be defined as a service offered to the public by the police. This includes a range of responsibilities and duties including: protection of the public, preserving the peace, enforcing the law, preventing and detecting crime, as well as protecting human rights.¹ The experience of black Europeans is far from this: it is not only in the USA that black women and men – such as most recently Sandra Bland – have lost their lives during interaction with the police. Things seem a little better in Europe – but this may be due to lack of recording rather than absence of a problem.

Black experiences of policing was the subject of a public seminar on 9 July, hosted by the British Academy. Entitled ‘Race and Criminal Justice in Europe’, speakers including Professor Ben Bowling (Kings College London), Dr Alpa Parmar (Oxford University), Rajiv Menon QC (Garden Court Chambers) and Momodou Jallow (Vice Chair of the European Network Against Racism) came together to talk about the problem from a European perspective. Their interventions highlighted both the similarities and differences between black experiences of policing in the USA and across the EU.

The presentations brought a human dimension to the findings of studies² which have recorded not only problematic policing of racist violence in society but also racist, violent policing towards members of these communities. In 2010, the Fundamental Rights Agency (FRA) published results from its ‘European Union Minorities and Discrimination (EU-MIDIS) Survey’. Under this survey, 23,500 black and minority ethnic individuals across the EU were asked about their experiences with respect to discrimination in everyday life. The results indicate the extent to which race makes a difference to the experience of policing in the EU.³ For example, many black people are victims of racist crime, which mostly goes unreported. Black men and women, both citizens and non-citizens, also reported that they were stopped by the police more often than white people living in the same neighbourhoods. Also, a large number of respondents indicated disrespectful behaviour on the part of police authorities. The report found it ‘alarming that almost half of the

minority groups’ respondents stated that they had experienced situations, in which they did not report assaults, threats, or serious harassment to the police due to a lack of trust in police authorities’. Racist treatment by law enforcement authorities ranges from racial profiling⁴ at train stations, on trains and in city centres to violent deaths.⁵ In Britain, the Metropolitan Police faced over 2000 complaints of racism in the space of five years – at present up to 20 of its officers are under investigation for racist behaviour on duty. Sadly, as other EU member states do not collect this information the behaviour of their police may be better, but, given the MIDIS Survey findings, it is more likely to be worse.

Policing – an EU Area of Activity?

When the Treaty of Rome was signed in 1957, five of the six founder states held colonies in Africa, Asia and the Caribbean, and people from the colonies were living in all six. Neither race nor protection from racial discrimination were mentioned in the original Treaty – this became a core value of the EU only fifty years later in 1997, when Art 19 TFEU gave the EU competence to take action to prohibit discrimination on the grounds of sex, race, ethnicity, religion or belief, disability, age and sexual orientation. This competence was activated in the form of Race Directive 2000/43, which applies to treatment of all persons in the public and private sector in relation to employment, occupation and vocational training, working conditions, membership of organisations, social protection and advantages, education and access to goods and services. The Directive does not cover policing.

Policing first became an EU policy competence in 1992 under Pillar 3 of the Treaty of Maastricht. It came to the fore in 1997, when visa and asylum matters were brought within the fold of the Community (‘communitarised’) and this Pillar was re-structured to focus on ‘Policing and Judicial Co-operation in Criminal Matters’ (PJCC). A new EU policy field was created, entitled ‘An Area of Freedom, Security and Justice’⁶ to provide an institutional context for such cooperation.

This area of freedom, security and justice is now found in Articles 67 to 89 of the Treaty on the Functioning of the European Union (TFEU). Article 87 TFEU specifically gives the Union the power to establish cooperation amongst the police and authorities competent for prevention, detection and investigation of criminal offences in all member states, including police, customs and other specialised law enforcement services. Article 88 TFEU states that Europol should 'support and strengthen' action taken by the Member States' police authorities and other law enforcement services in their activities to tackle crimes affecting EU interests, including serious crime and terrorism.

Articles 67 to 89 TFEU give the EU policing powers to act in a wide variety of fields including immigration and asylum, cross-border crimes such as trafficking of humans, drugs or arms, computer crime, and money laundering. They also create a framework for cooperation among the judicial authorities of the member states in both civil and criminal matters – this will occur where appropriate through the European Judicial Co-operation Unit (EUROJUST). Yet under Article 276 TFEU, when the EU exercises these powers, the Court of Justice of the European Union (CJEU) has no jurisdiction to review the validity, legitimacy or necessity for national policing operations or their internal practices to maintain law and order.

Thus at present the EU is developing and exercising cross-border policing powers but is not required to ensure non-racist policing. What does this omission of policing from the Race Directive and national autonomy under EU action on internal and external policing mean in relation to freedom, security and justice for black Union residents and citizens? What impact will this have, for example, on freedom of movement? These larger questions will assume ever greater importance as new policing and migration control initiatives are pushed through at a European level.

CEPOL and the 'Common Curricula'

Although an agency was created under Article 87 TFEU to carry forward police cooperation it is yet to take these questions seriously. CEPOL, or the European Police College, began operating in 2001 and became an Agency of the European Union on 1 January 2006. It has an annual budget of EUR 8.7 million (2008). CEPOL functions primarily as an enforcement education network. Its activities – courses, seminars, conferences and meetings – are implemented in and by the member states, mainly

by policing experts in the national senior police training colleges. It organises between 80 and 100 courses, seminars and conferences per year on key topics relevant to police forces in Europe. CEPOL also cooperates with agencies such as Europol and Interpol and has working agreements with non-EU countries (Norway, Iceland and Switzerland). Its tasks include dissemination of best practice and research findings but its main purpose is to train senior police officers of the member states and develop a 'European approach' to tackling the cross-border dimension of common problems in fighting crime, preventing crime and the maintenance of law, order and public security. In other words to develop a European Union police service.

To create this European approach, CEPOL has developed Common Curricula (CCa). The subjects of the Common Curricula are determined by the CEPOL Governing Board in line with the European Commission, Council of the European Union, and the European Parliament. From four in 2004, there were ten common curricula by 2012. The Common Curricula act as a basis for CEPOL's courses and modules for training targeted at all levels of police officers, from the most senior to those in special functions (e.g. traffic police, criminal investigation, border police) and new entrants as well as instructors and trainers in police training institutions. In line with the principle of subsidiarity, use at the national level is voluntary – member states are to implement the common curricula in their national police training systems according to their own needs. CEPOL uses the CCa to make recommendations to member states about police training on specific subjects with a European dimension. A European dimension exists in police training when:

- (a) the police training need is of a Europe-wide or transnational nature;
- (b) the common approach to such training brings important advantages at a transnational level, such as determining and exchanging good police practice, reinforcement of mutual police understanding and cooperation;
- (c) such training could reinforce the effectiveness and visibility of the European space of freedom, security and justice.

There can be little doubt that racist policing has a European dimension, worthy of a CCa.

Racist policing could be covered under CC05/D – 'Police Ethics & Prevention of Corruption' which 'focuses on knowledge, attitudes and skills of police officers'. It has four sections:

1. Role of police in a democratic society;
2. Position of ethics in the police organisation and day-to-day police work;
3. Managing police ethics and prevention of corruption;
4. Risk management in the field of police ethics and prevention of corruption.

It aims, amongst other things, to 'Develop awareness of the role of police in a democratic society'; 'Demonstrate that everyone has a responsibility to act in an ethical manner'; 'Strengthen the desire to behave in an ethical way and the ability to behave correctly under pressure or in stressful situations'; 'Learn how to respond to non-ethical and corruptive behaviour'; 'Ensure an ethical climate (managers)'; 'Incorporate ethical behaviour in day-to-day police work'; and 'Strengthen and improve professionalism'.

Although in my opinion race and policing warrants the creation of a specific strand in the CCA, until this appears, a framework for incorporation already exists. However, it is hardly used. In its strategic goals and objectives for 2010–2014, CEPOL lists the delivery of training on 'police ethics and prevention of corruption' as well as 'human rights' but bundles these topics together in one programme on 'human rights and police ethics'. In 2015, only one seminar on 'diversity' is planned – a 75-minute webinar delivered by human resources specialists focusing on recruitment. Given the seriousness of the issues, the lack of attention is very unsatisfactory and will have long-term consequences. If racist policing affecting the everyday lives of black Europeans is buried by CEPOL, only the worst practices will spread.

There is not only the absence of specific training to consider, but also the future use of the CCA in the European Training Scheme being developed as part of the Stockholm Programme. The Stockholm Programme refers to a 'systematic European Training Scheme' (Chapter 1.2.6) which will offer EU training to all law enforcement officers active in the implementation of the area of freedom, security and justice. This includes judges, prosecutors, judicial staff, police officers, border guards and customs officers. In the absence of a clear approach to racist policing, the Stockholm Programme will foster a European judicial and law enforcement culture in which racism festers. For black people in the EU, the increasing levels of cross-EU cooperation in the field of policing can give rise to higher concern rather than comfort – will the police protect or persecute as they exercise Treaty rights across the Union? If cooperation in criminal justice is not to result in the spread of racial injustice, the EU urgently needs

to incorporate a programme to rout out racism in policing in the EU. Without action to tackle racism in policing, the Union is not a space for freedom, justice or security for black and minority ethnic citizens and residents of the EU.

In 2005, CEPOL director, Ulf Gorransson, asked:

How can governments across Europe ensure that police services are delivered in the best way possible for the sake of their citizens? How can policing in the 21st century be organised in the most efficient manner while at the same time ensuring that human rights and the rule of law are observed without compromise? How should 'good police practice' be achieved in the European area of freedom, security and justice?

CEPOL and the Commission can help governments to deliver the best police services for all in Europe, not just citizens. Aside from the inclusion of policing in the EU Race Directive, the EU could promote racial justice in policing by including this area in the Race Directive 2000/43. The FRA needs to be supported with the ongoing collection of racial data to gain a clear idea of the parameters of the problem, detailed surveys to examine the powers of the police and the way in which they are used as well as surveys to examine the role of human rights in national police education and action.

Leadership from CEPOL is desperately needed – the survey on Police Education and Training in the EU in 2010 shows that no member states offer a course or course component focusing on non-racist policing and human rights; in the 2006 survey only one member state had a training programme on diversity – the UK. As a formal EU agency, CEPOL is covered by the duty to serve the interests of its citizens as laid out in Article 13 TEU. Anything less will not only undermine the values of the EU Charter on Fundamental Rights and Freedoms but may also constitute a failure to act. Organisations such as Runnymede can play a key role in helping CEPOL develop an approach to tackle racist policing. NGOs can help CEPOL to satisfy the obligation upon it in the Treaty. At the very least, every law enforcement official at every level in the EU should know the tragic story of Stephen Lawrence.

Notes

1. Hammarberg, 2009.
2. Open Justice Society Institute, 'Police Stops of Ethnic Minorities in Bulgaria, Hungary, and Spain', 2007; Amnesty International 'Spain: Race-related torture and ill-treatment' 2002;

Women's Link Worldwide (Spain), Amnesty International (Spain), the Open Society Institute (Spain). General studies have been undertaken by the Institute of Race Relations (IRR), the European Commission on Racism and Intolerance (ECRI) and more recently the EU Fundamental Rights Agency (FRA).

3. European Union Minorities and Discrimination.
4. *LeCraft v Spain*. Rosalind LeCraft, an African American from Louisiana, became a Spanish citizen in 1969. Her case was filed before the Commissioner for Human Rights in Geneva in 2006. The CHR found in her favour.
5. See <http://www.irr.org.uk/2011/january/ha000025.html>; <http://initiativeouryjalloh.wordpress.com/> (Germany); <http://www.corriere.it/International/english/articoli/2011/12/14/racist-attack-florence-markets.shtml> (Italy); <http://no-racism.net/article/2196> (Norway); <http://no-racism.net/article/1451> (Austria).
6. An area of freedom, security and justice serving the citizen, Brussels, 10.6.2009 COM (2009) 262 final.
7. <http://www.cepol.europa.eu/index.php?id=common-curricula>.

Biographical Notes on Contributors

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Defend the Right to Protest was launched in response to violent police tactics and arrests at the student protests of November and December 2010, with the support of activists, MPs, trades unionists, student groups and others. We campaign against police brutality, kettling and the use of violence against those who have a right to protest. We campaign to defend all those protestors who have been arrested, bailed or charged and are fighting to clear their names.

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Runnymede Perspectives

Runnymede Perspectives aim, as a series, to engage with government – and other – initiatives through exploring the use and development of concepts in policy making, and analysing their potential contribution to a successful multi-ethnic Britain.

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