

Germany's Stephen Lawrence

How might Germany learn from the UK's lessons on institutional racism?

Eddie Bruce-Jones

Commentary for *Race & Class*, Sage Publications: London, 2012

Last Tuesday here in the UK, two men were found guilty for the 1993 murder of a young black man named Stephen Lawrence. This verdict, 18 years in the making, gave the nation a chance to reflect on the dramatic changes that have resulted from the multiple investigations around the murder, including the ground-breaking MacPherson Report (1999), which brought institutional racism among the police into the national spotlight. The Lawrence murder and the activism that ensued have marked a transformative era in UK race relations, dramatically increasing public awareness around institutional racism changing the way Britain does policing.

Just a few days later, last Saturday, activists in Germany were preparing to march in the streets of Dessau to commemorate the most important and controversial death in custody in recent German history. They would march from the central train station to the police station to remember the death of a man from Sierra Leone named Oury Jalloh, and the 7th of January was the seventh anniversary of his death. The trial concerning his death is ongoing, set to end in the next few weeks. Jalloh burned to death while chained by his hands and feet to a fireproof mattress in a tiled police cell in police station. Demonstrators put flowers on the steps of the precinct, with the same questions in their minds as they had seven years ago. Why did the police turn off the smoke alarms? How could Jalloh have physically burned himself? Why were hallway cameras turned away from his cell door, why did forensics footage get erased, why do no officers seem to remember the events of the day... These and a [long list of other questions](#) plague not only Jalloh's friends, family, human rights activists and Germany's black community—they are beginning to open up fissures of outrage, shame, denial and exasperation in the consciousness of the nation.

There are two main aspects of the Oury Jalloh trial that must be considered if the German justice system is to progress on the related issues of police brutality and institutional racism. The first is the transparency with which courts, police and state prosecutors work to facilitate a *real* investigation into potential murders. The second aspect is the respect for civil and political rights of all parties in the sensitive aftermath of a brutal death—in particular, the right to critique ineffective state approaches to finding the most likely circumstances of death.

Hollow Trial

In Germany, there is no mandatory inquest procedure when a person dies in police custody, as there is in the United Kingdom. Additionally, there is no national independent police complaints commission or regional equivalent in Sachsen-Anhalt, where Jalloh died. With that in mind, consider the following.

For many activists and a growing number of average citizens, the Oury Jalloh trial has been a farce from its very inception in 2007. The charges brought initially were civil negligence charges, which operate on the rather eccentric premise that Jalloh, in a drunken state, somewhere during his surprise detainment on public disorder charges, hid a lighter from police (on or in some part of his body other than his pants pockets, which were checked) and, while in four-point restraints, ripped open the robust mattress on which he was lying

on his back, set the cotton filling alight, and managed not to scream until just before the fire completely engulfed him and destroyed the mattress. Police investigators have failed numerous attempts to recreate the speed, temperature and resulting damage of a fire produced in this scenario, given the other factual assertions in the defence. The more common-sense charges, for many, would have been murder charges, which would have allowed the court to investigate other elements of murder. However, with so much evidence missing or destroyed, even that flexibility may not have helped much, since no one is talking. But the silence in 2012 mirrors the silence in 2005, where the police autopsy did not find the broken nose and burst eardrum that the community-sponsored independent autopsy found on Jalloh's body. Jalloh's parents rejected the infamous EUR 5,000 offered to them not to add themselves to the initial lawsuit. Like the brave Lawrence family, Jalloh's family would not be satisfied with money, they wanted the truth about how their son died. It is unfortunate that they will not get an explanation from this trial.

Freezing Speech and Silencing Dissent

One of Oury Jalloh's best friends is a man named Mouctar Bah. Bah, who leads [the Initiative in Remembrance of Oury Jalloh e.V.](#), played a critical role back in 2007 in bringing Jalloh's parents from Sierra Leone to join onto the state lawsuit against the police, informing the German community about the murky circumstances of Jalloh's death, and supporting the 2008 appeal of the acquittal verdict in the first trial. His energy and social advocacy over the last years has earned him a Carl-von-Ossietzky human rights medal from the International Human Rights League in Berlin. This advocacy has also earned him significant backlash from the police in Dessau, where he lives. His license to run an internet café was revoked and reinstated only after a number of years of fighting the decision to revoke it. On a trial date in August, when Bah spoke out of turn in the courtroom, police physically removed him from the courtroom and forced him onto the ground, injuring his arm to the point where he needed medical care. At the peaceful demonstration on Saturday, 7th January 2012, Bah, who generally displays impressive patience and serenity, was pepper sprayed and beaten unconscious by police officers—he is still in hospital. Imagine the scandal if a member of the Met police were to attack someone from the Lawrence family as they marched for justice for their son. Bah was the most seriously injured of any demonstrator, though other prominent African members of the Initiative were also seriously injured by police.

Police have also attempted to freeze the speech of protestors. Last year, the police issued a memorandum that called for closer regulation of members of the Initiative, characterizing them as trouble-makers. Immediately thereafter, they instituted identity checks at the courthouse for this public trial, setting up a photocopier at the door to take copies of identity cards and passports. Before the demonstration on 7th January 2012, police visited Bah in his internet café and informed him that if he or other activists used the slogan "Oury Jalloh – that was murder!", the campaign slogan for the last seven years, they would be brought up on criminal charges. Legal advisors have stated that no such criminal defamation charges would actually hold ground in court, and in 2006, the regional administrative court of Sachsen-Anhalt issued a decision that forbidding the slogan would violate the free speech of protestors. Nevertheless, the police tried, for an hour, to forbid Saturday's demonstration on the grounds that the slogan was criminal, ripping signs and banners from the hands of the activists and standing in their way. This tactical intimidation certainly illustrates the competing interests of some officers in a trial that is clearly already a stain on the region and its respect for due process. The German Interior Minister, Holger Stahlknecht, has subsequently expressed his disagreement with the order to confiscate the signs and had the police chief in charge in Dessau moved to another district.¹

What Can Germany Learn from the Stephen Lawrence Trial?

The Oury Jalloh murder, like the Stephen Lawrence murder, has been tragic for not only for the victims' friends and families, but for German and British society in general. The difference is that Lawrence family, with the help of certain parts of civil society and important legal advancements, have managed to push the justice system in the UK to recognise its own failings. This is an achievement that cannot be overstated, and it has taken a great deal of time. The MacPherson report came seven years after the death of Lawrence, and those seven years have already elapsed in the German case. What the German population cannot afford to do is to let the opportunity to use Jalloh's misfortune to reshape the way that Germany deals with institutional racism and police brutality.

The Jalloh case is a particularly horrific one, taking hold of the imaginations of thousands of people in 2005. However, his death cannot reasonably be viewed as an isolated episode, but as part of a web of unresolved fatalities and violent incidents involving law enforcement as a system working in tandem with related institutions. In 2000, Ndeye Mareame Sarr was shot through the chest in Aschaffenburg by a police officer in what seems by most accounts as drastically disproportionate—and the officer was subsequently acquitted.² And in May 2011, Christy Schwundeck, a Nigerian German woman, was fatally shot in a job centre in Frankfurt am Main after an argument with one of the centre's employees. Police argue that she was armed with a knife and that shooting her was an act of self-defence.³ These fatal instances of police violence are mirrored by those in the UK, including the death not only of Stephen Lawrence, but also of Joy Gardner, suffocated by police in London in 1993 while allegedly resisting arrest,⁴ and Ibrahima Sey, who died from exposure to and ingestion of close-range police-administered CS gas.⁵

Social activist reactions to UK deaths have led to social recognition around systemic violence institutional reform around violence and police racism. Similarly, institutional police violence is being documented with a growing sense of urgency by activist groups and concerned residents of Germany, not least of all the members of the Initiative in Remembrance of Oury Jalloh. The Initiative was founded in 2005, once it became clear that the death of Jalloh would not be handled judicially or socially with the amount of attention or seriousness that the circumstances required. A similar initiative began last year in Frankfurt to for clarity of the circumstances accountability from the state around the death of Christy Schwundeck.⁶ So, while the formal trial on Jalloh's death will soon come to an end, the larger movement to recognise, document and combat institutional racism and police brutality is gaining momentum, unfortunately due to the frequency and intensity with which this systematic violence continues to occur.

It seems that the first thing that should happen is that the rest of Germany and Europe be made aware of the institutional dimensions of Jalloh's story and his and similar stories committed to public memory. By establishing that patterns exist, a report can be made on a policy level that somehow describes police brutality and institutional racism, including not only physical violence and custodial deaths, but also intimidation, freezing speech and police behaviour. This is not to say that the MacPherson Report or the IPCC will be directly transferrable to the German context, but they do provide a measured approach to identifying and tackling the problem of institutional racism and police violence, the effects of which bear striking similarities.

Secondly, in my opinion, Germany could certainly benefit from an inquest procedure for deaths, particularly custodial deaths. Inquests occur regularly in the UK, and the procedures, while not uncontroversial and by no means perfect, do offer a bit more flexibility for evidentiary findings because the purpose of an inquest is to ascertain the cause

and circumstances of death. Proving guilt or innocence of a third party is, then, a secondary issue, albeit a highly relevant one. If this were the focus of the Oury Jalloh trial, it would have been nonsensical to simply assume that the deceased committed suicide.

These issues are important not only because they acknowledge institutional racism and hold law enforcement and the judiciary to account, but also because they would also help hold the federal government to account in terms of its responsibilities under Articles 2 and 3 of the European Convention on Human Rights, which provide for the right to life and the right to be free of torture and inhuman treatment. These issues may disproportionately affect certain groups of society, given ingrained prejudices and lack of political power, but on a broader scale, they affect everyone. The general public in Germany should be highly concerned with this case, currently scheduled to end this March, and its social relevance. The rest of Europe should not look away.

For more information, please visit [Tod eines Asylanten](#), by award-winning journalist Margo Overath (in German), [the Initiative in Remembrance of Oury Jalloh](#) (in German) and the [founding statement of the Oury Jalloh International Independent Commission](#) (in English).

Eddie Bruce-Jones is a Lecturer at Birkbeck College School of Law at the University of London and a member of the Oury Jalloh International Investigative Commission.

¹ MDR Nachrichten Online, "Stahlknecht kritisiert Polizeieinsatz in Dessau" ("Stalknecht criticises police in Dessau"), 9 January 2012, available online at http://www.mdr.de/nachrichten/jalloh108_zc-e9a9d57e_zs-6c4417e7.html. (Accessed 27 February 2012).

² See Institut für Medienverantwortung, "Rassismus totet" ("Racism kills"), available online at <http://www.medienverantwortung.de/unsere-themen/informationsportale/rassismus-totet/>. (Accessed 27 February 2012).

³ Markus Omar Braun, "Christy Schwundeck, 19. Mai 2011" in *Neue Rheinische Zeitung*, 27 Feb 2012. Available online at <http://www.nrhz.de/flyer/beitrag.php?id=16655>. (Accessed 27 February 2012).

⁴ BBC, Joy Gardner's family sues police, 15 February 1999, available online at <http://news.bbc.co.uk/1/hi/uk/279922.stm>. (Accessed 27 February 2012).

⁵ Guardian, Why?: Special Report, Deaths in Police Custody, 30 March 2001, available online at <http://www.guardian.co.uk/celldeaths/article/0,465301,00.html>. (Accessed 27 February 2012).

⁶ See Initiative Christy Schwundeck website, available online at <http://initiative-christy-schwundeck.blogspot.com/>. (Accessed 27 February 2012).