

The conceptualisation of a racist, sexist, authoritarian police subculture...has become the routine gist of a much progressive left political rhetoric.¹

Is this just politics?

Introduction:

This article will contrast and examine two significant historical events of the 1981 race riots and the racially motivated murder of Stephen Lawrence in 1993. Both of these events triggered the commission of public inquiries, the 1981 riots with the Scarman Inquiry and the Stephen Lawrence murder with the 1998 Macpherson Inquiry.² Both inquiries produced reports that will be analysed to consider the impact they had on changes in legislation brought about by the reports' respective recommendations, changes in police policy and if the recommendations did help to ease divisions of racial difference in UK society.

In historical terms, it is a very short period of time. What came out of this examination of the reports is that in 1981 there was a very negative view of the black community in the UK, in particular by the UK Government and senior figures in positions of power, compared to the 1999 Macpherson Report where only eighteen years later this view had dissipated within some of these powerful circles.³ This will be seen from the likes of the evidence given by the former chief constable of Merseyside, Sir Kenneth Oxford to the Scarman Inquiry, in particular his negative stereotypical opinions on the population of Liverpool, especially the black community that he policed.⁴ As will be discussed, the Scarman Report was seen as no more than a political whitewash.⁵ This is in stark contrast to the fallout from the 1999 Macpherson Report's recommendation that received complete backing, from those in senior

¹ Keith, M. *Race, Riots and Policing*. (UCL Press 1993) p. 13

² Scarman, Lord. *The Brixton Disorders 10-12th April 1981*. (Cmnd 8427. London: Her Majesty's Stationary Office 1981) AND; Macpherson, Lord. *The Stephen Lawrence Inquiry*. (Cm 4262-I, London: The Stationary Office 1999)

³ Reiner, R. *The Politics of the Police*. (4th Edition 2010, Oxford University Press) pp250-251; The public in general seemed shocked and appalled at the catalogue of brutality, violent racism.

⁴ Scraton, P. *Law, Order and the Authoritarian State*. (1987 Open University Press)

⁵ *Ibid* at p154

political positions (although there was still a grudging and reluctant acceptance to follow these recommendations by some of the senior police figures at the time).⁶

The important and pertinent points from both the respective reports' recommendations examined in detail, are those that influenced changes in the law, mainly through new statutes being introduced and the impact this had not only on the policing of minority groups⁷ but in how society perceived what factors amount to racism.⁸ As will be shown, the Macpherson Report was instrumental in changing the definition of what amounts to acts of racism. This changed not only the criminal law, which this work mainly focuses on, but also in discrimination law covering employment and how other public agencies operate in their dealing with the wider UK society.⁹ Equally important in this analysis are the changes brought about in policing policies, as one key difference between the two reports is that Macpherson differentiates between individualised racism and institutional racism, with Macpherson concluding that the Metropolitan Police (Met) is an institutionally racist organisation.

From the examination of these two recent historical events, the findings of the 2009 Home Affairs Committee Report on the effectiveness of the changes brought about from the Macpherson Report, proved an effective method of examining how impactful the reports are in bringing about legislative and policy changes ten years on, coupled the recent news with regards the Met officers currently under suspicion of racial discrimination. One area that is examined is following the new additional accusations of corruption at the highest level, demonstrating that change has appeared to be illusory.¹⁰ It will be submitted that due to such allegations that the Met withheld vital information at the time of the Macpherson Inquiry, a new Inquiry should be instigated, as requested by Doreen Lawrence.

⁶ Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence*. (2009 Willan Publishing)

⁷ Such as the Independent Police Complaints Commission created by Part 2, s9 of the Police Reform Act 2002

⁸ *Supra* as per; Reiner, R. *The Politics of the Police*. p250

⁹ Such as; Cable and Broadcasting Act 1984 s27; Equality Act 2006

¹⁰ Home Affairs Committee. *The Macpherson Report-Ten Years On*. (HC 427. London: The Stationary Office, 12th Report of Session 2008-2009, 2009) AND; <http://www.independent.co.uk/news/media/press/leveson-inquiry-report-into-corruption-by-police-and-journalists-will-be-published-imminently-7594336.html> last viewed 26/04/2012@12pm

Rationale:

The research project is about the institutionalisation of racism in the police and whether such findings could be linked to the left political rhetoric. Firstly, the definitions of racism will be looked in light of the current international position and nation legislation. Remaining within the ambit of criminal law, an examination of the development of legislation will show how varied the definitions afforded to racism and racially motivated crimes are. Important in the analysis is how the Scarman and Macpherson Reports differed on what factors amount to racism. Lord Scarman and Lord Macpherson Reports' will be contrasted and critiqued, with more emphasis on the latter.¹¹ This analysis is mindful that it was two distinct set of circumstances that brought about the respective reports with race riots being the trigger to commission the Scarman Report and the Stephen Lawrence murder the Macpherson Report. What is interesting to note, is how in the sixteen years in between the two Reports, it is seen within this brief historical period changes in society's views and attitudes to what amounts to racism. It will be shown however, that Scarman's Report was extremely limited in application, submitting that it was a nothing more than a political whitewash.¹² The new definition of institutional racism and other findings and recommendations made by Macpherson will be looked at in some depth and in relation to the Home Affairs Committee ten years on report.¹³ Considering the recent news with this regard and further allegations of police corruption, the importance of the work done by Doreen Lawrence post the murder of her son will become evident.¹⁴ Discussing the evidence given, recent news articles will show that the Met remain institutionally racist and arguably institutionally corrupt. Issues of the labelling and geographical theories will not be elaborated on in order to remain within the ambit of the article title and likewise alcohol and machismo will not be mentioned. The right wing governmental attitudes of the times, followed closely by the Met and media, will be looked at briefly so as to remain in the ambit of the title.

Methodology:

¹¹ *Supra* as per; Scarman, Lord. *The Brixton Disorders 10-12th April 1981* AND; Macpherson, Lord. *The Stephen Lawrence Inquiry*.

¹² *Supra* as per; Scraton, P. *Law, Order and the Authoritarian State*. (1987 Open University Press) p154

¹³ *Supra* as per; Home Affairs Committee. *The Macpherson Report-Ten Years On*

¹⁴ *Supra* as per; <http://www.independent.co.uk/news/media/press/leveson-inquiry-report-into-corruption-by-police-and-journalists-will-be-published-imminently-7594336.html> last viewed 26/04/2012@12pm

The article begins by considering current legislation with a black letter law approach to find a solid definition of racism in order to see how the law and the international community afford protection to citizens. Doctrinal accounts within the Scarman and Macpherson Reports will be considered with regards to the context of racism, with more emphasis placed on the latter Report, dealing with institutionalised racism.¹⁵ Historical narratives specifically from the time of the 1970's and 1980's riots will be looked at, with regards to social classification and the economic and political disenfranchisement felt by people at the time. Moreover, the historical background behind the Macpherson Report proved essential in such understanding. Socio-legal studies further this article, presenting zeitgeist situations continuing particularly when recent newspaper articles reveal the same problems are still present.¹⁶ Literature found in criminology and sociology books, such as Hall¹⁷ and Keith¹⁸ as per above and academic work completed by Foster et al¹⁹ also proved most useful allowing a more reasoned structured approach to this article.

Analysis, Research Findings and Narrative:

The protection from racial discrimination for citizens in the UK found within current national legislation has somewhat evolved over time. The Race Relations Act 1965 proved rather contentious at the time due to the requirement of intent and the law was subsequently amended removing this subjective element, replacing it with objectivity.²⁰ Society in the 1960's was generally racially prejudice, evidenced by bedsits and other establishments displaying signs saying no Irish, no Blacks and no Actors, with such racist beliefs enhanced by Enoch Powell's so-called 'Rivers of Blood' speech, which was delivered to a Conservative Association meeting in Birmingham on the 20th April 1968.²¹ Powell speech was representative of the society of the day, opposing the enactment of the then Race Relations Bill.²² Further amendment and replacement was fashioned by Part 3 of the Public

¹⁵ *Supra* as per; Scarman, Lord. *The Brixton Disorders 10-12th April 1981* AND; Macpherson, Lord. *The Stephen Lawrence Inquiry*.

¹⁶ <http://www.independent.co.uk/news/uk/crime/racism-endemic-in-met-says-lawrence-inquiry-adviser-7624897.html?origin=internalSearch> last viewed 26/04/2012@12:44

¹⁷ *Supra* as per; Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence*.

¹⁸ *Supra* as per; Keith, M. *Race, Riots and Policing*

¹⁹ *Supra* as per; Foster, J., Newburn, T & Souhami, A. *Assessing the impact of the Stephen Lawrence Inquiry*.

²⁰ Race Relations Act 1976

²¹ <http://www.telegraph.co.uk/comment/3643826/Enoch-Powells-Rivers-of-Blood-speech.html> last viewed 03/05/2012@4pm

²² *Ibid*

Order Act 1986 (POA), meaning that now the requirement of both elements as per above must be established via six new offences with the essence that the accused must commit an act involving the use of threatening, abusive or insulting words, behaviour or material.²³ Although these offences fashion inchoate liability, the elements of *mens rea* take on a dominant role.²⁴ This particular Act was spawned out of the then Conservative Governments attitudes towards protestors, the rioters of the early 1980's and the strike action that took place specifically in 1984. Society did not react well to these events either, being bombarded by the right wing media who like the Government and police, were in opposition to such action.²⁵

The race riots in Greater Manchester during the early 1990's²⁶ brought about racial change within the law by the enactment of the Crime and Disorder Act 1998²⁷ (CDA). This Act extended the POA²⁸ and created racially aggravated versions of the offences, with an accused's guilt being established should it be proved he either; intended thereby to stir up racial hatred, or having regards to all the circumstances racial hatred is likely to be stirred up.²⁹ Indeed, society's view on racial discrimination, discussed below, appeared to change dramatically from the early 1980's to the late 1990's, with an altered definition as to what may constitute racist behaviour. Nine new offences of religiously aggravated offences was supplemented to the CDA by the Anti-Terrorism, Crime and Security Act 2001,³⁰ with a further increase in legislation following in 2005, primarily aimed for the benefit of the police however, to deal with unauthorised demonstrations.³¹ The enactment of some new legislation and the addition of the Race Relations (Amendment) Act 2000 (RRA 2000) was a systematic part of the legacy of the Stephen Lawrence Inquiry, which forced every public body in the United Kingdom to take racism seriously.

²³ *Supra* as per; Ormerod, D. *Smith & Hogan Criminal Law*.

²⁴ *Ibid*

²⁵ <http://news.bbc.co.uk/1/hi/scotland/3502759.stm> Last viewed 03/05/2012@4:35pm

²⁶ <http://news.bbc.co.uk/1/hi/england/1702799.stm> last viewed 03/05/2012@5pm

²⁷ s31

²⁸ Specifically Part 3 POA

²⁹ ss 4, 4A and 5 of the Public Order Act 1986

³⁰ Rowe, M. *Policing Beyond Macpherson: Issues in Policing and Society*. (2007 Willan Publishing) p114

³¹ Serious Organised Crime and Police Act 2005; particularly near parliament

Despite calls from the United Nations (UN) to outlaw hate speech and criminalise membership in racist organizations, the UK Parliament and UK Courts have not extended the above protection to direct expression of racist views unless they are used in threatening, abusive manners, linked to another crime. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is a second-generation human rights instrument, committing its members to the elimination of racial discrimination and the promotion of understanding amongst all races. Leading to the development of a limited jurisprudence on the interpretation and implementation, the convention allows individual complaints, essentially making it enforceable against members.³² The UN does not define racism as such however, the ICEDR defines ‘racial discrimination’ as meaning any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin, that has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.³³ Likewise, the phrase racial group in the UK means, ‘any group of people who are defined by reference to their race, colour, nationality (including citizenship) or ethnic or national origin’.³⁴ Further meanings and definitions can be found in the two public inquiries discussed below. The European Convention on Human Rights and Fundamental Freedoms 1950 (ECHR) also importantly affords protection for UK citizens. Article 10 dealing with the freedom of expression and Article 9 freedom of religion have the potential to work against national legislation however, Article 17 prevents the convention from being relied upon to allow a person to destroy or limit the Convention rights of another.³⁵ As can be seen the major problem lying with such legislation and international protection afforded, is the difference between human beings, their nature and indeed, nurture.

Given that police officers are cut from the cloth of society, Keith points out that being human some officers will inherently reflect the attitudes, presumptions and bigotries of their communities therefore reaffirming the cliché that a racist-majority society produces racist

³² *Supra* as per Ormerod, D. *Smith & Hogan Criminal Law..*

³³ *Ibid*

³⁴ *Ibid*

³⁵ *Norwood v UK* [2005] 40 EHRR SE411

police officers.³⁶ This supports Lord Scarman's bad apple thesis given into the Report on the Brixton disorders and the other riots that occurred in 1981.³⁷ On this thesis Scarman stated:

'Racial prejudice does manifest itself occasionally in the behaviour of a few officers on the streets...lapsing into an unthinking assumption that all young black people are potential criminals...I am satisfied however, that such bias is not to be found amongst senior police officers.'³⁸

Confirming the directions and policies of the police were not racist and attributing blame onto the ill-considered, immature and racially prejudiced actions of a few junior officers, Scarman removed the focus from senior officers and the police force as an organisation.³⁹ The limitation of the Report focused on the delay and lack of vigour by the police in handling the disorders and failing to act against looting.⁴⁰ Crucial to these findings was the Report's criticism of the unimaginative and inflexible hard policing approach confirming that 'Operation Swamp' was a mistake in hindsight, with regards to the already visible hostility within the community.⁴¹ Operation Swamp was an exercise aimed at street crime, with around twenty eight police officers patrolling in pairs implementing extensive use of their stop and search powers.⁴² Bearing in mind that this was carried out after six police officers were injured by black youths, reports and rumours of brutality were widespread amongst the community.⁴³ While not condemning the operation outright, the Scarman Report only referred to the evident ineffectiveness of how the officers carried out their duties during the operation.⁴⁴ Shifting the blame away from the police and political issues going on at the time the Scarman Report saw key rationale for the rioting in decaying housing and poverty that caused the community to feel politically and economically disenfranchised.⁴⁵ As a result the Scarman Report found this set of social conditions created a predisposition towards violent protest.⁴⁶

³⁶ *Supra* as per; Keith, M. *Race, Riots and Policing*. (UCL Press 1993) p. 14

³⁷ *Supra* as per; Scarman, Lord. *The Brixton Disorders 10-12th April 1981* at 4.62

³⁸ *Ibid* at 4.62

³⁹ Baldwin, R. & Kinsey, R. *Police Powers & Politics*. (1982 Quartlet Books Ltd) pp237-239

⁴⁰ *Supra* as per; Scarman, Lord. *The Brixton Disorders 10-12th April 1981* at 4.62

⁴¹ *Ibid*; Also see Waddington, P. A. J. *Policing Citizens*. (1999 UCL Press, Routledge) pp223-224: Licencing Aggressive Policing

⁴² *Supra* as per; Baldwin, R. & Kinsey, R. *Police Powers & Politics*. Pp237-239

⁴³ *Ibid*

⁴⁴ *Ibid*

⁴⁵ *Ibid*

⁴⁶ *Ibid* at p231

Potentially influential to these findings is the former chief constable of Merseyside Police, Kenneth Oxford's evidence given at the Inquiry that resulted in the Report, devoting an entire chapter on his damning description of the 'Liverpudlian'.⁴⁷ Oxford said that Merseyside, Toxteth in particular, had become dominated by lawlessness, militancy and violence, due to the 'Liverpudlians' aggressive, tough and violent nature.⁴⁸ To evidence this claim Oxford cited a long history of riots, strike action and unemployment.⁴⁹ These general assertions worryingly gave weight to Lord Scarman's findings in his report.⁵⁰ The contents and influence of evidence given by senior figures like Oxford has led to assertions, like that of Scraton's that the Scarman Report was nothing more than a political whitewash, following the resentment resounding from the conservative administration, constantly referring to the 'enemy within' and the 'loony left'.⁵¹ The Chief Constables reply to criticism of his evidence given in the Scarman Report followed the same line, revealing at that time in powerful and influential circles governing the UK at local and national level an ingrained and fundamental conservatism underpinning a narrowness of intolerance.

As Scraton reveals in his study of the Scarman Report, in the early 1980's the UK establishment demonstrated an intolerance and damning negative collective attitude by literally writing off whole geographical areas in which many of the citizens were referred to as, 'scum' 'niggers' and 'slags'.⁵² Geographical issues are important in the Scarman Report as it reported that some police officers, particularly in the Met were ill equipped to deal with members of the public whom were of a different race and culture.⁵³ Although these assertions lead to the belief at the time that Scarman was trying to address the underlying social problems, any notions of progressiveness are betrayed where the Report confirmed that part of the problem was not racism on the part of the police, but the common perception amid ethnic minority communities around the UK that the police are racist. A perception the report

⁴⁷ *Supra* as per; Scraton, P. *Law, Order and the Authoritarian State*.

⁴⁸ *Ibid*

⁴⁹ <http://www.bbc.co.uk/news/uk-england-merseyside-17413700> last viewed 06/05/2012@2:40pm; Interestingly Oxford's views appeared unchanging with this regard, attributing blame on drunken Liverpool fans for the Hillsborough disaster and was also quoted as saying 'a key factor in causing the disaster was the fact that large numbers of Liverpool fans had turned up without tickets'.

⁵⁰ *Supra* as per; Scraton, P. *Law, Order and the Authoritarian State*.

⁵¹ *Ibid* at p154

⁵² *Ibid* at p154

⁵³ *Supra* as per Scarman, Lord. *The Brixton Disorders 10-12th April 1981*; AND; Scraton, P. *Law, Order and the Authoritarian State*

saw was reinforced by the power of gossip and rumour.⁵⁴ Scarman unequivocally rejected any suggestion that the direction and policies of the Met were racist and scorned any attack made upon the integrity and impartiality of the senior direction of the force.⁵⁵ The Government's response to Lord Scarman's Report, and to the recommendations made by the then Met Commissioner Sir David McNee in the Royal Commission on Criminal Procedure 1980, was to increase police powers by enacting the controversial Police and Criminal Evidence Act 1984 (PACE).⁵⁶

As the Scarman Report failed to deal directly with racism within the police, the understanding of individualised and institutional racism was left to the Macpherson Report eighteen years later following the deficiencies of the Met's handling of the investigation into Stephen Lawrence's murder. The Macpherson Report gave a workable and realistic definition covering overt and covert racial attitudes and prejudices.⁵⁷ Although the events that brought about both enquiries were different, the essence of racism and racial discrimination remained at the heart of the issue. As a result of its findings, the Macpherson Report gave three categories of racism, each denoting equal importance. One definition was the racism of overtly prejudice individuals which underpinned Scarman's bad apple theory and recognised to have existed in 1981. What was different with the Macpherson Report to the Scarman Report that had never been discussed so openly before, were the two other categories of racism the Report recognised as existing. These were racism as a conscious and deliberate policy of public institutions and highly influential in bringing about reform was institutional racism. Macpherson defined institutional racism as unintentional or unwilling discriminatory practice in the mode of operation of organisations which are formally non-discriminatory,⁵⁸ saying:

'The collective failure of an organisation to provide an appropriate and professional service to people, because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.'⁵⁹

⁵⁴ *Ibid* at 4.66-4.67

⁵⁵ *Ibid* at 4.62

⁵⁶ *Supra* as per; Scruton, P. *Law, Order and the Authoritarian State* pp158-161

⁵⁷ *Supra* as per Macpherson, Lord. *The Stephen Lawrence Inquiry*.

⁵⁸ *Ibid* at 6.15

⁵⁹ *Ibid* at 6.34

One important development from this recognition of institutional racism was that finally senior police officers recognised its existence within their organisations.⁶⁰ As Macpherson focused more on the police institution rather than the individual actions of officers which was Scarman's main focus resulting in the bad apple theory, it widened the definition of what actions amount to racism. Building derives from working within institutionally racist organisations and as such the definition above is fulfilled, given that police officers and civilian support staff are representatives of the organisation served. Macpherson stated that such collective attitudes derive from the occupational culture (often referred to in police studies as 'canteen culture')⁶¹, where racist stereotypes are discussed, unwittingly creating and perpetuating negative attitudes. The negative impact an occupational culture can have on police officers and support staff views was recognised as early as in 1972 by Robert Mark, the then Met Commissioner. He found that officers had a clearly defined 'mental map' of the community, based on shared assumptions of identifiable groups of people taking into consideration age, race, class and sex.⁶² This unchanged theme was further evidenced by an officer speaking at the Macpherson Inquiry on behalf of the National Black Police Association (NBPA) who said:

'...predominantly white officers only meet members of the black community in confrontational situations, therefore they tend to stereotype black people in general...we should not underestimate the occupational culture within the police service as being a primary source of institutional racism...I say there is no marked difference between white and black in the force...generally speaking, we tend to conform to the norms of this occupational culture, which is powerful in shaping our views and perceptions of a particular community.'⁶³

Representatives of the NBPA have made reference to this issue further, confirming,

'...we should not underestimate the occupational culture within the police service as being a primary source of institutional racism in the way we differentially treat black people'.⁶⁴

⁶⁰ Lea, J. *The Macpherson Report and Question of Institutional Racism*. (The Howard Journal of Criminal Justice, Volume 39, Issue 3, August 2000, pp219-233)

⁶¹ *Supra* as per; Keith, M. *Race, Riots and Policing*

⁶² *Supra* as per; Scruton. *Law, Order and the Authoritarian State* pp149-151

⁶³ *Supra* as per; Macpherson, Lord. The Stephen Lawrence Inquiry at 6.28

⁶⁴ Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence*. (2009 Willan Publishing) pp15-16

Indeed, police occupational culture was found to be a cult of masculinity exhibiting aggressive drinking and sexist behaviour in which deeply institutionalised levels of racism permeated in conversations between police officers.⁶⁵

The Macpherson Report concluded the investigation into Stephen Lawrence's death was sabotaged by a combination of professional incompetence, institutional racism and a failure of leadership by senior officers.⁶⁶ Although agreeing to a degree with Scarman that there may remain a particular group of officers engaging in action not shared by other officers, Macpherson went further in distinguishing institutionalised racism from individual racism, and from incompetence.⁶⁷ Macpherson quoted approvingly from the submission of sociologist Robin Oakley:

'The term institutional racism should be understood to refer to the way institutions may systematically treat or tend to treat people differently in respect of race...the addition of the word institutional identifies the source of the differential treatment.'⁶⁸

The debate since Scarman's Report demonstrates how far apart the two Inquiries were with regards to evidence given and such subsequent findings. Robin Oakley again describes a form of racism that is:

'Usually covert rather than overt, unintended so far as motivation is concerned, acted out unconsciously by individuals, and an expression of collective rather than purely individual sentiment. Particularly on account of the latter characteristic, this may be appropriately referred to as a form of institutional racism.'⁶⁹

An ingredient of such institutionalised racism was the failure to characterise Stephen's Lawrence's murder as a racist crime. One reason for this may be the reliance UK police forces had between 1986 and 1999 on the Association of Chief Police Officers (ACPO) definition of a racist incident, being:

⁶⁵ *Supra* as per; Scraton. *Law, Order and the Authoritarian State* pp149-151

⁶⁶ *Supra* as per; Macpherson, Lord. *The Stephen Lawrence Inquiry*. at 46.1

⁶⁷ *Ibid* at 44.11 and 46.1

⁶⁸ *Ibid* at 6.32

⁶⁹ Green, D. G. *Institutional Racism and the Police: Fact or Fiction?* (Institute for the Study of Civil Society, August 2000)pp11-12

Any incident in which it appears to the reporting or investigating officer that the complaint involves an element of racial motivation; or any incident which includes an allegation of racial motivation made by any person.⁷⁰

With emphasis of this definition being upon motivation, evidence presented to Macpherson led to the conclusion this definition was confusing and poorly understood by police officers, leading to the failure by police officers attending the scene of Stephen Lawrence's murder to recognise it as racially motivated killing that impacted heavily upon the investigation.⁷¹

As a result a new definition of racism was recommended, shifting the emphasis from the officers' perception, to the victim's perception being, 'A racist incident is any incident which is perceived to be racist by the victim or any other person.'⁷² The Crown Prosecution Service (CPS) accepted this definition and have extended it further to define a religious incident as, 'Any incident which is believed to be motivated because of a person's religion or perceived religion, by the victim or any other person.'⁷³ Both definitions assist the CPS to identify racist or religious incidents, ensuring they take the racist or religious element into account at the charging stage of a suspect in a police station and when prosecuting subsequent trials.⁷⁴

The impact of the Macpherson Report cannot be understated as legislation has been introduced mirroring the definitions contained in the Report as well incorporating the recommendations made by UK government bodies.⁷⁵ This is seen in the Home Affairs Committee Report, which was completed ten years after Macpherson.⁷⁶ The Committee reported that sixty seven of the seventy recommendations made in the Macpherson Report had been implemented fully or in part.⁷⁷ The impact of this was commented on by Trevor Phillips, Chair of the Equalities and Humans Rights Commission who said:

⁷⁰ *Supra* as per; Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence* p7

⁷¹ *Supra* as per; Macpherson, Lord. *The Stephen Lawrence Inquiry* at 45.36

⁷² *Supra* as per; Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence* pp6-7

⁷³ <http://www.cps.gov.uk/publications/prosecution/rrpbcbook.html#a06> Last viewed 24/04/2012@1pm

⁷⁴ *Ibid*

⁷⁵ Crime and Disorder Act 1998 s31; Race Relations (Amendment) Act 2000

⁷⁶ *Supra* as per; Home Affairs Committee. *The Macpherson Report-Ten Years On*

⁷⁷ *Ibid*

‘The use of the term ‘institutional racism’....was absolutely critical...the consequence of that has been that police forces have paid a lot of attention; they have put a lot of resources in.’⁷⁸

Perhaps one of the most important changes introduced as a result of the Macpherson Report was the enactment of the Police Reform Act 2002 that created the Independent Police Complaints Commission (IPCC).⁷⁹ Although such a case for an independent investigation of complaints against the police was made by Scarman in 1981, it was not fully endorsed by policy-makers.⁸⁰ The requirement at the time of Scarman for such a Commission was evident from the racism and corruption within the Met as mentioned from the Report itself and from the findings of Robert Mark, together with further findings of abuses in the ‘supergrass’ system, showing real concerns with regards the significance of masonic links.⁸¹ Yet there was no significant change in relation to racist attitudes made by the UK Government and bodies in the early 1980’s. This demonstrates how within such a short historical period, sixteen years, shifts and changes in UK society towards racism are seen. What was acceptable in 1981 was not in 1997 and this is evidenced by the changes in legislation introduced by the UK Government in relation to police reform and racism itself.

This impact of the Macpherson Inquiry and the Report it produced, has to be commended as the Inquiry had to overcome a number of obstacles to reach its conclusions as recent reports suggest that the Macpherson Inquiry may have been hindered from the start due to the wilful withholding of vital information by the Met, regarding corruption known to exist within the original team investigating Stephen Lawrence’s murder.⁸² This demonstrates the difficulties inquiries like Macpherson have in piercing the protective shield organisations like the police place to hinder outside investigations into their actions showing that there may remain a particular group of officers engaging in actions not shared by other officers.⁸³ Indeed, new revelations about the extent of alleged corruption by Detective Sergeant John Davidson of

⁷⁸ *Ibid*

⁷⁹ *Supra* as per; Macpherson, Lord. *The Stephen Lawrence Inquiry*. Recommendation 58; AND; Police Reform Act 2002, Part 2 s9

⁸⁰ *Supra* as per; Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence* p12

⁸¹ *Supra* as per; Scraton. *Law, Order and the Authoritarian State* pp149-151

⁸² <http://www.independent.co.uk/news/uk/crime/lawrence-family-to-ask-home-secretary-to-reopen-inquiry-7561656.html?origin=internalSearch> last viewed 26/04/2012@1pm

⁸³ *Supra* as per Macpherson, Lord. *The Stephen Lawrence Inquiry*. at 44.11

Scotland Yard, one of the leading investigators into the death of Stephen Lawrence, is said to have had close financial ties to Clifford Norris the father of David Norris being one of two men, now convicted of the murder.⁸⁴ As such the current UK Home Secretary Theresa May, has offered to meet Doreen Lawrence to discuss her demands for a public inquiry with this regard.⁸⁵ Pressing for another Macpherson type inquiry, Members of the UK's Parliament have argued that an internal police investigation was inadequate given the fact that the IPCC found no evidence of corruption in 2007, considering that newspaper reports suggest Davidson was a major player in a ring of corrupt detectives operating as a professional organised crime syndicate.⁸⁶ Clearly, had such information been made available at the time, Macpherson may well have added corruption to the list of failings that blatantly sabotaged the investigation and ruled the Met not only be institutionally racist, but also institutionally corrupt.⁸⁷

Coupled with the alleged corruption is another new revelation suggesting that the Met are still institutionally racist, given the emergence that ten cases of racism, involving eighteen police officers and one member of civilian support staff, has been passed to the IPCC.⁸⁸ A member of the Macpherson Inquiry, Dr Stone recently said:

'The police really haven't moved on when it comes to racism at all...after all that effort that everybody put in, somehow nothing has really changed...here we are fourteen years later with the worst kind of blatant and violent racism by police...even worse is that the officers appear to be doing it openly in front of colleagues from whom they have no fear of being reported...such a group of constables' could not be routinely racist like this without their seniors being aware and telling them to stop. I fear this may alas be more than 'just a few bad apples.'⁸⁹

Further evidence supports such an assertion. Since 2005 there have been 2,584 complaints of racism against Met officers, 136 of which reported by their own colleagues and of those 42

⁸⁴ *Supra* as per; <http://www.independent.co.uk/news/uk/crime/mayor-demands-lawrence-police-corruption-probe-7644023.html?origin=internalSearch> last viewed 26/04/2012@1:30pm

⁸⁵ <http://www.independent.co.uk/news/uk/politics/theresa-may-offers-to-meet-stephen-lawrences-mother-to-discuss-demands-for-public-inquiry-7675881.html> last viewed 26/04/2012@12:15pm

⁸⁶ *Ibid*

⁸⁷ *Supra* as per; <http://www.independent.co.uk/hei-fi/views/matthew-norman-now-we-know-the-met-was-institutionally-corrupt-as-well-7543224.html?origin=internalSearch> last viewed 26/04/2012@12:35

⁸⁸ <http://www.independent.co.uk/news/uk/crime/racism-endemic-in-met-says-lawrence-inquiry-adviser-7624897.html?origin=internalSearch> last viewed 26/04/2012@12:44

⁸⁹ *Ibid*

were substantiated, with two officers being dismissed.⁹⁰ With regards to the change affecting the Met, the Chair of the NBPA highlighted that:

‘...the perpetuation of institutional racism is reliant upon the dominant ethnic group in any institution preserving their power base. Therefore, the dismantling of institutional racism is reliant upon the dominant ethnic group either voluntarily relinquishing some of that power, or being coerced or compelled to do so.’⁹¹

Further compelling is a recent newspaper article reporting that in 2010 a black person was at least six times more likely to be stopped and searched, being the subject of heavy policing, continuing the cause of mistrust and further ambiguity.⁹² Evidence reiterated by Doreen Lawrence to the Home Affairs Committee shows that the police are returning to the stop and search levels prior to Stephen Lawrence’s murder and indeed, prior to the Scarman Inquiry.⁹³ As discussed above and furthermore below, stop and search has been found to predominantly affect the economically disadvantaged communities, perpetuating feelings of political disenfranchisement.⁹⁴

The police have become a very different entity to what was envisaged when they were founded in 1829.⁹⁵ No longer are they viewed as a ‘citizen in uniform’, they have become the fighting arm of the government.⁹⁶ Such progressiveness did not meet with universal or unequivocal co-operation from communities and it is perhaps a mistake to believe they are an organisation dedicated only to crime control, given their historical origin lies with controlling the dangerous classes being the poor, unemployed and homeless.⁹⁷ Throughout working class communities, the police are seen as a conceptualised form of a monopolised company, target driven and not serving them or standing up for their interests.⁹⁸

⁹⁰ *Ibid*

⁹¹ *Supra* as per; Green, D. G. *Institutional Racism and the Police: Fact or Fiction?* (Institute for the Study of Civil Society, August 2000)

⁹² <http://www.independent.co.uk/news/uk/crime/key-macpherson-report-figure-says-met-is-still-racist-6284646.html?origin=internalSearch> last viewed 26/04/2012@12:50

⁹³ *Supra* as per; Home Affairs Committee. *The Macpherson Report-Ten Years On*; at Q46

⁹⁴ *Supra* as per; Lea, J. *The Macpherson Report and Question of Institutional Racism*

⁹⁵ Newburn, T. *Handbook of Policing*. (2nd Edition 2008 Willan Publishing) p47; Metropolitan Police Act 1829

⁹⁶ *Supra* as per; Keith, M. *Race, Riots and Policing*. (1993 UCL Press)

⁹⁷ *Supra* as per; Waddington, P. A. J. *Policing Citizens* pp64-96; AND *Supra* as per; Scraton *Law, Order and the Authoritarian State* pp148-149

⁹⁸ *Ibid*

The current economic climate perpetuating social exclusion and arguably creating an underclass of people with high rates of poverty, has meant the functioning of the police has become more prominent.⁹⁹ Although there is evidence to suggest that the use of stop and search produces very little charges or convictions, it is inevitable that such will be instigated disproportionately.¹⁰⁰ Lea furnishes evidence for this submission, confirming that as a result there will be more allegations of racism as a by-product as police attempt to deny such disproportionate stop rates.¹⁰¹ Furthermore, it is highlighted by Scraton that the poor and unemployed experience a greater chance of being arrested evidencing such shared collective assumptions as discussed above.¹⁰² Scarman and Macpherson both had issues with stop and search, with the latter Report calling for more regulation to minimise the deployment of racist stereotyping. His innovation was to recommend closing the loophole whereby the police can circumvent PACE by recording stops as voluntary or under the drugs or traffic legislation. Former Home Secretary David Blunket imposed two changes both involving written reporting for stops falling outside the ambit of PACE in an attempt to follow the recommendation.¹⁰³ The high level of autonomy and discretion afforded to officers on the street to this regard was underlined by Home Office research, confirming that this aspect remains an enduring problem at the heart of any attempt to regulate how officers behave.¹⁰⁴ Doreen Lawrence criticised the very aspect of such behaviour and accountability, showing further concerns that the police may well be engaged in racial profiling.¹⁰⁵ Despite her positive approval of changes happening in the Met due to training, she voices concern that there may still be communicational issues between senior officers and officers on the street.¹⁰⁶

For Ignatieff race awareness is not the way forward, it is equal justice for all in society. His concern is that Macpherson's Report has sought to 'racialise' encounters between the community and police, which are both unbeneficial and damaging.¹⁰⁷ It could perhaps be argued that another impact coming out of the findings of Macpherson and the media attention

⁹⁹ *Supra* as per; Lea, J. *The Macpherson Report and Question of Institutional Racism*

¹⁰⁰ Sanders, A., Young, R. & Burton, M. *Criminal Justice*. (4th Edition 2010, Oxford University Press) pp97-128

¹⁰¹ *Supra* as per; Lea, J. *The Macpherson Report and Question of Institutional Racism*

¹⁰² *Supra* as per; Scraton *Law, Order and the Authoritarian State* pp148

¹⁰³ *Supra* as per; Lea, J. *The Macpherson Report and Question of Institutional Racism*

¹⁰⁴ *Ibid*

¹⁰⁵ *Supra* as per; Home Affairs Committee. *The Macpherson Report-Ten Years On* at Q47, 50 & 51

¹⁰⁶ *Ibid*

¹⁰⁷ *Supra* as per; Green, D. G. *Institutional Racism and the Police: Fact or Fiction?* pp21-23

surrounding the publication of the Report is members of the community may be more willing to accuse the police of being racist when they are not, to avert criminality and justice. Furthermore Ignatieff advocates for a ‘dose of liberal realism’ borrowing from ‘Isaiah Berlin’, and simply to distinguish between positive and negative tolerance.¹⁰⁸ Although Ignatieff makes a good point towards a happy indifference, covert individualised racism and institutional racism that causes inequality and unconscionable unfairness, must be admitted to exist by organisations like the police and dealt with effectively if the UK is to become a successful multi-racial society in the face of growing international connections and business.¹⁰⁹ Still disconcertingly is that following the Macpherson Report, some senior officers expressly did not buy into the whole idea of institutional racism, confirming that it was a mistake, bad for morale and misleading.¹¹⁰ However, the ACPO produced the ‘Guide to Identifying and Combating Hate Crime’ in response to Macpherson’s Report.¹¹¹ This innovative document was created in order to help police officers understand and assist them to recognise race crime in a more sensitive manor.¹¹²

Conclusion:

As discussed Scarman’s assertions were clearly a political diversion strategy, indeed a whitewash in which he reduced objective institutionalised racism to an individualised small matter of few low ranking officers’ prejudicial actions. Following the Macpherson Report, the recommendations have had a legal impact, becoming enshrined in legislation evidenced by the applicability of the RRA 2002 to the actions of individual police officers, the institution and other public bodies.¹¹³ It has been shown however, the racist operation of the police and the occupational culture potentially reinforces the racist views of individuals.¹¹⁴ Regardless of Macpherson, recognising and defining what amounts to institutional racism, it appears that covert racism is a fundamental part of today’s society, with overtness being

¹⁰⁸ *Ibid*

¹⁰⁹ *Ibid*

¹¹⁰ *Supra* as per; Hall, N., Grieve, J & Savage, S. P. *Policing and the Legacy of Lawrence* p111 as per Bob Lambert

¹¹¹ <http://news.bbc.co.uk/1/hi/uk/919994.stm> last viewed 03/05/2012@6pm

¹¹² *Ibid*

¹¹³ *Supra* as per; Ormerod, D. *Smith & Hogan Criminal Law*

¹¹⁴ <http://socialistworker.co.uk/art.php?id=28145> last viewed 26/04/2012@1:20pm

enhanced in times of austerity.¹¹⁵ Despite such hard work and determination seen throughout the Macpherson Inquiry, it is disappointing to learn that Dr Stone still believes the Met remain institutionally racist. It is not just the Met this applies to and as seen in the investigation into the murder of Anthony Walker in Merseyside in 2005, a racially motivated murder can produce a very different story.¹¹⁶ It could be argued however, that the investigation team were thorough so as to dismiss any notion of racism, making perhaps defensible decisions.¹¹⁷ New revelations with regards the extent of alleged corruption by Detective Sergeant John Davidson in to Stephen Lawrence's murder would appear to undermine the Macpherson Report, given that had such evidence had been made available he may have found another fourth reason for the initial failure. Following such revelations perhaps another Inquiry should be held. It has been further evidenced by Doreen Lawrence at the Home Affairs Committee that the police still stop and search members of the community disproportionately and remain unaccountable to the community to which they serve.¹¹⁸

Considering historical accounts from 1981 with the then UK Prime Minister, Margaret Thatcher's virulent attack towards the 'fascist left', backed by conservatism policing and a right wing media, it is not surprising that people felt politically disenfranchised at the time. Peaceful protestors engaging in strike action were and still are marginalised by government and the press, impliedly criminalising such actions with members of the action and community being subject to heavy policing.¹¹⁹ Disconcertingly, during the last Labour Government David Blunket appeared to cave in to pressure from police chiefs and the right wing media, leading to his abandonment of the whole idea of institutionalised racism within the police.¹²⁰ The clarity of the ensuing damage is being seen now within the recent news, showing that the police must stay focused and keep their eye on the racist pendulum. Taking into account the current UK Coalition Government's proposals, current levels of social exclusion and the appalling fiscal climate, evidencing further times of deepened austerity to come, it is argued the scene is set for another series of protest and perhaps public disorder and

¹¹⁵ <http://news.bbc.co.uk/1/hi/england/1702799.stm> last viewed 03/05/2012@5pm; the race riots in Greater Manchester during the early 1990's; AND further in August 2011

¹¹⁶ <http://news.bbc.co.uk/1/hi/england/merseyside/4477156.stm> last viewed 30/04/2012@10am

¹¹⁷ *Ibid*

¹¹⁸ *Supra* as per; Home Affairs Committee. *The Macpherson Report-Ten Years On*; per Doreen Lawrence at Q55

¹¹⁹ *Supra* as per; Scraton *Law, Order and the Authoritarian State* pp148

¹²⁰ <http://socialistworker.co.uk/art.php?id=28145> last viewed 26/04/2012@1:20pm

riots similar to the disturbances in August 2011.¹²¹ This is exacerbated with the UK being back in recession, making the above assertion perceptible.¹²² The conceptualisation of a racist, sexist, authoritarian police subculture has become the routine gist of a much progressive left political rhetoric and it is indeed not just politics.

¹²¹ Greer, C. & McLaughlin, E. *We predict a riot? Public order policing, new media environments and the rise of the citizen journalist*. (British Journal of Criminology 2010)

¹²² <http://www.metro.co.uk/news/897315-uk-back-in-recession-but-david-cameron-vows-to-stick-with-austerity> last viewed 29/04/2012@2:44pm

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