

‘Outside Scope’: The Inefficacy of Britain’s Early Race Relations Acts

Beth Hunt*

SOAS, University of London

Abstract

Originally written in response to the question, ‘How Useful is it to Talk of “Race Relations”?’ this essay argues that the primary failing of the original anti-racist legislation in Britain, the Race Relations Acts of 1965 and 1968, was the failure to interrogate institutionalised forms of racism. By their nature, as institutional solutions for an issue that was largely the result of institutions such as the law, policing, bureaucracy and capitalism, the Acts were invested in protecting and perpetuating racist institutions before they were intended to create conditions for the radical change in society that would lead to meaningful change in attitudes to immigrants and immigration. Harold Wilson’s Labour government provided Race Relations legislation as a mere token to eliminate and suppress effective action by the Black Power movement in Britain. This is evidenced by the content, scope and establishment of the legislation itself and, in this essay, through the presentation of archival material that records how Race Relation’s ‘Conciliation Machinery’ worked (or failed to work) when applied to real life situations, particularly instances of violent discrimination perpetrated by the police.

The term Race Relations was originally applied to a field of sociological investigation popularised in the 1960s due to the ‘increasing politicisation of racial issues in the US, Britain and elsewhere’.¹ It was then enshrined in British law in 1965, 1968 and 1976: the Race Relations Acts. It is a truth only occasionally acknowledged that ‘there is... difficulty experienced in translating sociological ideas into flexible and meaningful legal concepts’.² This means that a discourse capable of great fluidity in form and meaning as a theoretical concept tends to be rendered intransigent, and rather banal, when it is concentrated into an institution with such a heavy reliance on binary distinctions as the law through the compromising process of politics. Moreover, the model of Race Relations that British lawmakers eventually encapsulated was prone to problematic oversights regarding institutional racism. Michael Banton, one of the sociologists who ‘helped to institutionalise research on race relations by running... the major British research centres in this field’, asserted that, ‘for every act of racial discrimination someone is responsible and needs to be brought to account’.³ His espousal of the belief that the source of racism is the individual and that they can be held solely accountable is emblematic of the primary ideological limitation of the strand of Race Relations that was translated into legislation in Britain. Both Banton and law makers ignored the fact that racism is deeply embedded in the structures of society. The term ‘Race Relations’ itself uncritically enshrines ‘race’ as a real category of difference, tacitly ensuring ‘the survival of biological thinking’ about race instead of attempting to re-frame it as ‘a discursive construct’ or imaginary category.⁴ It also gives primacy to the private, interpersonal realm of

* Beth Hunt completed her master’s degree in Postcolonial Studies at SOAS in 2017. She lives in South London and can be contacted at: 633962@soas.ac.uk.

¹ J. Solomos, *Race and Racism in Britain*. 3rd ed. (Basingstoke, 2003), p. 21.

² B. Hepple, ‘Race Relations Act 1968’ *The Modern Law Review*, 32 (March 1969), p. 181.

³ Solomos, *Race and Racism*, p. 20; M. Banton, ‘The Nature and Causes of Racism and Racial Discrimination’, *International Sociology*, 7 (1992), p. 73.

⁴ S. Hall & S. Jhally ‘Race, the Floating Signifier’, *Media Education Foundation*, Northampton, 1997. <<http://www.mediaed.org/transcripts/Stuart-Hall-Race-the-Floating-Signifier-Transcript.pdf>>

'relations' between individuals and groups as the site where discrimination occurs. Even after the Macpherson Report of 1999 brought the phrase 'institutional racism' into everyday parlance, the view that racism is the preserve of the exceptional, if unpleasant, individual and not a cornerstone of Western civilisation pervades popular thought. This attitude is traceable in the 'largely symbolic or inadequate' scope and enforcement of the original Race Relations Acts of 1965 and 1968, from which the contemporary Equality Act is descended.⁵

According to Erik Bleich, 'national policies and laws designed to fight racism and to influence interactions across racial and ethnic boundaries... are the most important tools a society has at its disposal' because they 'set a public tone for what will or will not be tolerated'.⁶ However, the law can, at best, alter the way people act; it cannot change the way they think and feel. The anti-racist laws of an institutionally racist nation cannot be relied upon to diminish racism. Gavin Schaffer argued in his analysis of the first Race Relations Act that it only 'served to clarify the legality of some forms of racism, extending the shelf life of political intolerance by providing clear legal boundaries for the articulation of racist views'.⁷ One example of this used by Schaffer is the failure to imprison members of the Racial Preservation Society, who circulated literature with a scientific racist bent but who did not, according to the court ruling, actually incite violence.⁸ He also discusses how the Act was deployed, in a move utterly counter-intuitive to combatting institutional racism, to imprison Black Power activists for inciting racial hatred.⁹ Further examples as to the gerrymandering of what was, and was not, acceptable racist behaviour will be provided in this essay predominantly through the use of archival material: internal memos and government records of discrimination cases that were judged to be 'Outside Scope of Act'.

'British race relations legislation... established in 1965, 1968 and 1976, has formed the core of British race institutions, setting out most of the general rules and founding many of the official organisations'.¹⁰ Therefore, despite their inefficacy (even insidiousness), the origins, ideological implications and enactment of Race Relations legislation in Britain provide an essential genealogy for the social, legal and political discourses of race and discrimination in Britain in the twentieth and twenty-first centuries. This essay begins with an examination of the background, scope and proposed enforcement of the first two Race Relations Acts in Britain, before presenting and exploring the archival material which illustrates primarily the Race Relations Acts' and associated bodies' treatment of police brutality and their use of and approach to the conciliation process.

The Race Relations Act 1965

The 1965 Act was the first tangible result of 'attempts to introduce legislation... first made in Britain shortly after the Second World War' and materialised only as a result of a 'Labour Party pledge... in its 1964 election manifesto to introduce legislation'.¹¹ The introduction of antiracist

⁵ Solomos, *Race and Racism*, p. 78

⁶ E. Bleich, *Race Politics in Britain and France: Ideas and Policy Making Since the 1960s* (Cambridge, 2003), p. 5.

⁷ G. Schaffer, 'Legislating Against Hatred: Meaning & Motive in Section Six of the Race Relations Act of 1965', *Twentieth Century British History*, 25 (2014), p. 252.

⁸ *Ibid*, p. 268.

⁹ *Ibid*, p. 269

¹⁰ Bleich, *Race Politics in Britain and France*, p. 9.

¹¹ G. Bindman, 'The Law and Racial Discrimination: Third Thoughts', *British Journal of Law and Society*, 3 (1976), p. 110.

legislation had been a topic of discussion in parliament for some time, but was met with reluctance from a Conservative government. Alec Douglas-Home, then Prime Minister, is quoted as saying that 'those who ask for special legislation [dealing with racial discrimination] ignore the fact that at present all British citizens, irrespective of race, creed or colour, are equal under the law'.¹² However, in the late 1950s and early 1960s, three major events persuaded the Labour party that 'quintessence of colour blindness' attributed to British law by the Conservatives was a myth.¹³ These were the 1958 riots in Nottingham and Notting Hill, Labour's embarrassment over their 'acquiescence to the Conservative Party's 1962 immigration restrictions (the Commonwealth Immigrants Act) and the 1964 election of Peter Griffiths as MP for Smethwick which 'marked the emergence of overt racism into the official electoral politics of Britain for the first time in the post-war period'.¹⁴ The 1965 Race Relations Act emerged as a well-meant attempt to protect but also integrate and ingratiate migrants from the commonwealth who were to remain in Britain. During its struggle through parliament, the Act had to mediate between the ferocious 'Powellism' of the right and 'appease labour supporters who bridled at immigration reform, and to head off the troublesome problems of racism'.¹⁵ This political balancing act goes some way to explaining why the 1965 Race Relations Act has been consigned to history as 'a whimper of an Act that arrived with a bang', and Bleich's statement that 'from today's perspective, the passage of the [1968] legislation sees wholly natural' but 'from the perspective of the late 1960s... [it] was anything but assured'.¹⁶

At a concise seven pages, the Act was certainly 'limited in scope'.¹⁷ Many argue that it was, however, *symbolically* important for 'confirming the government concern about racial discrimination and its broad objective of using legislative action to achieve good race relations'.¹⁸ It also provided some indication as to what the government thought 'better' Race Relations might look like. The 1965 Act 'restricted to those areas of potential racial conflict which were considered by Parliament to constitute the greatest threat to public order and to be the most readily susceptible to legislation'.¹⁹ This meant swimming pools, cafes and public transport. Section Six, which unlike the rest of the legislation was 'promptly used to put offenders [of all colors] in prison' prohibited 'incitement to racial hatred' in a public place.²⁰ What the bill 'did not include [was] employment discrimination, or racism in the banking and insurance areas'.²¹ Housing discrimination was mentioned but 'parliament... left open a loophole for a landlord who wishes to impose a racial restriction'.²² Home Office memoranda confirm that the government's opinion was that suggestions to extend the Bill 'to deal with discrimination in such fields as employment and housing... should be resisted'.²³ The Act's primary concern with public places where money was exchanged betrays the government's rather cynical, capitalistic idea about what good 'Race

¹² Quoted in N. Deakin, *Colour and the British Electorate, 1964: Six Case Studies* (London, 1965), p. 10.

¹³ E. J. B. Rose, *Colour and Citizenship* (London, 1969), p. 200.

¹⁴ Bleich, *Race Politics in Britain and France* p. 43; S. Hall, C. Critcher, T. Jefferson, J. Clarke and B. Roberts, *Policing the Crises: Mugging, The State, And Law And Order* (London & Basingstoke, 1978), p. 240.

¹⁵ Bleich, p. 36.

¹⁶ Ibid, pp. 35, 70.

¹⁷ Solomos, *Race & Racism*, p. 80.

¹⁸ Ibid.

¹⁹ B. Hepple, 'Race Relations Act 1965', *The Modern Law Review*, 29 (1966), p. 306.

²⁰ Schaffer, 'Legislating Against Hatred', pp. 275, 307.

²¹ Bleich, *Race Politics in Britain & France*, p. 58.

²² Hepple, 'Race Relations', p. 313.

²³ The National Archives (TNA): CAB/129/121/27, p. 4.

Relations' would look like: as long as people were able to trade and exchange goods and services without fear of discrimination, better Race Relations were being achieved.

The 1965 Act also saw the creation of the Race Relations Board and a white paper on immigration which led to the creation of the National Committee for Commonwealth Immigrants (NCCI) as consolidation of volunteer organisations that had worked since before the 1965 Act to 'welcome and assist incoming migrants'.²⁴ The NCCI was an organisation:

Autonomous from the government but with whom the government could maintain close ties... as of the mid 1960s, therefore, Britain had two parallel institutional structures [the NCCI and local conciliation committees] for managing different aspects of Race Relations.²⁵

These were the first of the 'weak quasi-governmental bodies [with] responsibility for enforcing the 1965 & 1968 Acts'.²⁶ 'Between 1965 and 1975 successive governments left the tackling of racial discrimination to these bodies, and provided little direction or support'.²⁷ Under the 1965 Act, the Race Relations Board was made up of 'a chairman and two other members appointed by the secretary of state' and its subsidiary local Conciliation Committees 'for such areas as the board considers necessary'.²⁸ The purpose of the Conciliation Committees was to 'make such inquiries as they think necessary' when a complaint about an act of discrimination was made to them and 'use their best endeavours by communication with the parties or otherwise to secure a settlement of any difference... and a satisfactory assurance against further discrimination'.²⁹ It was here that the 'spirit of compromise' that pervaded the language and enforcement of the Race Relations Acts in Britain was concretised.³⁰ The Act was not intended to lead to convictions but rather to 'satisfaction' that perpetrators would be made aware of their wrongdoings, if not punished. The administrative approach to the implementation of the acts, as opposed to a punitive one where complaints might be pursued through court proceedings not conciliation (as was implemented in France), was not considered until the committee stage. 'The Bill from which the [1965] Act originated followed the penal approach by providing a maximum fine of £50 on conviction for a first offence and £100 for subsequent offence'.³¹ The change in approach was seemingly inspired by anti-discrimination laws in North America, which many Race Relations enthusiasts in the Labour party considered to have more similar issues to Britain than France, despite the obvious divergences in colonial history. However, in the British iteration of the North American approach 'many powers which the U.S. commissions found to be indispensable... [were] not conferred'.³² For example, under the administrative apparatus, the Committee's main role seemed to lie in recording complaints of discrimination, as the hundreds of complaints files available to view in the National Archives attest.³³ The Race Relations Board and its conciliation committees were, therefore, almost entirely tokenistic and Race Relations legislation in Britain was never to

²⁴ Bleich, *Race Politics in Britain & France*, p. 65.

²⁵ Ibid, pp. 66-67.

²⁶J. Solomos, *Black Youth, Racism and the State: The Politics of Ideology and Policy* (Cambridge, 1988), p. 39.

²⁷ Ibid., p. 81.

²⁸ Hepple, 'Race Relations', p. 310.

²⁹Ibid.

³⁰Ibid., p. 311.

³¹Ibid., p. 309.

³² Ibid., p. 311.

³³ Bindman, 'Third Thoughts', p. 111.

overcome this tendency towards 'unnecessary exceptions and loopholes'.³⁴ This was unequivocally the outcome desired by most legislators, who could not have communicated their lack of commitment to the actual elimination of discrimination in Britain more effectively than through the Act's phrasing, its enforcement and the tightening of immigration laws that both followed and preceded it.

The Race Relations Act 1968

'Although [Frank] Soskice told the House that it would be an "ugly day" if the Parliament needed to extend the legislation, new law was enacted only three years later, in 1968'.³⁵ The Labour party leadership, with its two seat majority, lack of support from both the opposition party and such Labour bastions as The Trade Unions Congress (TUC), had no intention of extending antiracist legislation past 1965. 'The initiative for legislation was not taken by the Labour party, but by a progressive coalition' made up of 'race bureaucrats and a key cabinet minister' (Home Secretary Roy Jenkins) and the 1968 Act was passed just six months after Enoch Powell delivered his infamous 'Rivers of Blood' speech.³⁶ It extended the scope of the law and established a 'Community Relations Commission to complement the work of the Race Relations Board'.³⁷ The size of the Race Relations Board was increased from two to twelve members, and the Board was granted powers 'to initiate civil proceedings itself when conciliation failed, without resort to the attorney general'.³⁸ It also expanded the scope of the Act.³⁹

Despite extended powers and a widening miscellany of enforcing bodies the 1968 Act 'still contained unnecessary exceptions... section 75(5) of the Act permits the crown, as employer, to discriminate on basis of birth, nationality, descent or residence'.⁴⁰ The Race Relations Board still had 'no powers, prior to the institution of legal proceedings, to secure information or documents' rendering it 'less powerful than factory inspectors, Ministry of Social Security inspectors, and the Parliamentary Commissioner for Administration'.⁴¹ Therefore 'when conciliation fail[ed]... and legal proceedings [were] instituted, the Board face[d] considerable difficulties of proof'.⁴² The Board also denied legal aid to claimants in industrial tribunals which meant 'deny[ing] legal assistance to many who will find it very difficult to pursue a claim without it'.⁴³ Finally, the 1967 Act's definition of 'Discrimination' (not defined at all in the 1965 Act) 'ignores what many social scientists regard[ed] as a major problem, namely, giving preferential treatment to those social groups who, as a result of past discrimination over many generations, are at present underprivileged'.⁴⁴ The Government feared that any cadence of affirmative action would lead to a "separate but equal" interpretation of race in Britain, which they were desperate to

³⁴ A. Lester, 'From legislation to integration: twenty years of the Race Relations Act' in T. Blackstone, B. Parekh and P. Saunders (eds.), *Race Relations in Britain: A Developing Agenda* (London, 1998), p. 27.

³⁵ Schaffer, 'Legislating Against Hatred', p. 255.

³⁶ Bleich, *Race Politics in Britain & France*, p. 70.

³⁷ Lester, 'Twenty Years of Race Relations Acts', p. 24.

³⁸ Bindman, 'Third Thoughts', pp. 111-12.

³⁹ Bleich, *Race Politics in Britain & France*, p. 87.

⁴⁰ Lester, 'Twenty Years of Race Relations Acts', pp. 24-5.

⁴¹ Hepple 'Race Relations' p. 185.

⁴² Ibid.

⁴³ Bindman, 'Third Thoughts', p. 114.

⁴⁴ Ibid., p. 182.

avoid.⁴⁵ Promoting integration, not equality, was a major motivation behind the phrasing of the Race Relations Acts and the implementation of the immigration legislation that was passing in parallel. Roy Hattersley, Labour MP for Birmingham Sparkbrook famously encapsulated the logic behind this 'package deal' of migration controls and Race Relations Acts when he said 'integration without limitation [of immigrants] is impossible... [but]... limitation without integration is indefensible'.⁴⁶ The new immigration policies gradually ensured that new Commonwealth migrants were 'reduced to the effective status of short-term contract workers rather than settlers' as it was hoped that 'the fewer immigrants (particularly black ones) there were, the easier it would be to integrate them'.⁴⁷ Bleich observed that 'loopholes and weaknesses were [purposely] built into the institutions' by those 'who feared that the law created a disincentive to minority integration [or] that it allocated substantial power to minorities'.⁴⁸ Solomos has put it only slightly more mildly: "Race Relations legislation, particularly when linked to immigration controls, was no more than a gesture...to give the impression something was being done".⁴⁹ Arguably, the laws were also designed to act as infuriating, bureaucratic distractions from potential radical organising by providing 'potential' (in fact merely frustrating) official recourse for acts of discrimination. Discrimination was therefore tacitly encouraged by the very laws that were meant to limit it.

Race Relations & The Police

Both the 1965 and the 1968 Acts contained a fatal oversight regarding one major British institution: that of the Police and policing. Although it is widely acknowledged today that police racism is an omnipresent threat to the lives of black and minority ethnic people in North America and Europe, this does not seem to have been much of a concern in the late 1960s.

Before the Race Relations Bill was introduced, we decided that actions taken by the police when carrying out their operational duties in relation to members of the public should not come within the scope of the Bill, but that the police discipline code should be amended in due course to make discrimination a specific offence against police discipline... this proposal has run into difficulties... I invite my colleagues to agree it should be dropped.⁵⁰

The 'difficulties' with providing explicit discrimination legislation or an amendment to police code originated, according to Callaghan, with the 'intense and deep seated' opinion among all police bodies that because 'members of the service make a declaration upon appointment that they will serve the Queen in the office of constable "without favour" so 'to have a special provision in the code about racial discrimination would be to pick out the service in such a way as to put a slur on it'.⁵¹ An interesting choice of language by the then Secretary of State (he would become

⁴⁵ Ibid.

⁴⁶ *Hansard*, vol. 721, col. 359, 23 November 1965, quoted in Schaffer, 'Legislating Against Hatred', p. 255.

⁴⁷ Solomos, *Racism and the State*, p. 40; Solomos, *Race and Racism*, p. 81.

⁴⁸ Bleich, *Race Politics in Britain & France*, p. 64.

⁴⁹ Solomos, *Race and Racism*, p. 76.

⁵⁰ TNA: CAB/129/139/22 p. 3.

⁵¹ Ibid, p. 2

Prime Minister in 1976), as members of the service certainly had no such objections to 'putting a slur', both literally and figuratively, on members of the communities they worked with.⁵²

In 1969 Kendrick Montrose Young of Willesden Green took the trouble to fill in one of the Race Relations Board's rather officious forms. This standard starting point for any conciliation process required the complainant to answer questions such as 'In which country were you born' and 'If you were not born in Britain, when did you come here?' On the back of the form, where it was requested that Young 'give FULL DETAILS' of his complaint, he hand wrote a detailed account of an incident in which a policeman accusing him of taking a corner too fast in his car had asked to see his licence. As this confrontation was taking place more or less in front of the complainant's home he said he would go to get it.

As I turned in upon my gate he held onto my jacket at the back and said to me come back here you black bastard and he Tumped [sic] me on my jaw and as I turned around he tumped me again in my chest... then he went back in his car and phone for some more police. And about 10-12 come along and 4 of them grab me... they held me against the wall and 2 of them kick me in my tummy... and they charge me for assaulting the police.⁵³

In response to this horrifying allegation of extreme brutality and miscarriage of justice, P. W. Philpott, Principle Conciliation Officer for the London area sent a letter, 'I was sorry to hear of the difficulties you have experienced with the police but must tell you that complaints against police officers while they are in their operational capacity are outside the provisions of the Race Relations Act, 1968'.⁵⁴ The slender file that records Young's complaint concludes with a typed missive confirming that the complainant consented to their case being forwarded to the Commissioner of Police. Blocking out a different section of the text provided would have confirmed that his consent was not given.⁵⁵

The next year, James Olagoile Kila from Notting Hill filled in exactly the same form and produced an account of how he was stopped in his Peugeot 404 by two police officers whose constabulary numbers he quoted. They accused him of taking a right turn at a set of traffic lights where there was to be no right turn. Kila wrote that he had pointed out to them that 'the NO RIGHT TURN sign was limited from 7am-7pm, Monday-Friday only and today was Sunday'. After conferring with PC134B, who accompanied him, PC232B reportedly replied 'Alright Nigger, don't do so again'. Later the same day, the same officers stopped the Peugeot 404 again, this time while Kila's wife and children were in the car. They insisted that he submit his car to a search. 'While this was going on he [PC134B] went to my wife... to my surprise I saw him dragged my wife out of the car and my children started crying'.⁵⁶ He was granted an interview at Notting Hill Police Station about his complaint and the interviewing officer 'promised to look into my grievances and reprimand the constable if need be... since then I never hear anything until I received a plan of the route from Notting Hill Police station indicating a proceeding against me'.⁵⁷ He received an almost identical letter of reply from Mr Philpott as Kendrick Montrose Young had. The concluding form of his case folder is the same missive that concludes Young's, with a handwritten note that

⁵² Ibid, pp. 2-3.

⁵³ TNA: CK2/623, p. 2.

⁵⁴ Ibid., p. 3.

⁵⁵ Ibid., p. 4.

⁵⁶ TNA: CK 2/718, p. 2.

⁵⁷ Ibid., p. 3.

'Complainant has already submitted' his petition to the Commissioner of Police.⁵⁸ In the National Archives records of the Race Relations Board under the 1968 Act (reference CK 2) there are 18 records of complaints filed against the police that were dubbed outside the scope of the Race Relations Act. Michael Banton once suggested 'that the isolation of the British police has resulted in their espousing a value system somewhat different than that held by the general public'.⁵⁹ Whether he was referring to their isolation from Race Relations legislation is unlikely, but it clearly led some of them to behave as if they were beyond reproach.

The physical violence of the police on members of the black community was paralleled by Race Relations bodies' epistemic version of the same brutality. In 1974 the Select Committee on Race Relations and Immigration's 1972 report on *Police/Immigrant Relations* were criticised for their application of 'a narrow interpretive framework which served to neutralise or define as illegitimate statements of analysis which did not fit with its own pre-conceived notion of "what the problem was"'.⁶⁰ This narrowness 'shaped the way its members approached the memoranda submitted to them, their conduct in verbal exchanges, and the conclusions they eventually reached'.⁶¹ The report highlighted the Committee's employment of four key 'inferential structures' through which they justified what might be dubbed their selective hearing of the evidence presented to them by members of the Asian and Caribbean communities about their relationship with the police. These were ideas of balance, conventionalism (as in they wished to know what migrants 'typically' thought), majority/minority and 'superficialism'.⁶² When questioning Lynch, the Committee continually 'dragged [the discussion] back into the practical and manageable world of recruitment' by asking how they could convince 'black school leavers' to join the police force; their preferred, integration based, solution to the problem.⁶³ They also asked Lynch to 'justify his challenges' to the committee's preconceived notions of how to solve the problem where speakers who had agreed with the committee's assessments had not been asked to justify their opinions.⁶⁴ When Lynch insisted that his evidence be taken seriously, he was rebuked by a member of the Committee who said 'we are trying to see, in the end, what *constructive steps should be taken and not destructive and alienating steps that can be taken*'.⁶⁵

The use of forms and interviews that captured and quantified every detail of discrimination in Britain for the records reveals a key aspect of the inner workings of the Race Relations Acts in its bureaucratic rigidity. The transformation of complainants' experiences of hate crime into data and files represents an aspiration towards a bureaucratisation of experience which could transform traumatic events into statistics that could be categorised, catalogued and then made to disappear through redirection to the relevant department. Colonial discourses clearly persisted in Race Relations rhetoric: bureaucracy was a key feature of the British colonial machinery. The construction of a 'constructive' majority of immigrant voices (who agreed with the Committee) versus 'those who undermine the committee's definition of the problem' and who

⁵⁸ Ibid., p. 4.

⁵⁹ Quoted in J. P. Clark, 'Isolation of the Police: A Comparison of the British and American Situations', *The Journal of Criminal Law, Criminology, and Police Science*, 56 (1965), p. 314.

⁶⁰ J. Clarke, C. Critcher, T. Jefferson and J. Lambert, 'The Selection of Evidence and the Avoidance of Racism: a Critique of the Parliamentary Select Committee on Race Relations and Immigration', *New Community*, 3 (1974), p. 2.

⁶¹ Ibid.

⁶² Ibid., p. 4.

⁶³ Clarke et al., 'Critique of the Parliamentary Select Committee on Race Relations and Immigration', p. 8.

⁶⁴ Ibid.

⁶⁵ Ibid.

were 'necessarily not rational or reasonable and.... exploit the race relations act' and should be subject to 'exclusion from the discussion' is easily traceable to Kipling's 'civilising mission' and Macauley's 'mimic men'.⁶⁶ It is also notable that 'preoccupation with screening and profiling' is symptomatic of 'the desire to pre-empt a danger that is not yet fully shaped'.⁶⁷ In the case of the bureaucracy of Race Relations, the shapeless danger that alluded capture was, as a conciliation officer for Oxfordshire, Berkshire, and Buckinghamshire stated in 1968, that 'wide discrimination' will cause migrant communities to 'turn ugly and will try to organise some kind of black power movement'.⁶⁸ Additionally, the 'high-profile prosecution[s] of five black men [black power activists] within the first 2 years of the new law' created the impression among some members of the immigrant community in Britain that the secret agenda behind the Race Relations Act was to target black militancy.⁶⁹

Race Relations & 'Conciliation'

Conciliation and reconciliation were key discourses in institutional social justice efforts in the twentieth century. The Truth & Reconciliation Committee (TRC) established in Post-Apartheid South Africa is the most prolific example, because of its vast scale, perceived success and obvious pitfalls. Its terms of 'individual amnesty for the perpetrator, truth for the society, and acknowledgement and reparations for the victim' individualised crimes against humanity and actually ensured that the vast majority of perpetrators walked free.⁷⁰ Reconciliation is not another name for justice but rather implies obtaining forgiveness and restoring friendship after wrong doings from both sides. The word 'conciliation' literally means 'the action of preventing someone being angry'.⁷¹ The application of this term to the official process of dealing with discrimination implies that no harm has been done by the initial act of discrimination. It also empowered the Race Relations Board to determine what constituted discrimination over the complainant or victim. This was problematic (as I have already exemplified with the aforementioned episodes of police brutality) because it was emphatic that the purpose of Conciliation Committees was suppressing discrimination cases, not championing them:

It will be the duty of the committees to receive and enquire into individual complaints of discrimination in public places... to *attempt to secure a settlement of the differences* between parties and, where appropriate, to *obtain assurances against any repetition of discriminatory acts*. The committees will act informally and will not be armed with the power to summon witnesses.⁷²

Like the TRC, Conciliation Committees were instituted in order to individualise institutional systems of discrimination. According to the same memorandum quoted above, 'organisations representing immigrant communities' were in favour of conciliation machinery 'as a *preliminary*

⁶⁶ Ibid., p. 3; H. Bhabha, 'Of Mimicry of Man', *The Location of Culture* (London, 1994), p. 87.

⁶⁷ Hall, 'These People Could Be Anyone', p. 890.

⁶⁸ A. Buchan, 'Multicoloured Britain', *International Journal*, 23 (1968), p. 530.

⁶⁹ Schaffer, 'Legislating Against Hatred', p. 271.

⁷⁰ M. Mamdani, 'Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)', *Diacritics*, 32 (2002), p. 33.

⁷¹ Oxford English Dictionaries, <<https://en.oxforddictionaries.com/definition/conciliation>>

⁷² TNA: CAB 129/121/27, p. 2.

to any proceedings in the courts' (my italics).⁷³ However, Soskice (the memo's author) goes on to clarify that 'conciliation and criminal proceedings are difficult to reconcile and there are serious procedural difficulties in attempting to combine them' thus steering the Conciliation Committees back into toothless territory.⁷⁴ 'For Soskice, race relations legislation was in large part related to concerns of public order' as opposed to maintaining emotional security for the immigrant population which, admittedly, would have been a tall order considering the political climate he was working in and the tools he was working with as a politician and not a community activist or advocate.⁷⁵

The use of the term 'Machinery' in 'Conciliation Machinery' is connotative of the automation or mechanisation of the so-called reconciliation process between complainants and their persecutors. The pairing of 'Conciliation' which 'predefines the problem as one which is the result of faults on both sides' and precludes the 'stress on balance, compromise and acceptability' that obsessed Race Relations bodies with 'machinery' is indicative of how they envisioned conciliation working as more of a production line than a meaningful mediation.⁷⁶ It also echoes the ideas of the Select Committee's *Police/Immigrant Relations* enquiry that there would be standard for what a 'legitimate' claim of discrimination might look or sound like (i.e. 'reasonable', 'constructive' and 'relevant' according to the committee's interests).

The other connotation of the word 'machinery' is that the system is automated, efficient and devoid of emotion. Naturally, in a system set up to deal with complaints of discrimination in a society built on such discrimination (colonialism was well within living memory at this point) it was impossible for both conciliation workers and complainants to not experience emotional reactions to the system in which they were mired. This is especially true as emotions are, among many other things, 'evaluative judgements and ideological discourses reinforcing power relationships' and 'responses to the perception of value... an intrinsic part of [the Conciliation Committee's] reasoning and ethical life'.⁷⁷ Admittedly, examples of these emotional reactions to a complaint were rare in my cursory look at the Race Relations Board archives: many of the records had succeeded in obscuring the emotional aspects of the complaints procedure, as in the records of police brutality. However, there was one particularly striking exception contained in the unusually thick (fifty pages compared to the usual three or four) file concerning Mr Jack Johnson and his persistent complaints against the Handsworth Employment Exchange.

'Mr Johnson has a most forceful, indeed dominant personality which is rather overbearing... although I told him we must stick to basic details in his saga, he insisted that all details be noted... my impression is that his manner is the root of his troubles not the colour of his skin' wrote Audrey Skelton on 4th May 1967 as an addendum to the complaint Johnson made regarding his treatment by the Handsworth Employment Exchange.⁷⁸ 'Mr Johnson's main complaint is that he is being victimised by the labour exchanges, and that they keep passing on untrue or detrimental information to prospective employers, resulting in his being unable to find suitable work'.⁷⁹ On 2 June, Arthur McHugh, Conciliation Officer, sent Johnson a letter: 'the

⁷³ Ibid.

⁷⁴ Ibid., p. 4.

⁷⁵ Bleich, *Race Politics in Britain & France*, p. 45

⁷⁶ Clarke et al., 'Critique of the Parliamentary Select Committee on Race Relations and Immigration', p. 3.

⁷⁷ A. Hall, 'These People Could Be Anyone' Fear, Contempt (and Empathy) in a British Immigration Removal Centre', *Journal of Ethnic and Migration Studies*, 36 (July 2010), pp. 885-886.

⁷⁸ TNA: CR 2/1753 (other reference: RRB BH/68/6), p. 4.

⁷⁹ Ibid.

decision of the committee was that your complaint fell outside of their terms of reference'; he did not give a reason why.⁸⁰ Johnson refused to be ignored. He continued to visit the office in Handsworth, wrote to other Conciliation Committees in London and, amid aspersions cast upon his sanity, filed several further complaints against the Department of Employment and Productivity, the Department of Social Security and finally the Conciliation Office at Handsworth itself. On 25 July 1969, Johnson appeared at the Conciliation Committee's offices 'without an appointment' after being denied access to his benefits.⁸¹ According to McHugh, he was 'shouting, swearing and refusing to sit down or talk quietly... he continued to rage at me about 'injustice' and 'the colour bar'... we had great difficulty getting rid of him'.⁸² The final page in the file on his case is headed 'SUMMARY' and concludes: '[Johnson's] manner, attitude and obstructive behaviour created difficulties and restricted the choice of employers to whom he could be submitted. Complainant informed discrimination unlikely'.⁸³

The construal of a black man who dared to invoke the colour bar as unpleasant, unhinged and unworthy of assistance is entirely in keeping with both the British colonial mentality that designated black men as 'savages' and with British Race Relation's related obsession with promoting integration and individualisation over justice. Johnson did not act in the 'spirit of compromise'.⁸⁴ He refused to edit his story and insisted that his difficulties in finding appropriate employment were the Race Relations Board's business. He was therefore marked as one who was attempting to 'exploit the race relations act' and, therefore, worthy of 'exclusion from the discussion'.⁸⁵ Presumably, this is why Johnson's behaviour is so frequently referred to in the record of his case: his demanding, uncompromising personality was genuinely considered evidence that he should not be helped or heard out. Quite apart from it being singularly unprofessional to mark an individual out because they are not likable, it is quite impossible to imagine a white man being denied a good job for the reasons given by the Handsworth Committee. Evelyn Baring, '(also known as "Over-Baring")' the 1st Consul General of Egypt immediately springs to mind.⁸⁶

Conclusion

'Intended as an attempt to pick off the extremists [sic] on both sides' the early Race Relations Acts were tools to quell not only what the predominantly white Government deemed the worst acts of racism but also to damp down potential 'extremist' Black Power movements.⁸⁷ They failed on both counts: violent attacks continued unabated and many went uncondemned and unchallenged by the terms of the Race Relations Acts. Black people in Britain continued to organise for and by themselves, despite being both directly and indirectly victimised by the laws that were supposed to protect them.

'The *imperial assumptions* of the race relations narrative [were] woven through a reinvention of British nationalism which occurs in the 'common sense' of the post-war/post-

⁸⁰ Ibid., p. 5.

⁸¹ Ibid., p. 4.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Hepple, 'Race Relations', p. 311.

⁸⁵ Clarke et al., 'Critique of the Parliamentary Select Committee on Race Relations and Immigration', p. 3.

⁸⁶ E. Said, *Orientalism* (London, 1991), p. 35.

⁸⁷ C. Holmes, 'Violence and Race Relations in Britain, 1953-1968' *Phylon*, 36 (1975), p. 119.

colonial period' (my italics).⁸⁸ The Race Relations Acts were part of a neo-colonial project with no interest in actually eliminating discrimination and symptomatic of a political culture in which winning votes was more important than enacting change. When 'a third liberal response to cultural differences' emerged in the 1970s in the form of 'multiculturalism', 'the background of the legislatively inflected evolution of 'race relations' lent the discourses the early Acts espoused an insidious power that stilted the development of radical anti-racism.⁸⁹ 'The race relations narrative promotes the idea... [of] an indigenously liberal and tolerant British nation which is intrinsically uninformed by historical racist processes'.⁹⁰ This dangerous narrative, along with many of the other conditions that limited the original Race Relations Act, survive today; particularly in popular discourse about race and racism.

Archives

TNA: CK 2/539 'McNeish v Lay and Greenway: outside scope of Act' 1969

TNA: CK 2/572 'Singh v Police: case outside scope of Act' 1969.

TNA: CK 2/582 'Hall v Wembley Police: outside scope of Act' 1969.

TNA: CK 2/590 'Walters v Brentford Police: case outside scope of Act' 1969.

TNA: CK 2/623. 'Young v Willesden Green Police: complaint outside scope of Act' 1969.

TNA: CK 2/624 'Davids v Notting Hill Police: case outside scope of Act' 1969.

TNA: CK 2/658 'Williams v Pulley Police Officer: outside scope of Act' 1969-1970

TNA: CK 2/718. 'Kila v Notting Hill Police Station: outside scope' 1970.

TNA: CR 2/1753 (Other reference: RRB BH/68/6) 'Johnson v Handsworth Employment Exchange: section 2' 1968-1969.

The National Archives Website: Discovery: CAB/129/121/27: Memorandum: Race Relations Bill – Conciliation Machinery: 18 May 1965: Description available at: <http://discovery.nationalarchives.gov.uk/details/r/D7660124> (accessed 18 Oct 2017)

The National Archives Website: Discovery: CAB/129/139/22: Memorandum: Race Relations – The Police: 6 November 1968: Description available at <http://discovery.nationalarchives.gov.uk/details/r/D7660740> (accessed 18 Oct 2017)

⁸⁸ B. Hesse, *Un/settled Multiculturalisms: Diasporas, Entanglements, 'transruptions'* (London, 2000), p. 12

⁸⁹ *Ibid.*, p. 7.

⁹⁰ *Ibid.*, p. 12.

Secondary Literature

Banton, M., 'The Nature and Causes of Racism and Racial Discrimination', *International Sociology*, 7 (1992), pp. 69-84.

Bhabha, H., *The Location of Culture* (London, 1994).

Bindman, G., 'The Law and Racial Discrimination: Third Thoughts', *British Journal of Law and Society*, 3 (1976), pp. 110-114.

Bleich, E., *Race Policies in Britain and France: Ideas & Policy Making Since the 1960s* (Cambridge, 2003).

Buchan, A., 'Multicoloured Britain', *International Journal*, 23 (1968), pp. 520-530.

Clark, J. P., 'Isolation of the Police: A Comparison of the British and American Situations', *The Journal of Criminal Law, Criminology, and Police Science*, 56 (1965), pp. 307-319.

Clarke, J., Critcher, C., Jefferson, T., and Lambert, J., 'The Selection of Evidence and the Avoidance of Racism: A Critique of the Parliamentary Select Committee on Race Relations and Immigration', *New Community*, III:3, (1974).
<<http://www.birmingham.ac.uk/schools/historycultures/departments/history/research/projects/cccs/publications/stencilled-occasional-papers.aspx>> accessed, 17 April 2017.

———. 'Race Relations Act 1968', *The Modern Law Review*, 32 (1969), pp. 181-186.

Deakin, N., *Colour and the British Electorate, 1964: Six Case Studies*, (London, 1965).

Hall, A., "These People Could Be Anyone" Fear, Contempt (and Empathy) in a British Immigration Removal Centre', *Journal of Ethnic and Migration Studies*, 36 (2010), pp. 881-898.

Hall, S., and Jhally, S., 'Race, the Floating Signifier' *Media Education Foundation*, Northampton, 1997. Interview/Lecture.

Hall, S., Critcher, C., Jefferson, T., Clarke, J., and Roberts, B., *Policing The Crises: Mugging, The State, And Law And Order* (London, 1978).

Hepple, B., 'Race Relations Act 1965' *The Modern Law Review*, 29:3 (May, 1966), 306-314.

Hesse, B., *Un/settled Multiculturalisms: Diasporas, Entanglements, 'transruptions'* (London, 2000).

Holmes, C., 'Violence and Race Relations in Britain, 1953-1968', *Phylon* 36 (1975), pp. 113-124.

Lester, A., 'From legislation to integration: twenty years of the Race Relations Act' in Blackstone, T., Parekh, B., and Saunders, P., (eds.), *Race Relations in Britain: A Developing Agenda*, (London, 1998), pp. 22-35.

Mamdani, M., 'Amnesty or Impunity? A Preliminary Critique of the Report of the Truth and Reconciliation Commission of South Africa (TRC)' *Diacritics*, 32 (2002), pp. 32-59.

McCradden, C., 'Anti-Discrimination Goals and the Legal Process' in Glazer, N. and Young, K. (eds.), *Ethnic Pluralism and Public Policy* (London, 1983) pp. 55-72.

Nixon, J., 'The Home Office and Race Relations Policy: Co-ordinator or Initiator', *Journal of Public Policy*, 2 (1982), pp. 365-78.

Offe, C., *Contradictions of the Welfare State* (London, 1984).

Rose, E. J. B., *Colour and Citizenship* (London, 1969).

Said, E., *Orientalism* (London, 1991).

Schaffer, G., 'Legislating Against Hatred: Meaning & Motive in Section Six of the Race Relations Act of 1965', *Twentieth Century British History*, 25 (2014), pp. 251 – 275.

Solomos, J., *Race and Racism in Britain*, 3rd ed. (Basingstoke, 2003).

———. *Black Youth, Racism and the State: The Politics of Ideology and Policy* (Cambridge, 1988)

Joint Committee on Human Rights, 'The Meaning of Public Authority under the Human Rights Act Seventh Report of Session 2003–04' Published on 3 March 2004 by authority of the House of Lords and the House of Commons London: The Stationery Office Limited <<https://www.publications.parliament.uk/pa/jt200304/jtselect/jtrights/39/39.pdf>> accessed 18 April, 2017.