

Describe the development of policy and legislation for race since 1945

This essay considers the development of policy and legislation in Britain associated with race, since 1945. The definition of 'race' is examined, and the background to the development of government policy and legislation considered. Two seemingly contradictory areas of policy are discussed; immigration, and what has broadly been termed race relations (Solomos and Schuster, 2017). However, there are other government policies that fall outside of these areas, but which have a broader objective associated with race; for example, the policies on urban regeneration in the 1980's resulted from social unrest and were in fact, aimed at improving regional race relations (Solomos, 2003). There are also laws and conventions not directly aimed at 'race' but which nonetheless have an impact, such as the Human Rights Act 1998, which has been important in challenging the detention of asylum seekers (Solomos and Schuster, 2017), and also the United Nations Refugee Convention, which, although not part of UK law, influences immigration policy since rules contrary to the Convention are prohibited (United Nations Commissioner for Refugees, 2018).

The term 'race' is a sociological construction used to describe the diversity between humans with different physical characteristics (Giddens and Sutton, 2018). Race is usually distinguished from ethnicity, which defines groups which share cultural characteristics and identity (Giddens and Sutton, 2018). As social scientists dismiss any notion of biological basis for 'race', ethnicity has become a more important concept, although the term race is still widely used in society, and there persists stereotyping and concepts of racial prejudice, racial superiority and inferiority due to ethnocentrism (Giddens and Sutton, 2018). In 1950, the United Nations declared that race is a social myth (United Nations Educational Scientific and Cultural Organisation, 1969).

Until the mass migration of commonwealth citizens to Britain from the Caribbean, the Indian sub-continent and Africa from 1948, Britain was regarded as a 'white' country, reflecting a self-image of imperial racial superiority (Goulbourne, 1998; Gilroy, 1987). However, it is a falsehood to consider that Britain has ever been a homogenous, 'pure' race, indeed, Britain has always been ethnically diverse; (Haralambos and Holborn, 2013). There were, for example, numerous black communities established in many port towns by the end of the nineteenth century (Goulbourne, 1998).

Since 1945 attitudes towards migrants have been far from linear, ebbing and flowing. Immigration policy has variously been used to encourage people to come to Britain to bolster the labour force, but also to discourage people from migrating to Britain (Goulbourne, 1998). Those seeking asylum have been regarded, variously, as brave escapees of persecution, to bogus economic migrants and as a threat to national security (Parekh et al, 2000); economic migrants have been viewed as “Sons of the Empire, coming home” (Evening Standard, 1948) to burdens on housing and public services, and causes of social unrest (Solomos and Schuster, 2017). Race policy has taken two, arguably contradictory, streams: what has broadly been described as race relations, and the other, controls on immigration. Immigration controls may be considered state racism, whilst race relations can be viewed as an attempt to combat entrenched inequality (Solomos and Schuster, 2017).

In the immediate aftermath of the second World War (1939 to 1945) the, new, Labour government had several pressing policy matters. There was to be created a modern welfare state through the implementation of the Beveridge proposals (Beveridge, 1942), a program of social reform intended to reduce inequalities, nationalisation programs for certain essential industries, a major house building program and a commitment to full employment (Goulbourne, 1998). However, Britain was short of labour and, in the immediate post war years, the Government instigated a policy of recruiting immigrant workers from Europe; many employers, such as London Transport, paid travel costs to Britain (Haralambos and Holborn, 2013).

The 1948 British Nationality Act, a response to increasing nationalism amongst Commonwealth countries following the independence of India, created a system of separate citizenships for British dominions, but reiterated the right of Commonwealth and Irish citizens to enter and work in Britain, unhindered (Goulbourne, 1998).

On June 21st, 1948, the first ‘spontaneous’ economic migrants from the Caribbean arrived aboard the passenger ship SS Empire Windrush which docked at Tilbury in Essex, and the following day, disembarked some 492 Commonwealth subjects seeking employment in the UK, and arguably, heralding the foundation of modern multi-ethnic, multi-cultural Britain (Solomos and Schuster, 2017; Goulbourne, 1998).

The arrival of the Windrush passengers attracted some attention; however, there was no mass migration from the Caribbean in the immediate post war years; until the early 1950's less than one thousand people arriving from the Caribbean each year, and significantly more from Europe, and from Ireland, and by 1962 there were many more migrants from Pakistan and India (Haralambos and Holborn, 2013).

The Royal Commission on Population of 1949 determined that immigrants of 'good stock' should be welcomed 'without reserve', and the news of Britain's labour needs soon spread to the Caribbean and elsewhere (National Archive, 2018, p.1). Immigration restrictions introduced in the USA, economic problems across the region and high unemployment amongst many of those who had left the armed forces after the war prompted migration to Britain in preference to the USA (Goulbourne, 1998; Solomos and Schuster, 2017). The term 'good stock' used by the Commission possibly indicates that the Government was already considering issues of assimilation and integration of migrants, although mass immigration was not anticipated (Goulbourne, 1998).

Following Windrush, however, the debate on immigration had become racialised, focusing on the supposed potential social problems resulting from 'coloured' immigration. By the early 1950's the Labour government was implementing ways to limit black and Asian migration to Britain (Slaven and Boswell, 2018; Solomos and Schuster, 2017).

Race riots in 1958 in Notting Hill in London, and also in Nottingham brought local issues to national prominence and significantly influenced the debate on unrestricted immigration. There were calls from across the political spectrum for restrictions on black immigration, even though the violence had been directed by white people against black people (Solomos and Schuster, 2017). The resulting 1962 Commonwealth Immigrants Act was the first law intended to control the immigration of overseas citizens of the Commonwealth (Solomos and Schuster, 2017). The Act was justified as necessary because of the limitations of Britain to assimilate immigrants, but it was regarded as racist as it was clearly aimed at limiting black migration (Solomos and Schuster, 2017)

However, whilst the Government was contemplating ways to limit migration, a parallel discourse was also taking place on what should be done to counter racial discrimination (Solomos and Schuster, 2017). Many black and Asian immigrants faced a 'colour-bar'

(Haralambos and Holborn, 2013) and were unable to access housing and other services and were excluded from equal participation in British society (Solomos, 2003). There was also a recognition in Government that most black and Asian immigrants were 'here to stay', that inevitably, there would be succeeding generations, and that there was a need to translate abstract rights into real, enforceable citizenship to place minorities on an equal social and economic footing as the majority (Solomos and Schuster, 2017; Goulbourne, 1998).

The first race-relations law, the 1965 Race Relations Act, banned discrimination on various grounds; 'race, colour, or ethnic or national origin,' but only in places of 'public resort', including, for example, restaurants, hotels, swimming pools and other places in general public use (Haralambos and Holborne, 2013, p.171; Goulbourne, 1998). Incitement of racial hatred in writing or in speech, was also made illegal and was, in fact, the only criminal offence under the Act (Solomos and Schuster, 2017).

The Act also established the Race Relations Board to conduct investigations (Solomos and Schuster, 2017). However, the Board was not provided with adequate powers to achieve its aims, since it was unable to demand relevant documents, nor call witnesses. The agreement of the Attorney General was necessary before there could be any prosecution for incitement of racial hatred, and most complaints made to the Board were found to be beyond its jurisdiction. In addition, the Act did not cover important aspects of individual's social rights, such as employment or housing, and was therefore criticized for being too limited in scope (Solomos and Schuster, 2017; Bourne, 2015).

The 1965 Act is still considered important however, because it established for the first time that racism is an unacceptable aspect of British society, and that the rule of law should be used to fight discrimination and achieve good race relations (Solomos and Schuster, 2017).

In 1968 a further Race Relations Act came into law, extending the range of the 1965 Act to include employment, housing, and the provision of goods, facilities and services, and in advertisements and notices (Solomos and Schuster, 2017). The authority of the Race Relations Board was extended to cover these areas. However, the Board's power was limited until a complaint had been made, and some vital areas of societal infrastructure, such as the police, were not covered by the Act. (Bourne, 2015). The Act also established a further body, the

Community Relations Commission which had the task of promoting 'harmonious community relations.' (Race Relations Act, 1968, s25.3(a)).

Although the 1968 Act was considered a step forward from the 1965 Act, both the 1965 and 1968 Acts were considered limited in impact, and there were calls for a more effective law to address discrimination, particularly in employment and in housing (Solomos and Schuster, 2017). Furthermore, there was mounting evidence of the failure to tackle non-direct discrimination, of which there was increasing awareness due to American experiences (Solomos and Schuster, 2017). There were also calls for more to be done to ensure that anti-discrimination practices were more than a symbolic political Act (Bourne, 2015).

During the 1960's and 1970's there was debate about the meaning of 'Britishness' in a post-colonial world (Goulbourne, 1998, Gilroy, 1987). In 1968, the infamous 'rivers of blood' speech by Conservative MP Enoch Powell, influenced the debate on the introduction of tight immigration controls (Haralambos and Holborn, 2013). The 1968 Commonwealth Immigration Act required prospective migrants to provide evidence that they, their parents or grandparents were born in Britain; this was interpreted as racist, since it disproportionately disadvantaged those from Africa and Asia (Solomos and Schuster, 2017). In 1971 a further Immigration Act placed the same restrictions on Commonwealth citizens as on other migrants and abolished their automatic right of residence in Britain (Solomos and Schuster, 2017).

In 1975, the Parliamentary Select Committee on Race Relations produced a report which recognised that if the stated aim of government for equality of opportunity, diversity and mutual tolerance was to be achieved, there was the need to extend the narrow legal definition of discrimination used in the 1965 and 1968 Acts, for the Race Relations Board's powers to be strengthened, and for government agencies to take a more interventionist role in reinforcing race relations (Solomos and Schuster, 2017).

In 1976, a new Race Relations Act came into being. Many of the proposals of the Select Committee were ignored but important innovations were included: the objectives of the law were extended to deal with disadvantage caused by 'systemic racism' (Solomos, 2003, p.83) and introducing into law the concept of indirect discrimination in addition to direct discrimination. The Act also established a new body, the Commission for Racial Equality (CRE), which amalgamated the role of the Race Relations Board and the Community Relations

Commission (Solomos, 2003). An important innovation of the 1976 Act was that, for the first time, it placed on local authorities a specific responsibility to eliminate discrimination and promote better race relations (Solomos, 2003; Goulbourne, 1998). Most local authorities ignored this provision at first, but the urban unrest of so-called race riots in the early and mid 1980's, and the response to the Brixton Inquiry and the Scarman Report did persuade many councils to make changes to policies in employment, and in the delivery of housing and social services (Neal, 2003; Solomos, 2003).

In April 1993, the racially motivated murder of Stephen Lawrence in Eltham, South London prompted nationwide soul searching over race relations between Britain's black and white communities (Heal, 2018). The inquest, held in 1997, traduced the role of the police and the 'wall of silence' erected by the community, and the treatment of Stephen's parents by the authorities (Heal, 2018). There were comparisons with the response of the murder of another Lawrence, Philip, also in London; a white middle class headmaster who was protecting a pupil from a gang attack. In this case the murderers were quickly found, arrested and convicted (Heal, 2018).

The Macpherson Inquiry Report (1999) into Stephen Lawrence's murder prompted the government to respond, with a new Act. The Race Relations Amendment Act 2000 strengthened the 1976 Act by extending its provisions to (almost) all areas of public service through a 'Race Equality Duty' (Solomos and Schuster, 2017), excepting areas of national security and immigration, though the Act did make an important distinction for the first time between national or ethnic origin and race or colour (Haralambos and Holborn, 20013). Another important aspect of the 2000 Act was imposing on local authorities a positive a duty to eliminate unlawful discrimination, and the promotion of equality of opportunity in all aspects of their services thereby influencing local, as well as national policy (Haralambos and Holborn, 2013).

There were Immigration and Asylum Acts in 1993, 1996 and 1999 which further restricted the rights of asylum seekers, including the introduction of a voucher system for meeting basic needs and a requirement to prove entitlement to public services (Solomos and Schuster, 2017). In 2002 government policy towards migrants became increasingly hostile and the Nationality, Immigration and Asylum Act 2002 made provision for detention of asylum seekers, whilst removing support from those that were destitute (Solomos and Schuster, 2017).

In 2006 the Equalities Act merged the Commission for Racial Equality into a new organisation the Equality and Human Rights Commission (EHRC). This was seen by some, however, as diminishing the Government's commitment to anti-racism (Solomos and Schuster, 2017).

In 2010, the 1976 Act and its amendments were consolidated under the umbrella of the Equality Act 2010 (Equality and Human Rights Commission, 2018). The Equality Act 2010 integrates all race equality legislation into its broad provisions, encompassing, in addition to race, eight other areas: age, disability gender, sexual orientation, pregnancy and maternity, gender reassignment, disability, religion or belief and marriage or civil partnership (Equality Act, 2010). The 2010 Act also imposes on public authorities an 'Equality Duty' (Equality Act, 2010) which broadly requires public bodies to consider how they could contribute to the advancement of equality and good relations in their everyday business (Equality and Human Rights Commission, 2018).

Immigration Acts in 2014 and 2016 made it easier for authorities to remove those without a legal right to be in Britain, and to counter perceived misuse of the European Convention on Human Rights (ECHR) Article 8: "Right to respect for a family and private life" (ECHR, 1950 s.8), and to limit further perceived abuses of the access and use of public services by placing obligations to see evidence of citizenship (Home Office, 2014). The Government's aim of these measures was to create a 'hostile environment' for illegal immigrants, in order to reduce the 'pull-effect' attracting potential migrants to Britain (Grierson, 2018). However, the Government was forced to issue an apology when it came to light that some 164 individuals, many the surviving migrants of the Empire Windrush were deported or denied services because their right of residence in the UK could not be proven (Gentleman, 2018). In response to the criticisms and widespread public concern the Government introduced a policy of guaranteed free citizenship and compensation to the 'Windrush Generation' of Commonwealth Citizens who arrived in Britain before 1973 (Gentleman, 2018).

In conclusion, Britain's policies on race since 1945 have been a complex counter balance of race relations and immigration management. Following the second world war, labour shortages meant that immigration was encouraged; however, societal and governmental concerns over the impact of mass immigration in the following decades have led to gradually more limitations on the rights of immigrants and asylum seekers. However, since the mid 1960's there has also

been recognition of the need to protect and promote the equality rights of ethnic minority citizens through development of policy and application of the law.

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