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(CCPCJ)

Research Report Guide

Topic 3: Addressing the issue of systematic racism and racial profiling in criminal justice systems.



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Introduction:

Racial discrimination which has been embedded into the judicial system of a country can be identified through the disadvantages some groups experience on the practices on law, employment, housing, education, and healthcare disparities. Though countries take measures to overcome the unjust conditions in their states, many still fail to make a large enough impact to reduce the effects of systematic racism. Implicit biases; decisions, policies and frameworks that contain unconscious biases rather than chosen prejudices are a major cause to this problem¹. Thus, the implementation of awareness campaigns is inadequate in tackling this issue and safeguarding legal actions should be promoted and decreasing over-policing and mass incarceration should be aimed. Therefore, this report will be examining further details on where the problem originates and how it should be approached.

Key Terms:

Systematic Racism: The discrimination or unequal treatment on the basis of membership of a particular ethnic group (typically one that is a minority or marginalised), arising from systems, structures, or expectations that have become established within society or an institution.²

Structural/Institutional Racism: The form of racism that societies adopt into their systems in life such as the systems that concern employment, prosecution, housing and healthcare.

Racial Profiling: Basing the assumption or suspicion of an offence to someone's race or ethnicity.

Implicit Bias: Decisions, policies and frameworks that contain unconscious biases rather than chosen prejudices.

¹ This results from the accumulation of decisions, policies and frameworks that contain unconscious biases rather than chosen prejudices

² Taken from the OED, "Systematic Racism"

Over-Policing: Excessive and often violent policing practices that tend to target certain communities, minorities and marginalised groups.

Legal Safeguards: Legal provisions that aim to guard specific rights, resources or people from harm and unjust actions.

Mass Incarceration: The act of imprisoning a large population, at some times specifically of one community.

Background Information:

Systemic racism can be simply defined as unequal treatment of a particular group arising from the racism that has integrated itself into the structures of society, whether it be about how law, tradition or policies operate. It is commonly seen to occur when one group, usually minorities, are kept disadvantaged by policies or law. Examples of these can be seen easily in the racial disparities in criminal justice, education inequalities, housing discrimination, employment discrimination and healthcare disparities³. However, among these forms of racism, it can be said that issues being faced in criminal justice carry by far the most destructive effects. Especially in the United States, the amounts of racial profiling and implicit biases that are reported elucidates the disparities faced by minorities. Based on the United Nations Human Rights Office, Black people in America are three times more likely to be killed by the police than whites and 4.5 times more likely to be incarcerated. Besides these, it is also stated that only 1% of 1000 officers are charged for murder or other forms of violence if they are to cause any sort of harm. In many cases around the world, armed police forces are the first responder to social situations. However, because of how systemic racism has become an unconscious element of the criminal justice systems around the globe, over-policing leads easily to aggressive behaviour, an issue that remains unaddressed. The UN, led by the OHCHR, believes that alternatives should be brought to administer certain cases before sending police force to interfere.

³ These inequalities most often indicate the existence of the prioritisation of one group or the unequal division in opportunities. People may not be picked for employment, for education or for residency simply due to their race.

It should be borne in mind that even though countries take measures to overcome the unjust conditions in their states, many still fail to make a large enough impact to reduce the effects of systematic racism. The United States, United Kingdom, France and Brazil are some of these countries. Though they aim to achieve equality before the law and criminalise racism, high incarceration rates and disproportionate usages of force against minorities persist, prompting calls for stronger enforcement of anti-discrimination laws and police reform.

There have been solution attempts that aims to strengthen the legal frameworks that oblige states and people to eliminate racial discrimination, as well as the conduct of reviews into allegations of systemic racism and the monitoring of any suspicious practice that defies state compliance. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is a convention where state compliance and the strengthening of legal networks were specially discussed. Additionally, the OHCHR's solution attempts on the elimination of racial profiling should be kept in mind. Now, the UN's objective is to focus on responding to issues with non-biased policies to eliminate racial profiling and unjust incarceration, and aims prosecution that is done independently from systemic racism. For this, legal safeguards can be developed, transparency in the judicial systems can be promoted and both legal and policing trainings can be improved to ensure a more equal society.

Major Countries and Organisations Involved:

Countries:

United States: The United States continues to face challenges related to systemic racism and racial profiling within its criminal justice system. Legal frameworks such as the Civil Rights Act of 1964 and the Equal Protection Clause of the Fourteenth Amendment prohibits racial discrimination by state authorities. In addition, reforms such as the George Floyd Justice in Policing Act have been proposed to address racial bias in policing, use of force, and accountability. Despite these measures, disparities in arrest rates, sentencing, and incarceration among racial and ethnic minorities persist.

United Kingdom: The United Kingdom has acknowledged concerns surrounding racial profiling, particularly in policing practices such as stop and search. Legal protections are provided under the Equality Act 2010, which prohibits discrimination by public authorities,

and the Police and Criminal Evidence Act 1984 (PACE), which regulates police powers. Reviews such as the Macpherson Report have identified institutional racism within policing, leading to reforms, though concerns regarding disproportionate impacts on minority communities remain.

France: France prohibits racial discrimination under its Constitution and criminal law, including provisions within the French Penal Code. However, allegations of racial profiling, particularly during identity checks conducted under the Code de procédure pénale, have led to public debate and legal challenges. While reforms and oversight mechanisms exist, difficulties in collecting ethnic data have complicated efforts to assess and address systemic discrimination.

Brazil: Brazil faces significant racial disparities within its criminal justice system, particularly affecting Afro-Brazilian communities. The Brazilian Constitution of 1988 guarantees equality before the law and criminalises racism as a serious offence. Despite this, high incarceration rates and disproportionate use of force against racial minorities persist, prompting calls for stronger enforcement of anti-discrimination laws and police reform.

Organisations:

Office of the United Nations High Commissioner for Human Rights (OHCHR): OHCHR monitors state compliance with international human rights law and addresses systemic racism and racial discrimination through reporting, advocacy, and recommendations aimed at reforming criminal justice systems.

United Nations Office on Drugs and Crime (UNODC): UNODC supports Member States in promoting fair, effective, and accountable criminal justice systems, including initiatives aimed at preventing discrimination and strengthening the rule of law.

United Nations Educational, Scientific and Cultural Organisation (UNESCO): UNESCO works to combat racism and discrimination through education, research, and awareness programmes that promote equality, tolerance, and social inclusion.

Amnesty International: Amnesty International conducts research and advocacy on human rights violations, including racial profiling and discriminatory practices within criminal justice systems, and promotes accountability and legal reform.

Relevant UN Resolutions:

The United Nations General Assembly has adopted several resolutions addressing racism, racial discrimination, and equality before the law. Notably, the following operative clauses highlight accountability and justice system reform:

1. Calls upon Member States:
 - (a) To take all appropriate measures to eliminate racism, racial discrimination, and racial profiling within criminal justice systems;
 - (b) To ensure equal treatment before the law and non-discriminatory law enforcement practices;
 - (c) To strengthen oversight mechanisms and accountability for discriminatory conduct by state authorities;
 - (d) To promote training and education on human rights and non-discrimination for law enforcement and judicial officials;
2. Strongly condemns all forms of racism, racial discrimination, and xenophobia as violations of human rights;
3. Stresses the importance of data collection, transparency, and independent monitoring in addressing systemic discrimination;
4. Urges States to implement comprehensive reforms aimed at ensuring fairness, proportionality, and equality within criminal justice systems.

Previous Attempts to Address the Issue:

International Convention on the Elimination of All Forms of Racial Discrimination (ICERD):

- Establishes a binding legal framework obligating states to eliminate racial discrimination in all areas of public life.
- Requires regular reporting and monitoring of state compliance.

UN Human Rights Council Mechanisms:

- Conduct reviews and investigations into allegations of systemic racism and discrimination.
- Issue recommendations aimed at reforming national justice systems.

National Police Reform Initiatives:

- Several states have introduced body cameras, revised use-of-force policies, and bias-awareness training.
- Focus on increasing transparency and public trust.

Civil Society and NGO Advocacy:

- Monitor discriminatory practices and provide legal assistance to affected individuals.
- Raise public awareness and advocate for structural reform.

Possible Solutions:

Strengthen Legal and Institutional Frameworks

- Enforce anti-discrimination laws within criminal justice systems.
- Establish independent oversight bodies to review discriminatory practices.

Improve Training and Accountability

- Introduce mandatory human rights and bias-awareness training for law enforcement and judicial officials.
- Strengthen disciplinary procedures for discriminatory conduct.

Promote Transparency and Data Collection

- Improve collection of disaggregated data on policing, sentencing, and incarceration.
- Ensure public access to information and independent monitoring.

Enhance Community Engagement

- Encourage dialogue between law enforcement and affected communities.
- Support community-based programmes aimed at building trust and cooperation.

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