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# **POLICING PREJUDICE: A CRITICAL ANALYSIS OF RACIAL PROFILING AND ITS CONSEQUENCES**

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## **I. Abstract:**

Racial profiling, accusing a person of criminal activity based on race/ethnicity as opposed to actual action is a direct violation of personal freedoms that bolsters an already complicated and oppressive system. This article examines racial profiling as a natural extension of law enforcement and its relationship with vulnerable populations and the general population. Through the examination of case law, policy, and sociological research, this article sees how racial profiling is an action taken against BIPOC populations, compounded by selected perceptions of those policed, which increases social violence and teaches people how to keep in line. The goal of this article is to understand the psychological, legal, and economic effects of racial profiling while noting how significant changes in police practice could be beneficial. Therefore, this article will conclude with appeals for change to police practice for equity, transparency, and social justice for all.

## **II. Key Words:**

Racial Profiling, Criminal Activity, Ethnicity, Personal Freedom, Law Enforcement. BIPOC, Social Violence, Equity, and Social Justice.

*"Injustice anywhere is a threat to justice everywhere."*

**-Martin Luther King Jr.**

## **III. Introduction:**

Racial profiling or ethnic profiling is an action that occurs when a disproportionate number of people are observed or stopped by police due to their race or ethnicity instead of their behaviour or a targeted investigative claim of criminality. It is a frequent occurrence across policing agencies in the United States and beyond.<sup>1</sup> The implementation of racial or ethnic

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<sup>1</sup> Racial Profiling, Am. C.L. Union (2024),

characteristics by policing agencies as a key determinant of whether someone is involved in criminal behaviour is counterproductive to good policing and community relations, and it is problematic for vulnerable communities of colour. This is not only contrary to matters of equity and fairness but is also an antiquated legacy of racism that extends into the foundational nature of policing since modern law enforcement was created, slave patrols in the antebellum South were among the first known iterations of policing.<sup>2</sup>

Racial profiling not only comes into play when people presume certain groups are more criminal; for example, Blacks, Latinos, and Arabs are presumed to be more criminal than any other population group. It creates a situation where the police stop and intervene with Black, Indian, and Latino populations more than white individuals. For example, studies show that Blacks only constitute twenty-eight percent of drug usage yet receive seventy-five percent of police stops, whereas whites constitute over a lifetime more drug usage yet are less likely to get stopped.

In addition, racial profiling affects others, leading to community issues and social tensions abound with people being emotionally distraught and embarrassed by having the police called on them for no reason other than race or assumed association with crime. Vulnerable populations become even more vulnerable as this suggests greater sociopolitical inequities faced over time by persons of colour<sup>3</sup>. Thus, the ramifications of racial profiling go beyond the single instance where crime is called into question, affecting the social interactions and organizational realities established through a disintegration of culture.

Such gaps between legal theory and legal practice foster institutionalized injustices that change the lives of at-risk communities for the worse psychologically and sociologically. For instance, India has a complicated history of discrimination against vulnerable populations, predominantly from Northeast India, Dalits, and indigenous communities. Many of these injustices are related to the caste system's depth in India and the prejudices against lower castes over the years. Yet even India's history of imperialism provides inconsistent relations

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<https://www.aclu.org/issues/racial-justice/race-and-criminal-justice/racial-profiling>.

<sup>2</sup> David A. Harris, Racial Profiling: Past, Present, and Future?, Am. B. Ass'n (Jan. 21, 2020), [https://www.americanbar.org/groups/criminal\\_justice/resources/magazine/archive/racial-profiling-past-present-future/](https://www.americanbar.org/groups/criminal_justice/resources/magazine/archive/racial-profiling-past-present-future/).

<sup>3</sup> The Effects of Racial Profiling, Ont. Hum. Rts. Comm'n (2003), <https://www3.ohrc.on.ca/en/paying-price-human-cost-racial-profiling/effects-racial-profiling>.

internationally today, with xenophobic overtones of the recent pandemic increasing racially motivated assaults on those from Northeast India (Anwesha Mohanty, 2020).

#### **IV. Legal Framework:**

India's anti-discrimination laws include numerous constitutional provisions like Articles 14, 15, and 17. Article 14 establishes equality before the law and entitles all individuals to equal protection of laws within the territory of India. Thus, this is a massive claim to protection from discriminatory practices. Further, Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth, meaning that no one, regardless of their background, should be afforded less treatment under the law. Article 17 is significant for purposes of caste-related connections because it prohibits untouchability, meaning that persons cannot be actively excluded from society based on their caste. However, despite these strong claims to rights and protections, the inclination to enforce protection is often compromised by social and systemically caste-inclined offenses. For example, the police in India are known to target vulnerable communities like Scheduled Castes or even Tribal castes, always cited as the recipient of legislative discrimination as well as violence. In addition, certain vulnerable communities have called for an anti-racial profiling law as part of an anti-discriminatory law so that there can be accountability for officers who engage in discriminatory practices against marginalized groups. Yet without an overarching anti-racial profiling law, vulnerability persists for these communities. In addition, for other vulnerable communities, there exist many agendas to render police reform through state and local laws, but this is often undermined through lack of enforcement ability. Thus, even if someone is granted a constitutionally derived law, the ability to uphold such a right becomes questionable. Therefore, many activist organizations and civil society parties advocate for a police review oversight board to reveal discriminatory actions and punishments, but such anti-discrimination law takes too long for reform.

#### **V. Historical Context:**

##### **i. Ancient era.**

The historical context of racial profiling comes from India's caste system. The caste system has been around for millennia, emerging over two thousand years ago from ancient Hindu text foundations that separated people based on their line of work. Eventually, it became a hierarchical abusive system of entry and discrimination, focusing harshly on low-caste



populations like Dalits (formerly known as "untouchables") and Adivasis (tribals)/indigenous people.<sup>4</sup>

## ii. Pre-Independence Era

Under the British Raj, the family regime further strengthened the caste system as Britons used the separated nature to their advantage. Britain legitimized policies that made some castes, like certain Brahmins, higher in social status and others chastised. This system was compounded by later reinforcement of physical hierarchies and stigmatization. For example, Indians were stereotyped based on how dark their skin was, which led to negative action against those people. As such, racial profiling becomes a tool for legitimized/justified punishment against Dalits<sup>5</sup> and indigenous persons as they believe their position is beneath even the law.

## iii. Post-Independence Era

Once independence reigned, constitutional law established citizenship rights in India; untouchability was abolished, and affirmative actions were established to give citizens more opportunities. However, with a history of locating and politically positioning casts against one another, marginalized communities find themselves still discriminated against by police powers arresting them for crimes they didn't commit or attempting to adhere to caste stereotypes based on their lineage. Similarly, this is not an issue that's only Indian in nature, but one that many countries have historical references and legal frameworks where racial profiling was and is an issue. For example, in the United States, racial profiling emerged through slavery; afterward, many municipalities employed Jim Crow laws against African Americans and Latino populations where police would arrest people based on race or disproportionately treat them worse than their Caucasian counterparts. This international notion of racial profiling shows how it's not an isolated event with limited social constructs but something that transcends time and space; no matter the country, culture, history; once a distinction is made between human flesh, patterns emerge manifesting similar injustices around the world instead of in vacuo. Thus, an understanding of India's historical context helps provide awareness to broaden the perspective of similar injustices throughout the world.

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<sup>4</sup> Nikul Joshi, Caste System in Ancient India, World Hist. Encyclopedia (Nov. 20, 2017), <https://www.worldhistory.org/article/1152/caste-system-in-ancient-india/>.

<sup>5</sup> The Dalit: Born into a Life of Discrimination and Stigma, Off. U.N. High Comm'r Hum. Rts. (Apr. 19, 2021), <https://www.ohchr.org/en/stories/2021/04/dalit-born-life-discrimination-and-stigma>.

## VI. Case Study:

Racial profiling within India occurs within various contexts affecting various communities via ethnicity, race, or through religion or regional affiliation; thus, this case study explores additional racial profiling elements to show that discrimination is a widespread phenomenon in India. For example, many groups are involved, from those in the Northeastern section of India to the African population, which fears vulnerable students. If racial profiling in India exists for prominent groups, one includes persons from India's Northeast, including Nagaland and Mizoram, who travel to other parts of Delhi and other Indian cities and experience a lot of discrimination. Often, those with different physical features are seen as radicals.

For example, reports online and in the news suggest that when people from Northeast India travel across the world, they are called "Chinese" or "Chinkis" as detrimental terms referring to immigrants from China, no matter where they are or what they're doing. What becomes alarming is that during the COVID-19 pandemic, attempts to vilify these people from these states occurred for specific acts by people who may have travelled to India or known Indian nationals.<sup>6</sup> For example, news and reports suggested that these individuals were refused entry into stores or public spaces and were beaten because of the fear of being carriers; thus, they are shunned. But this is not a one-off occurrence; this occurs on many levels across the nation. Another group is that people have hosted international students.

For example, when there are deportations of Nigerians or persons of African heritage in other parts of India due to crimes acknowledged on TV channels, India's African students have a notable level of fears regarding deportation. For example, a Tanzanian girl in Bengaluru was victimized by mob violence and beaten because of a hit-and-run accident involving an Indian. The stereotype was that she was on drugs or another act of physical aggression; instead of wanting to talk to her personally to understand who she was and how being identified could impact her, she was beaten by Indian students and citizens, all thanks to their extensive histories of negative impressions of people from Africa<sup>7</sup>.

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<sup>6</sup> Annie Banerji, Spat on and Abused: Coronavirus Fuels Racism Against India's Northeasterners, Reuters, June 19, 2020,

<https://www.reuters.com/article/world/spat-on-and-abused-coronavirus-fuels-racism-against-indias-northeasterners-idUSKBN23Q2JR/>.

<sup>7</sup> Maya Prabhu, African Victims of Racism in India Share Their Stories, Al Jazeera (May 3, 2017), <https://www.aljazeera.com/features/2017/5/3/african-victims-of-racism-in-india-share-their-stories>.

When one attempts to confront this situation, many Indians will respond that there are reasons why foreigners from Kenya, etc., are deported; however, such stigmas create problems for international friendships and even college/university student housing. Another community collection faced with racial profiling is with Muslim minorities. For example, with anti-Muslim sentiments growing over the last decade in India, it's no surprise that Muslims are forcibly rendered compliant with customs/laws across major Indian cities. After the anti-CAA protests in December 2019 and March 2020 where many Muslim youths protested against the new amendment further impacting their citizenship status, there were many reports that the police and the locals believed these youths were engaged in anti-national acts, questioning and surveying youths even where they did nothing wrong.

For example, in Delhi, reports suggested that the police questioned the Muslim youths who were involved in the protest; instead of realizing that at least eight courts found no prosecutions against them, the police and others-maintained harassment of people for being identified by their community groups<sup>8</sup>. Another area where caste and racial profiling occur via branding happens through race-based policing incidents in merchant spaces. Dalits often get discriminated against when they try to purchase specific goods or even enter certain temples and establishments.

For example, in a temple in Karnataka recently, Dalits were beaten because they entered the premises as purifying threats to the religious location; titles continue to exist in the Indian atmosphere which creates hierarchies among castes despite efforts by Indian police to mitigate such actions. Such a stipulated form of racial profiling connects it to a historical social pecking order that has been established and remains the catalyst for social politics in modern-day India, which suggests that casteism is synonymous with racial profiling<sup>9</sup>. However, it's not exclusive to one community or socioeconomic class, for the fact that various communities within India face similar forms of racial profiling is disheartening. Whether it's ethnic, racial, or religious, the fact that people are profiled based on how they look and subsequently have similar tales of marginalization is a testament to how low this society has fallen and what needs to be rectified.

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<sup>8</sup> India: Increased Abuses Against Minorities, Critics, Hum. Rts. Watch (2024), <https://www.hrw.org/news/2024/01/11/india-increased-abuses-against-minorities-critics>.

<sup>9</sup> India: "Hidden Apartheid" of Discrimination Against Dalits, Hum. Rts. Watch (2007), <https://www.hrw.org/news/2007/02/13/india-hidden-apartheid-discrimination-against-dalits>.

## VII. Reforms and Solutions:

The best reforms to eliminate racial profiling in India involve legislation, community involvement, and education. If these reforms are put into place, they will uphold the virtues of human rights and the intentions of a diverse society, which should make good citizens feel protected against such discrimination.

### i. Legal Reforms

First, specific laws against racial profiling must be in place. The Indian Constitution already has anti-discriminatory measures, but no separate law exists that stipulates racial profiling intentions or punishment. Therefore, putting a law in place that identifies what racial profiling is will empower citizens to know their rights and render guilty perpetrators subject to repercussion. This law must also include new police training concerning racial bias and established police practices, which must always keep constitutional rights in mind when applying measures of law enforcement. Second, human rights commissions need to be more effective. Aside from empowering racial profiling victims after the fact, these commissions give victims formalized channels of communication to lodge complaints to hopefully establish equity. Thus, the National Commission for Minorities and the National Commission for Scheduled Castes must become more empowered to ensure complaints are not only investigated but also champion the cause of victimized persons' rights.

### ii. Community Involvement and Awareness

Community involvement is also critical since many effective changes can happen at the ground level. For example, NGOs and social groups can collaborate to raise awareness of residents' rights; community programming can foster open conversation between communities to develop understanding and compassion. In addition, the media needs to take responsibility as well for its actions and not rely on misrepresented negative stereotypes; feel-good stories about minority groups need to be championed as well.

### iii. Education

Ultimately, education is key. School systems should cultivate curricula with lessons about diversity and racial issues; educators themselves should undergo anti-bias training to develop effective dialogue about race and discrimination. Students need to learn respect for others sooner rather than later to build a more accepting view for future generations.

#### iv. International Solutions

Ultimately, international efforts that work in other countries would potentially work here. For example, Canada's use of community policing successfully fosters a bond between law enforcement and ethnic communities; similar efforts can be adapted for an Indian population as well.

### **VIII. Conclusion:**

Racial profiling has occurred worldwide, shaped by historical legacies, sociopolitical structures, and deeply ingrained biases that pit one community against another. In India, where diversity is both a strength and a challenge, racial and ethnic profiling continues to manifest in various forms, often targeting marginalized communities such as Dalits, Northeastern Indians, African nationals, and religious minorities. As this article demonstrates, the most effective way to eradicate racial profiling is through a multi-pronged approach that incorporates legal, communal, educational, and international efforts. Legally, strong anti-discrimination laws must be enforced with greater accountability, ensuring that victims of racial profiling have access to justice while law enforcement agencies undergo systemic reforms to eliminate implicit and explicit biases. Communally, fostering dialogue between different ethnic and racial groups can help break down stereotypes and misconceptions, promoting unity and shared identity over division.

Educationally, comprehensive curricula should include discussions on race, caste, and discrimination to instil values of equality and inclusivity in young minds, helping future generations challenge prejudices ingrained in society. Internationally, India must align itself with global human rights standards and collaborate with international organizations to combat racial profiling on a broader scale, ensuring that justice is upheld beyond national borders.

However, legal and institutional changes alone will not suffice; a fundamental shift in societal attitudes is crucial. Public awareness campaigns, media representation, and grassroots activism play essential roles in dismantling stereotypes that fuel racial profiling. Social conditioning, reinforced over generations, cannot be undone overnight, but incremental steps, such as increased representation of marginalized groups in leadership roles, unbiased portrayals in media, and community-led initiatives can create lasting change. Racial profiling is not just an issue of law enforcement but a symptom of a larger systemic battle for dignity, equality, and human rights.



Addressing it requires a collective effort from all avenues; governmental bodies must enact and implement equitable policies, civil society must actively challenge discrimination, educators must foster inclusivity, and individuals must hold themselves accountable for their biases. As India continues its journey toward becoming a more equitable and just society, it is imperative to recognize that true progress lies not only in economic growth or technological advancements but in the fundamental respect for every individual's identity, rights, and dignity. The struggle against racial profiling is ultimately part of the broader fight against discrimination in all its forms, and only through sustained efforts across multiple sectors can India build a future that truly upholds the principles of justice, fairness, and equality for all its citizens.

### IX. References.

1. Experts of the Committee on the Elimination of Racial Discrimination Note Swift Response of the United Kingdom, Off. U.N. High Comm'r Hum. Rts. (2024), <https://www.ohchr.org/en/news/2024/08/experts-committee-elimination-racial-discrimination-note-swift-response-united-kingdom>.
2. Mathias Risse & Richard Zeckhauser, Racial Profiling, 32 Phil. & Pub. Aff. 131, 131–70 (2004), <http://www.jstor.org/stable/3557948>.
3. Steven N. Durlauf, Assessing Racial Profiling, 116 Econ. J. F402, F402–26 (2006), <http://www.jstor.org/stable/4121927>.
4. Quaylan Allen & Henry Santos Metcalf, “Up to No Good”: The Intersection of Race, Gender, and Fear of Black Men in US Society, in *Historicizing Fear: Ignorance, Vilification, and Othering* 19, 19–34 (Travis D. Boyce & Winsome M. Chunnu eds., Univ. Press of Colo. 2019), <http://www.jstor.org/stable/j.ctvwh8d12.4>.