
SYSTEMIC RACIAL DISCRIMINATION IN THE JUSTICE SYSTEM: A CASE STUDY OF 'WHEN THEY SEE US'

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ABSTRACT

While the courts work to provide fair and just decisions, sometimes false evidence presented before them and the judges' personal bias can lead to wrongly incriminating innocent people. The primary focus of this paper is racial and class discrimination with respect to false imprisonment. Accused who have been wrongly charged often face the burden of living with the stigma of being a convict and are constantly mistreated by society. Issues such as racial bias and false accusations lead to miscarriage of justice and erodes people's faith in the justice system. This paper highlights the social and legal issues of systemic racial discrimination in the justice system with a case study of the critically acclaimed Netflix miniseries 'When They See Us'.

Keywords: Racism, Institutionalised Racism, Class Discrimination, False Imprisonment, Psychological Impact.

INTRODUCTION

Racial discrimination has been a constant source of concern due to its impact on the justice system. The proper functioning of the rule of law, equal protection of the law and equality before the law for all is essential while dispensing justice and can be impaired because of social bias. The courts must ensure that society's social constructs do not cloud its judicial decisions.

It has been a struggle for the people from the Black community to fight against oppression, exploitation, harassment, abuse and get equality for their people. Even in today's modern world, the ideas of racial supremacy still plague the minds of many. "A race is a group of people somewhat different from the other group in its combination of inherited physical characteristics, but the race is also substantially determined by popular social definition", as stated by Horton and Haunt, gives context that race is a social creation (Rao, 2021). Ethnocentric attitudes, which refers to the tendency to judge other cultures by the standards of one's own (Robertson, 1977), is one of the root causes for racism. A certain degree of ethnocentric attitudes is bound to be present, but it turns oppressive and discriminatory when it becomes more aggressive, leading to racism. Racism can manifest in different manners, from subtle to more explicit behaviour.

The racial discrimination seen in the courts can be referred to as Institutionalised Racism. Institutional racism can be defined as policies, structures and norms resulting in differential access to goods, services and opportunities of society by "race". Institutional racism can be seen in two instances: while obtaining materials, like good education, housing and medical facilities, employment, and in case of access to power, like voting rights, representation in the Government, legal facilities and so on (Jones, 2002). This type of racism has been prevalent in society by ways of traditions, beliefs, religion and myths that it has become accepted as regular practices, whereas in reality, it discriminates and neglects these communities from the society.

According to the Bureau of Justice Statistics of the United States Department of Justice, a Black individual is three times more likely to get stopped by a police officer than another individual. This shows that there is already a bias because of their skin colour and that there is a lack of protection available to them. Furthermore, African Americans make up 13% of the population but have the greatest incrimination rate (Thomas, D., Richardson, A., Harris, M., & Ottiwi, C, 2017). That brings up the question of how many convicts have actually been arrested for the crime they have committed and how many have been falsely accused.

The mental torment of people who have been falsely accused is extremely severe. They face changes in self-identity, impairment of reputation in the society, depression, anxiety, post-traumatic stress disorders, sleep-related issues, isolation, stress on relationships and might also lose faith in life, their dreams and the future. Returning with the mark of being a convict might make it difficult to adjust to society and find employment. The other key points to be noted is the trauma faced by the accused because of police brutality, abuse for providing false confessions, violence faced in police and judicial custody with the other inmates and living in unhygienic conditions. The psychological aspect of being wrongfully incriminated because of their race will be discussed in detail with reference to the Netflix series 'When They See Us.'

ABOUT THE SERIES:

The Central Park Joggers Case, the story of which has been put forth in the Netflix miniseries 'When They See Us' over four episodes, illuminates the atrocities faced by the Black community in the justice system. It focuses on the rape case of a twenty-eight-year-old White woman who had been jogging in Central Park. Five African-American boys – fourteen-year-olds Kevin Richardson and Raymond Santana, fifteen-year-olds Antron McCray and Yusef Salaam, and sixteen-year-old Kori Wise, were accused of a crime they did not commit. These boys who were not aware of the complexities of the process of investigation and confession were coerced into providing false confessions, which were then used against them in court. Each of them spent close to six to twelve years of their lives in prison.

RESEARCH METHODOLOGY:

This research paper is based on analytical and qualitative research, primarily sourced from resources like books, journal articles, newspaper articles and judicial decisions. Analytical research refers to using facts that have been proved and confirmed to form the basis of the study. The literature available in this area of study has been examined to a great extent in this paper.

LITERATURE REVIEW:

'What is Racism' by Robert DiAngelo talks about the influence of institutional power on racism. While the Black community could also hold prejudice and discriminate against Whites, they do not have the institutional power backing them for it to amount to racism. The Whites have

the social and institutional capacity to infuse their racial prejudice into the laws, policies and practices of the society. (DiAngelo R. , 2016)

'Psychological impact of being wrongfully accused of criminal offences: A systematic literature review' by Samantha K Brooks and Neil Greenburg has been a great source to understand the psychological torment faced by falsely accused people. While discussing those being wrongfully accused, it is essential to note the mental and physical trauma they would have gone through. (Samantha K Brooks and Neil Greenberg, 2021)

'Confronting Institutionalised Racism' by Camera Phyllis Jones gives insight into the significant role of institutionalised racism. This article focuses on racism present in the medical sector but provides information on the impact institutionalised racism has on society. (Jones, 2002)

Another source for understanding racism with reference to sociological ideas and theories is *'Principles of Sociology with an Introduction to Sociological Thought'* by C.N. Shankar Rao, which highlights the causes, ideology and patterns of racism in society. It further gives a good understanding between prejudice and discrimination and the causes and consequences behind such acts. (Rao, 2021)

In *"The Impact of Incarceration on Employment during the Transition to Adulthood"*, Robert Apel and Gary Sweeten have conducted a survey to test the effect incarceration has on finding employment for inmates. Their study uses the National Longitudinal Survey of Youth 1997 to evaluate the impact of imprisonment in inmates in late adolescence and early adulthood on short-term and long-term employment opportunities. This paper is essential for this research as it emphasises the extreme effects of being convicted; it shows the direct and detrimental impact on the wrongfully accused person to find employment post-conviction. (Robert Apel & Gary Sweeten , 2010)

Robert DiAngelo's *"New Racism"* is a great source to understand the intricacies behind racism. It gives insights into the idea of internalised racial oppression. Internalised racial oppression refers to the unconscious belief and related behaviour accepted by people of colour raised in a white supremacist society. Internalised racial oppression can instil a feeling of self-doubt, inferiority, self-hate, powerlessness and so on (DiAngelo R. , 2012).

Furthermore, Benjamin P. Bowser, in his *"Racism: Origin and Theory"*, highlights three levels

of racism, seen in the cultural level, institutional level and individual level. Bowser's paper gives information on the racism rooted in each of these levels and its sociological impact (Bowser, 2017).

Adrian T. Grounds, in "*Understanding the Effect of Wrongful Imprisonment*" (Grounds, 2005) divided the article into four significant parts. He first talks about the various cases of miscarriage of justice that has taken place around the world. Second, he reviews previous studies in the area of wrongful imprisonment. He then discusses in detail the analysis conducted among eighteen wrongfully convicted men for this research. Finally, he mentions the various clinical and prison research literature and gives an understanding of the long-term effects of wrongful imprisonment.

"*The Social and Moral Cost of Mass Incarceration in African American Communities*" by Dorothy E. Roberts (Roberts, 2004) provides insights on the high-rising data of the number of African American people under the control of the justice system, either in jail or on parole or probation. The rate of incrimination is exceptionally high for people of colour as compared to the white community.

'*Beyond "Police Brutality": Racist State Violence and the University of California*' by Dylan Rodríguez also highlights this by giving context about the extreme police brutality faced by the people of the Black community and the increasing racial discrimination faced in the criminal justice system (Rodríguez, 2012).

ANALYSIS:

The series 'When They See Us' highlights the racial bias seen in the justice system against people of colour. It further emphasises the lack of access to judicial remedies and the injustice such communities face. Five young African American boys were coerced into providing confessions and were sentenced for an offence they did not commit. This show depicted the immense torture they were subjected to and displayed the gross miscarriage of justice that cost these boys their childhood. The false conviction resulted in the young boys facing extreme police brutality and convoluted legal proceedings at such a tender age when they could not have comprehended the magnitude of this issue.

Furthermore, the series provides an insight into the aftermath of wrongful imprisonment. It focuses on the difficulties and trauma faced by them post-conviction. Though they were

eventually cleared of all charges and compensated for the hardship they were unjustly put through, they still faced problems in reintegrating into society after serving time in prison. Raymond could not find employment and also lost all support from his family. Yusef wished to become a teacher but was unable to do so because of the stigma of being a convicted felon. Unlike the other boys, Kori Wise was tried as an adult as he was sixteen at the time of trial and was put in prison. He was subjected to extreme violence and abuse from other inmates during his time in jail. The effect of wrongful conviction is highly severe, and it impacts and impairs the lives of those wrongfully imprisoned.

CONCLUSION:

After going through numerous literature available on racism, it can be said that institutions play a significant role in providing an upper hand to the White community. The justice system is one such institution where people put immense faith and hope in safeguarding their rights and privileges. It will be detrimental to society if racism penetrates a vital institution like the legal system. It is essential that the working of such institutions is free from bias and discrimination. This paper has highlighted the various psychological impacts of wrongful imprisonment on inmates. Imprisonment is the most significant punishment available for committing a crime besides a death sentence, which is given only in the rarest of the rare cases. Putting an innocent person through police brutality, confinement, isolation from family, and social interactions is unacceptable. Therefore, it is also the responsibility of legal institutions to ensure that innocent people are not put behind bars because of the personal bias of their members. It must take into account all facts and circumstances before sentencing a person. The justice system must ensure that the accused is correctly represented in the courts and allowed to plead their side of the case. Though dispensing justice in a speedy manner is crucial, it cannot come at the cost of an individual's life, liberty, and freedom. This paper has given an overview of the nuances of racism and provides an understanding of the impact wrongful imprisonment can have on an individual. It is time we look beyond people's race, gender, sex, caste, or creed and embrace diversity.

REFERENCES

(2002), C. P. (1960). Confronting Institutionalised Racism. . *Phylon*, 50(1/2), 7–22 .

Bowser, B. P. (2017). Racism: Origin and Theory. *Journal of Black Studies* , 572-590.

DiAngelo, R. (2012). Chapter 8: "New" Racism . *Counterpoints* , 105-132.

DiAngelo, R. (2016). What is Racism. *Counterpoints*, 107-123.

Grounds, A. T. (2005). Understanding the Effect of Wrongful Imprisonment . *The University of Chicago Press*, 1-58.

Jones, C. P. (2002). Confronting Institutionalised Racism . *Phylon (1960-)*, 50(1/2), 7–22.

Rao, C. (2021). *Principles of Sociology with an Introduction to Sociological Thought*. Mangalore : S.Chand.

Robert Apel & Gary Sweeten . (2010). The Impact of Incarceration on Employment during the Transition to Adulthood . *Social Problems* , 448-479.

Roberts, D. E. (2004). The Social and Moral Cost of Mass Incarceration in African American Communities. *Stanford Law Review*, 1272-1304.

Robertson, I. (1977). *Sociology*. New York: Worth.

Rodríguez, D. (2012). Beyond “Police Brutality”: Racist State Violence and the University of California. *American Quarterly*, 301-313.

Samantha K Brooks and Neil Greenberg. (2021). Psychological impact of being wrongfully accused of criminal offences: A systematic literature review. *Medicine, Science and the Law*, Vol. 61(1) 44–54.

Thomas, D., Richardson, A., Harris, M., & Ottiwu, C. (2017). Racism. 5.