

Racial and Ethnic Justice in Different Countries

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Abstract:

It is a well-known fact that discrimination either racially or based on ethnicity is a moral wrong and also it is violating the right to equality. The Justice system we have in every country differs. It's all about ensuring safe environment and solving disputes in an orderly manner. Further, even in today's world there is racism's existence. In every society at least one person is being racially discriminated. According to the Indian Constitution, **Article 14** of the Constitutions says that "The state shall not deny to any person equality before the law or the equal protection of laws within the territory of India Prohibition of discrimination on the basis on grounds of religion, race, caste, sex or place of birth". In India, the laws related to discrimination is the Anti-Discrimination and equality bill, 2016. The Australian Human Rights Commission have got in the laws that operate at the federal level and these laws help safeguard their citizens from being racially discriminated: **Age discrimination Act 2004, Racial discrimination act 1975**. In the US, the laws related to racial discrimination are **The Civil Rights Act of 1964, The Equal credit opportunity act, Voting Rights act of 1965**. In UK, we have the Race relations act of 1965, International convention on the elimination of all forms of Racial Discrimination 1965.

Keywords: Discrimination, Moral wrong, Race, Ethnicity, Justice, India, USA, Australia.

I. INTRODUCTION

The term race signifies who are having the same biological inheritance and they differ from the other groups. Well, this is again conferred to as a social group. Ethnicity is nothing, but it signifies the person's cultural identity. The study of ethnicity, race and crime involves the term "justice" and it is also perturbed that they shape the political etiquette of an individual or a group of individuals for which they are overly standing for the ethnic and racial minorities in the criminal justice system. The general context of racism is nothing but degrading people and their values just on the basis of their race. Authorized body consistently tend to have a belief that, the black's commits greater crime than the whites. There are a few aspects which the very basis of racism is, Community which has a majority tend to discriminate the minority which is also known as ideological racism. Next comes Prejudice which is not structured, and it is relatively opposed to ideological racism because this is an expression that is seen at an individual level. Institutionalised racism, in this type, a certain group is targeted, and they are being discriminated based on their race. As much as the Africans and the American's have gone through racism, India never underwent to such an extent. In India, people are most commonly discriminated based on the caste and not that racism doesn't exist in India, it does.¹

¹ 'Racial discrimination in the criminal justice system', *Sage journals*, <https://www.sagepub.com/sites/default/files/upm-binaries/46946_CH_3.pdf> Retrieved 1 February 2018.

Sociology of the term:

These subject studies the social and political noteworthy differences of race and ethnicity. According to a few sociologists, they reprobate both these terms and say that these sociological differences are analytical and obscure, and these might obstruct the identity of a group. The sociologists are very much concerned about how the individual is going to be affected based on the nationality, gender, sexuality, and their family etc.²

Roots of Racism in America:

Racism continues to beleaguer America and its very existences was from the time when the states were formed. It all started off from the political line, culture, and science. Most of them are being discriminated on the basis of race and we should not be stupefied because of its existence even now. It started off when the European colonisers first entered the American shores in the 1500's by then the natives had already occupied. While occupying places in Florida, Canada border and the South West, the English, Spanish and French had disputes with the indigenous people of the states and the English by then made the Europeans and the African's their slaves.

In the mid-1670's arose the bacon's rebellion which is a revolt against the government by the black and the whites who were in opposition to the wealthy planters of Virginia. The African's began to be the permanent slaves of the colonisers and they did not have their own freedom.

In the 1700's the English had a revolt amongst themselves and this time it is against the British crown. They never wished to give back the Native Americans and the African's back their freedom they were craving for. Crispus Attucks, he was the first American killed during the American revolution. He as an icon is known for the anti-slavery movement in the mid-19th century. Apparently, Thomas Jefferson is a Virginia slave owner and he believed in the idea of race, he even helped the drafting the "Declaration of Independence" became the first president and he also took part in encouraging race and identified whites as superior and the blacks as inferior and stated that the blacks were inferior to white featuring body and mind. A German scientist named Johann Blumenbach, is the first one to get into light the different types of race of humans and he also reflected his ideas which is become an anatomy.

By the 19th century mid, people had started debating over race and after the abolitionist movement, they started treating the African's in a humane manner. During the 1950's-60's, US had started challenging the idea of racism and their attitude towards it also got in a change.³

² "Race, Ethnicity & Family" [Research StarterseNotes.com, Inc. eNotes.com](http://www.enotes.com/research-starters/race-ethnicity-family#research-starter-research-starter) 30 May 2018 <<http://www.enotes.com/research-starters/race-ethnicity-family#research-starter-research-starter>>

³American anthropological association, 'The story of race transcript ' (*Race*, no date)<http://www.understandingrace.org/history/history_trans.html> accessed 3 February 2018.

II. DIFFERENT ACTS IN THE USA AGAINST RACIAL DISCRIMINATION:

Citizens suffer discrimination in various aspects such as employment, in accommodating houses, voting etc. In order to combat discrimination, the American government came up with different acts which are operated at the federal level.

1. **Voting rights act of 1965:** This act was signed by President Lyndon B. Johnson who took up the chair in 1963 after the assassination of the President John F. Kennedy. This act was passed to remove the existing barricade at both the state and the local level which prevented the African American citizens from voting and this act has been guaranteed to the citizens under the 15th amendment of the US constitution. During the civil rights movement, the citizens were ill-treated with several types of violence against them. During their march, right from Selma to Montgomery, they used tear gas and attacked them with nightsticks during when they refused to step back. ⁴

2. **The Civil rights act of 1964:** President John F. Kennedy first proposed this act. This act aims to combat discrimination based on sexuality, race, colour, religion, or nationality. It had strong opposition from the southern members and was this was signed by his by Lyndon B. Johnson and the act came into force. This act was passed to serve justice to the blacks and to provide equal employment opportunities not based on race, sexuality, or nationality. ⁵

3. **The Equal credit opportunity act:** The equal credit opportunity act was passed to save the citizens from discrimination. The creditors should not show any sought of discrimination while giving the credit based on their race, origin, marital status, or race. If any such discrimination had come into effect, then then the citizens can file a law suit under the ECOA act. The consumer financial protection bureau came up the regulation B, which is a set of procedures that had been issued to ECOA for lending fairly to the citizens. ⁶

4. **The Fair housing act:** This act was passed right after a week Martin Luther King jr was assassinated. The department of housing and urban development has enacted it in two different ways, one is the "*Fair housing testers*": They act like they are in need of a house or house buyers to check if there is any discrimination and the second is to "*Investigate discrimination cases*": Which ever individual feels that his/her right has been violated, then they can file a complaint with the HUD and then the HUD will come to a conclusion after investigation if any such further legal action is required. ⁷

⁴ Histroy.com staff, 'Voting rights act of 1965' (*Historycom*, 2009) <<http://www.history.com/topics/black-history/voting-rights-act#>> accessed 3 February 2018.

⁵ Histroy.com staff, 'Civil rights act of 1964' (*Historycom*, 2010) <<http://www.history.com/topics/black-history/civil-rights-act>> accessed 3 February 2018

⁶ 'The equal credit opportunity act' (*The united states department of justice*, 8th November 2017) <<https://www.justice.gov/crt/equal-credit-opportunity-act-3>> accessed 3 February 2018.

⁷ Eberlin Erlin, 'The basics of the federal fair housing act' (*The balance*, 29th Jan 2018) <<https://www.thebalance.com/what-is-the-federal-fair-housing-act-2125014>> accessed 3 February 2018.

III. ORIGIN OF RACISM IN AUSTRALIA:

Racism has been in existence right since 1788. Well, ethnocentrism also plays a key role in how society understands. Many legislations have been enacted with regard to racism. Aboriginality has been defined 67 times in 700 legislations. There are a few legislations which are going to be discussed below,

1. **The Age discrimination act 2004:** This act was introduced to the parliament by the Attorney General Daryl Williams in Jan 2003. The act came into force on 22nd June 2004. This act has been passed by the federal government in order to remove the discrimination based on the age factor with respect to in the fields of work, having access to premises and having access to any kind of services etc. The act punishes those whoever publicise or announce any such ads based on their age will be punished. The act emphasizes to change the attitude of an individual or a group and their perspective towards racism and they also wanted to spread awareness that everybody is equal before the law.⁸

2. **Racial Discrimination act 1975:** This act was first enacted by the commonwealth and this was based on the international convention to eliminate all forms of discrimination based on the race. This act deals with the prohibition of racial discrimination, Prohibition of offensive behaviour based on racial hatred, racial discrimination commissioner and functions, Offences, and race discrimination commissioner. This act also makes it an offence to humiliate people and publicly showing racial hatred. Special measures are given to the minorities in order for them to overcome their past discrimination.⁹

IV. RACISM IN INDIA AND LEGISLATIONS PERTAINING TO RACISM:

According to the reports of World Value Survey, India ranks second for being a racist country. There were instances where many foreigners were killed in India and were denied giving living accommodation and other services. There were instances where Indian's had killed their own people, which is not a matter of pride. A case, that happened sometime back in India a boy named Nido Taniam, was the son of a congress leader of Arunachal Pradesh, was beaten up because his of his hair style and died a day later after the attack. There were instances where people had even committed suicide.

Racism in India is not only restricted to discrimination based on race but also colour of the individual, shape, size etc. The legislations pertaining to racial discrimination are as follows:

1. **Anti-discrimination and Equality bill 2016:** This bill has been introduced by the member of the parliament named Shashi Tharoor in the Lok Sabha on March 10th, keeping in mind with a need to protect the citizens of India against any such discrimination. Statements he made in the bill are "The constitution of

⁸ Joanna Hemingway, 'Road map to the age discrimination act 2004' (*Australian Human Rights Commission*, 2007) <<https://www.humanrights.gov.au/roadmap-ada-age-discrimination-act-2004-2007>> accessed 3 February 2018.

⁹ 'Racial Discrimination act 1975' (*Charles Sturt University*, 19th July 2012) <<http://www.csu.edu.au/division/hr/equity-diversity-and-support/equity-diversity-docs/racial-discrimination>> accessed 3 February 2018

India promises justice, liberty, equality, and fraternity to all our citizens". There are people who are being discriminated on the basis of caste as well, especially the Dalit's which is a word that is heard about every now and then, Muslim women, and the others called as "hijras" and also the differently disabled people. There are different articles in the Indian Constitution related to race and says no discrimination should exist. Article 14 of the Indian Constitution which says, "The state shall not deny to any person equality before law or equal protection of law within the territory of India, prohibiting discrimination on the basis of sex, caste, religion, race or place of birth". Article 15 says, "No person shall be discriminated with regard to access of shops, public restaurants, hotels and places of public entertainment or places that have been maintained out of the state funds or that which is dedicated for the use of public". Article 16 says that, "there shall be equal employment opportunities for all and there shall be no discrimination with regard to any employment or appointment to any office under the state". Article 17 says, "Abolition of untouchability is abolished and its practice in any form is forbidden and shall be punishable under the law". These articles aren't enough, we need the law to be even more uncompromising and rigorous. A famous case, where a student from the University of Hyderabad had committed suicide because of alleged discrimination against the Dalit's. This act plays a role in extending the government's support towards representing transgendered persons, lesbians and women and protect the minority groups.¹⁰

2. **Caste Disabilities Removal Act 1850:** This act is taken during when the East India Company was in power and ruling India. The main purpose of enacting this act is to extend the code of Bengal to the whole of India. This act was enacted on 11th April 1850 by the Governor General of India. When this act was amended in the year 1951, that is after Indian Independence, they extended it to the territories of India and the state of Jammu and Kashmir were exempted. This act was enacted to abolish all those laws which are acting as a barrier to all those who ever want to convert their caste or religion.¹¹

V. DISTINCT TYPES OF RACISM IN INDIA:

1. **Indirect discrimination:** This happens when an association has specific rules of conduct and then hires people for work. Indirect discrimination will be allowed if the association has a justifiable reason behind their discrimination.

2. **Direct discrimination:** Direct discrimination can affect the person physically or even mentally. We should change the society's perspective towards racism. For example: Making friends based on the colour, if the management gives them unfair terms and conditions based on their race, refusing to promote a person based on their age thinking that they are too old for the promotion etc.

¹⁰ Live research team, 'Anti-discrimination and equality bill introduced in the Lok Sabha' (*Livelaw.in*, 15th March 2017) <<http://www.livelaw.in/congress-mp-shashi-tharoor-introduces-anti-discrimination-equality-bill-lok-sabha/>> accessed 3 February 2018.

¹¹ The Caste Disabilities Removal Act' (*Lawyers laworg*, 9th June 2016) <<https://lawyerslaw.org/the-caste-disabilities-removal-act-1850/>> accessed 4th February 2018

3. **Harassment:** Whenever a person feels offended, intimidated, or humiliated, it amounts to harassment. Harassment can even be at the workplace, like spreading unwanted rumours, sexual harassment, passing unwanted comments, body shaming etc.

4. **Victimization:** This is nothing but whenever a person has asserted their rights, or he/she has helped someone with filing a complaint this leads to victimization. Victimization is against the law. For example: whenever a person wanted to file a complaint then the official authorities ask him to drop the complaint off, else he would be sacked from his job.¹²

VI. ETHNICAL AND RACIAL ADAPTABILITY:

Socialization is nothing but parents teaching their children how to mingle with people and interact. Parents teach children values, ethics, and basic etiquette and what their behaviour should be like in the future. Based on this, they rank themselves in the social structure. Parents should educate their children and make sure that they shouldn't get the thought of racism. Some places in America, they help their children to accept the fact that they are black and respect it. Effective socialization occurs when the child is all set to understand how the society functions and has owned the necessary functions and skills to survive in a society. The parents must motivate the black children to positive vibe about the identity of the blacks and how they should cope up with in the world. Parents should teach their children about tier cultural practices, customs and tradition, ethnic and racial pride etc. When they share their practices, ideas, and beliefs, they tend to come up with good knowledge. The African-American citizens say that educating children as to how to adapt to the culture and values pay back and compensates the discrimination based on race.¹³

VII. FORMS OF DISCRIMINATION:

1. **Poisoned Environment:** This is a form of discrimination, poisoned environment can occur at any circumstances there is no specific circumstance for it, it can happen in our daily life or in our house or at work place. A poisoned environment is created when there is no proper conduct in an organisation and which may end up resulting in an oppressive management. Example: In a case where the complainant is disabled, and the defendant calls him a 'crack head' just because of the fact that he is disabled which created a poisoned environment for the complainant and he would have felt embarrassed and humiliated because of such comments. Not everybody is strong enough to take up such comments during a case and some people might even lose confidence because of such humiliation. Organisations and associations should be careful

¹² Ruchika Daga, 'Racial discrimination in India' (Pleaders intelligent legal solutions, 29 November) <<https://blog.ipleaders.in/racial-discrimination-india-can-file-complaint/>> accessed 4th February 2018

¹³ Am social rev, 'Racial Discrimination, Ethnic-Racial Socialization, and Crime: A Micro-Sociological Model of Risk and Resilience' [2012] 4(77)US National Library of Medicine

and should support a peaceful environment at workplace or home and should take proper steps to eradicate discrimination at work place.

2. **Systemic discrimination:** This type of discrimination is extremely disturbing and complex. There should be proper code of conduct, policies, behavioural code in all the organisations because it is embedded in organisations and institutions. To combat this type of discrimination and a negative environment, the organisations and institutions have to discourage, and they should be in a position where they can be challenged.

3. **Special Programmes:** There should be special programmes conducted for the persons whoever has suffered discrimination, inequality, any kind of disadvantage etc. For the people to meet the necessary requirements of the programme, they should do something in connection with it and should have accurate evidences as well. Programmes conducted should not violate the human rights of the people attending it.

4. **Duty to Accommodate:** The code says that, it is the duty of the employers and unions to assist and accommodate the psychosocial disabled and make sure that they enjoy equal benefits, equal opportunities, and have access. There should be houses built for them. According to the act, the duty to accommodate is being informed by 3 principles that is “Integration and full participation, Respect for dignity and Individualisation.”

- **Integration and full participation:** In order to achieve this, there should be no barrier and remove if there any. To make the disabled people feel equal, we should provide them with special services.
- **Respect for dignity:** Duty to accommodate in the sense means that the accommodation provided should respect the person and his dignity. It feels so humiliated if the person loses his value or self- respect or he is ignored, corned, or stigmatized. These are all the crucial factors that one must keep in mind.
- **Individualisation:** Whenever an accommodation request is made under the code, they should consider all the needs of the person because every human’s need vary. They should keep re-visiting to re-check if all the needs of the person are satisfied. According to the act, the accommodation includes “Building facilities, policies and processes, Decision making, performance, goals, conditions and requirements etc.”¹⁴

VIII. ETHNOCENTRISM AND RACE:

This term was first brought into existence by William Graham Sumner in the year 1906. This term is related

¹⁴ Policy on preventing discrimination based on mental health disabilities and addictions ' (Ontario Human Rights Commission, no date) <<http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions/10-forms-discrimination>> accessed 4th February 2018

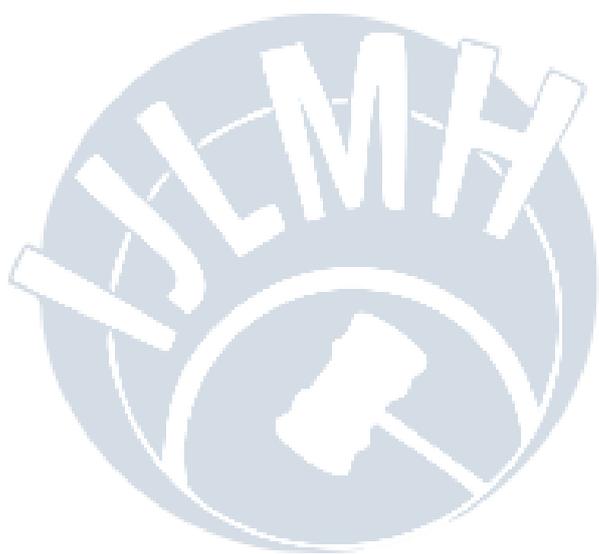
to ethnicity. Ethnocentrism simply means, having a look at their own culture and group as superior when compared to others. Race is only a belief in a human that there are various types of race and they are being divided into different types and that specific race is inferior and the other is superior. Ethnocentrism and race play a major role in delivering justice and other issues which are within the ambit of education. Ethnocentrism is still prevalent in today's world. A few social scientists claim that the feeling of ethnocentrism in the humans is sometimes unavoidable. They tend to believe that it is a common feeling. Well, they also pointed out that ethnocentrism if it goes out to an extreme level, it is very dangerous and can affect the individual and society in every way. Survey studies that a human when interacts or socialises with another group, they often tend to talk negative. Ethnocentrism studies about how when an individual without interacting with a specific group and he interacts in general, what does he feel like or what kind of belief he has towards the other groups. Racism is an incentive and is held responsible for most of the conflicts globally.¹⁵

IX. CONCLUSION:

Discrimination based on the idea of race has not yet been answered by the criminal justice system. Discrimination or bias can be done in various aspects such as age, disability of a person, mental illness, colour, sexuality, transgenders etc. Social scientists say that, ethnocentrism is still prevailing globally and the fact that this feeling is common and seen in every human it is not avoidable. But once, if it reaches to an extreme level then there might be problems in the society and the individual. It plays a role in weakening the human relations. Racism has become an unanswerable global problem. When one is passing unwanted comments or making racial statements, he/she has to imagine themselves in that position and see what it feels like. Because of such comments, the person might lose his/her self-respect or self-esteem, confidence. It might mentally affect the person. Though there are enacted legislations in different country, they should make it an offence saying that making unwanted statements or discriminating on any basis is punishable and an offence. Section 153(a) of the Indian Penal Code, makes it an offence. No matter whatever the difference is we are still humans. We are only separated and differentiated based on our caste, creed, or race but we are united as humans. There is no such difference between a Christian and a Muslim, Black and White, and an Indian citizen and an American citizen. Lifestyle, Character, Behaviour, and Human virtue is more important than race and other types of discrimination. Children when they are brought up should be thought the golden rules, such as morals, ethics, etiquette etc. It is based on the parents as to how the children are brought up, if they parents don't educate the children then they end up doing such things because of the fact that children grasp things fast. In India, Discrimination is most commonly based on caste and not that there isn't racism's existence, yes, it is still prevailing in India and in countries like America, racism has been

¹⁵ Research starters, 'Ethnocentrism & Racism' (*Enotes*, no date) <<https://www.enotes.com/research-starters/ethnocentrism-racism>> accessed 4th February 2018

prevailing for more than a century. Categorizing people based on their race is the legitimate thing which leads to crime and victimization.



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