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TARGETED IDENTITIES: THE COMPLEXITIES OF RACIAL PROFILING

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I. ABSTRACT

Racial Profiling refers to the discriminatory practice by law enforcement officials of targeting individuals for suspicion of crime based on the individual race, ethnicity, religion or national origin. The practice of racial profiling has been around for a very long time not just in India but in many countries as well. In today's time it has been labelled as a very critical topic as every human being can relate to. The process of racial profiling is becoming worse day by day as many innocent lives are facing brutalities and punishments for the crime they didn't commit. Racial profiling punishes innocent people for the past deeds of others who depict them in looks and personality and necessary trust between law enforcement and the communities they serve is shattered and crucial resources are misdirected. This paper attempts to interpret the rationale behind racial profiling considering that no laws with respect to the same exist in a third world country such as India and neither any statute mentions it as a term nor its penalty. Furthermore, theory of Immanuel Kant of immorality and Jeremy Bentham's philosophy revolving around utilitarianism has been used to interpret racial profiling using the secondary sources of data. And what all existing legislations are present which are helping to combat the arising process 'racial Profiling' have also been analysed.

II. KEYWORDS:

Immoral, Immorality, Racial Profiling, Utilitarianism

III. INTRODUCTION

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The world is suffused with various minority groups and racial identity is often contemplated as a reason for suspicion against particular ethnic minority group and this fact increases discrimination against these particular communities. The erroneous perception of people affiliated to ethnic minorities results in the emergence of injustice towards them. In the present time, there are plenty of issues connected to various forms of discrimination. One such issue is Racial profiling which is considered as an act of injustice that uses ethnicity, religion or nationality of an individual as base for shaping perceptions.

One may be inquisitive about the origins of racial profiling so in the 1970s, the phrase was originally used to deter drug traffickers. The Drug Enforcement Administration established the Operation Pipeline programme in 1985. Police officers who were involved in this programme were specially instructed to target people who drove in specific geographic areas primarily on their race and age. This issue was brought up in the infamous *White v. Williams*³ case, in which minorities were stopped while driving on the New Jersey Turnpike. As a result, the court's decision to uphold the American Civil Liberties Union of New Jersey's argument that state officials acted with purposeful indifference to evidence of discrimination against minority motorists represented a significant victory in the organization's legal fight to abolish racial profiling. The DEA (Drug Enforcement Administration) initiative was primarily aimed at preventing drug trafficking, but as time went on, police began to unjustly detain more male African American and Hispanic drivers on suspicion of perpetrating the crime.

IV. RACIAL PROFILING V. CRIMINAL PROFILING

Racial profiling and criminal profiling, though easily confused, are fundamentally different approaches to identifying suspects. Racial profiling creates unjustified suspicion by resting assumptions and preconceptions about people exclusively on their colour or ethnicity, etc. It frequently has little to do with actual criminal activity or evidence. Criminal profiling, on the other hand, creates a profile of a possible suspect by examining the real behaviour patterns, approach, and psychological

³ ACLU of New Jersey Files Turnpike Racial Profiling Lawsuit, July 10 2007

characteristics linked to known criminals. Race or ethnicity is not a determining factor, even though it might take demographic data like age or gender into account. Racial profiling is different from criminal profiling. Racial profiling is based on stereotypical assumptions because of one's race, colour, ethnicity, etc. Criminal profiling, on the other hand, relies on actual behaviour or on information about suspected activity by someone who meets the description of a specific individual.⁴

Racial profiling: In 2013, George Zimmerman, an observer of neighbourhood in Florida, fatally shot Trayvon Martin, a Black teenager. The tragedy occurred because Zimmerman merely found Martin suspicious because of his race. It was contented in a lawsuit by Zimmerman against NBC, that NBC unfairly made it appear that "Zimmerman was a racist, and that he was racially profiling Trayvon Martin."⁵

Criminal profiling: The bomber's letters and activities were analysed behaviourally as part of the FBI's Unabomber investigation to build a profile that ultimately resulted in Ted Kaczynski's arrest. In this instance, race or ethnicity was irrelevant; instead, the profile highlighted the offender's particular traits and behaviours. A person who has the dedication to isolate themselves from society, from friends, and from family, and live a Spartan lifestyle to the same degree that Ted Kaczynski did, would present the same problems for law enforcement today.⁶

V. PHILOSOPHICAL PERSPECTIVES: KANTIAN MORALITY AND UTILITARIANISM

A very well-known German philosopher Immanuel Kant established Kant's moral theory which states that an activity cannot be deemed to be right or wrong based on the outcomes but on the fulfilment of an obligation by an individual. According to the Kantian philosophy, sense of morality suggests that racial profiling is immoral on its own. On the other hand, an ethical theory created by Jeremy Bentham, an English philosopher states that Utilitarianism is a way of thinking towards ethics that enables a person to discern between right and wrong based solely on the repercussions of the

⁴ What is Racial Profiling, ONTARIO HUMAN RIGHTS COMMISSION

⁵ Trayvon Martin Shooting Fast Facts, CNN, February 15, 2013

⁶ How the FBI Caught the Unabomber By Isidoro Rodriguez, June 14 2021

outcome. This particular theory is used to advocate the utilization of racial profiling by claiming that it is done for the sake of public safety.

A. INTERPRETATION OF RACIAL PROFILING

The concept of racial profiling is fairly broad. There are many instances where one can list both its advantages and disadvantages. Assertion can be made that, in the years following 9/11 era, racial profiling of particular groups has worsened. Due to terrorism, the media has demonised Islam and labelled it as evil. According to Media's interpretation, Islam is frequently associated with the word "terrorist." Authorities have frequently suspected sporadic terrorist activity by apprehending the wrong individual. Recalling the Diallo case from 1999, where police shot a random immigrant guy because they speculated that he resembled the description of another coloured rapist in the neighbourhood (Fritsch). When the police knocked on his door, the man went to grab his wallet from his own pocket, and the officers shot him because they assumed he was carrying a weapon. This incident might be seen as the pinnacle of racial profiling. Indirectly, Osama Bin Laden has killed members of his race too. Although racial profiling sometimes proves to be useful, it is usually incorrect. Basically, racial profiling is blatant stereotyping. It will always be utilized by the media to support their statements. But society needs to understand that each race is like a deck of cards. Others are aces and kings, while some are 2s, 3s, and 4s. The deck is incomplete even if none of the cards are played. That is the proper way to see our culture. We cannot hate or discriminate based on their race, but unfortunately, in our world, perception prevails over truth, leading to legitimate problems.⁷

B. CATEGORIES OF RACIAL PROFILING

Racial profiling can be divided into two categories, hard profiling and soft profiling. Hard profiling occurs when a police officer observes a black person and, without further information, pulls him over for a pat-down on the off chance that he might be carrying drugs or a weapon. It simply refers to explicit actions of racial or ethnic prejudice, such as excluding someone from entering a public area or stopping

⁷ The Problem of Racial Profiling in the World. February 27,2019, Retrieved October 19, 2022

particular groups of people for questioning by the police. When the state police receive information that a particular nationality is trafficking narcotics down a specific roadway and prefers to drive a specific sort of car, they may stop someone who fits this stereotype with the intention of locating drugs. This is an example of soft profiling. This type of profiling could entail implicit prejudices influencing choices, such as believing someone is a foreigner who lives in their own nation or suggesting different employment paths depending on race.

VI. WORLDWIDE ACKNOWLEDGEMENT OF RACIAL PROFILING

Racial profiling has been acknowledged in many countries like United Kingdom, United States, Ethiopia, Germany, Spain and many more. Talking about India, it is prevalent from the ancient times but haven't been given any identification. The Indian police have operated since 1843, yet they are unable to recognize the country's diverse age, caste, gender, and religious groups. As a result, the downtrodden community has become vulnerable to racial discrimination.

In 2011, a university of Hyderabad took an initiative to stop the usage of drug and drinking but the campus took an ugly turn as the vice chancellor asked the facility to begin with students from Northeast. Labelling it as a case of racial profiling students started protesting and the protest was later ended with an apology. The fact that the university's chancellor believes that a specific student group needs to be profiled, counselled, and rectified defies the egalitarian nature of the institution, according to the students.⁸

A very recent incident which occurred in 2021 is where an Indian fan was accused of being racially "profiled and harassed" by a security officer at the Sydney Cricket Ground, where the third Test was played, following multiple reports of racist abuse encountered by Team India players touring Australia. The Indian fan, who claimed to have been

⁸ Nikhila Henry & Mahesh Buddi, Racial Profiling in Hyderabad University Sparks row, TNN

subjected to racial insults during the third Test's fifth and final day, filed an official complaint against the security guard.⁹

The tales of individuals who were erroneously singled out as a result of racial profiling convey a clear picture of the human toll associated with this practice. Considering the 1999 shooting death of unarmed Black man Amadou Diallo in New York City, which occurred because based on a mistaken belief that he was drawing a weapon and shot him 41 times¹⁰ or take the case of prominent Black scholar Henry Louis Gates Jr., who was wrongfully arrested in his own house, demonstrating how even highly talented people may be the target of racial profiling.¹¹ Sadly, these situations are not unique incidents; rather, they are the lived experiences of innumerable people who have faced discrimination and unfair judgement due to the colour of their skin.

"I see this as a clear-cut instance of profiling. They altered their entire formation such that the person closest to the boundary is now facing me and standing directly in front of me. I don't want money, I don't want free tickets, and I don't want a membership. I demand justice. I want accountability. I went there to oppose racism because I felt stripped and watched. Why should I be prevented from speaking out against racism, especially in such debatable environment", ANI quoted Krishna Kumar.

C. RACIAL PROFILING: AN UNJUST ACT

Racial profiling is both ethically as well as legally wrong. Every citizen is guaranteed equal rights under the Constitution, irrespective of their colour, sex, gender, or nationality. Racial profiling violates by portraying a particular group of individuals as prospective political rivals. In addition to being unethical and immoral, the practice involves making generalized conclusions about entire races or groups of people based solely on how someone appears. Therefore, the Indian government should actively pursue techniques that combat terrorism and crime without using racial profiling and discrimination.

⁹ I was feeling stripped - Indian origin fan at the SCG reveals racism horror, Wasiq Agha, Jan 16, 2021

¹⁰ The Diallo Verdict: The Overview; 4 Officers in Diallo Shooting are Acquitted of all Charges, Jane Fritsch, February 26 2000

¹¹ Charges Dropped Against Black Professor, July 21 2009

VII. PSYCHOLOGICAL EFFECTS ON TARGETED COMMUNITIES

Targeted communities under racial profiling suffer long-term and severe psychological impacts. People who frequently feel that they are being singled out because of their race or ethnicity frequently struggle with elevated stress, anxiety, and terror levels. A pervasive sense of vulnerability and mistrust can result from the constant threat of being unfairly investigated by authorities, not simply towards law enforcement but also within the wider fabric of society. Furthermore, the psychological cost affects not just the minds of the individual but also the collective psyche of entire communities. Continuous confrontations with racial profiling leads to a weakened sense of identity, self-worth, and belonging, which breeds despair and alienation. Members of these groups may experience long-term mental health issues as a result of internalizing the systematic bias they encounter, which exacerbates social inequities and impairs the general well-being of the community.

VIII. INDIAN PRESPECTIVE

A. NORTH EASTERN PROFILING

A prevalent instance of racial profiling in India pertains to people from the northeastern states. They are susceptible to mistrust and prejudice because of their distinctive visual traits and cultural customs that frequently distinguish them from the dominant population. This shows itself in the form of questions about their nationality, being labelled as drug addicts, or being called disparaging names during routine encounters such as house rentals and airport security checks. Inadvertently feeding these prejudices, the "Look East Policy," which seeks to improve relations with South-east Asia, obfuscates the distinction between damaging profiling and cultural appreciation.

B. RELIGIOUS PROFILING

The religious diversity of India creates an environment that is conducive to a religious profiling. With terrorist acts, Muslims are frequently seen with suspicion, especially men who sport skullcaps or beards. This shows up as more frequent security checks, travel bans, and unfair housing and employment policies. The

fundamental human rights to equality and freedom of religion are undermined when an entire group is made into a monster because of the deeds of a few. This breeds mistrust and terror.

C. CASTE BASED PROFILING

The long-standing caste structure in India complicates the problem of racial profiling even more. a combination of negative preconceptions and criminal tendencies, Dalits and other marginalised populations are subjected to discrimination based on their perceived social rank. This results in social marginalisation, opportunity denial, and profiling during police interventions.

D. SKIN COLOUR PREJUDICE

A kind of internal racial profiling based on skin colour is also observed in India. Darker skin tones are discriminated against since fair complexion is frequently linked to success, attractiveness, and a higher social status. This perpetuates a damaging hierarchy based on race rather than individual talent and shows up in hiring practices, the media, and social interactions.

IX. NATIONAL AND INTERNATIONAL LAWS ADDRESSING RACIAL PROFILING

Racial profiling is an internationally recognised problem that has led to the development of numerous national and international laws intended to stop this discriminatory practice. A synopsis of the legislative frameworks at the two levels is presented in this part, with a focus on initiatives that support non-discrimination, equality, and human rights.

INTERNATIONAL LEGAL FRAMEWORKS:

A. UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR):

The 1948 United Nations General Assembly adopted the UDHR, which is a cornerstone of international human rights advocacy. The UDHR's Articles 2 and 7 highlight the concepts of equality and non-discrimination, providing a foundation for further international legal agreements that tackle racial profiling.

B. THE INTERNATIONAL CONVENTION FOR THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (ICERD):

The comprehensive ICERD pact, which was adopted in 1965, aims to end racial discrimination in all of its manifestations. It requires state parties to take decisive action against racial profiling and to foster mutual understanding amongst various racial and ethnic groupings. International scrutiny and assessment of anti-discrimination initiatives are made possible by member nations' periodic reporting.

C. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR):

The 1966-adopted contains clauses that protect the right to be free from discrimination on the basis of race, ethnicity, or any other status. The commitment to equality before the law and non-discrimination is outlined in Articles 2 and 26, which strengthens the international position against racial profiling.

X. NATIONAL LEGAL FRAMEWORKS: UNITED STATES AND INDIA

LEGISLATIONS IN THE UNITED STATES

1. CIVIL RIGHTS ACT OF 1964:

Title VI of the Act forbids discrimination on the grounds of race, colour, or national origin in activities and operations that receive financial assistance from the federal government. Although racial profiling isn't specifically addressed, it does set the stage for legal challenges against discriminatory behaviours.

2. THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION:

This provision shields people from arbitrary searches and seizures. According to court interpretations, this amendment forbids law enforcement from conducting random stops or searches of individuals based only on their race.

3. THE END RACIAL AND RELIGIOUS PROFILING ACT (ERRPA):

Proposed legislation like ERRPA seeks to address racial and religious profiling explicitly. It seeks to outlaw actions by law enforcement that unfairly single out people on the basis of their race, religion, ethnicity, or country of origin.

LEGISLATIONS IN INDIA

A. THE INDIAN CONSTITUTION:

Article 14 of the Indian Constitution ensures the right to equality, and Article 15 forbids discrimination on the basis of sex, caste, religion, race, or place of birth. Legal challenges against racial profiling are based on these provisions.

B. THE PROTECTION OF CIVIL RIGHTS ACT, 1955:

This Indian law attempts to stop prejudice against Scheduled Tribes and Scheduled Castes. It offers a foundation for taking legal action against discriminatory behaviours, even though its primary focus is caste-based discrimination.

C. NATIONAL HUMAN RIGHTS COMMISSION (NHRC):

As an autonomous statutory agency, the NHRC is essential to India's efforts to protect human rights. It contributes to accountability by addressing complaints about offences, especially those resulting from racial profiling. International and national legal frameworks prohibiting racial profiling are vital weapons in the global struggle for justice and equality. Despite progress, difficulties still exist, urging for additional efforts to be undertaken in order to make the laws that already exist more robust, promote awareness, and make sure that the systems for enforcing the laws are working. A comprehensive strategy to prevent racial profiling is created by the convergence of domestic and international legal instruments, highlighting the global community's common commitment to fundamental human rights.

XI. CONCLUSION

A significant step one may take towards growth is to educate oneself about other cultures and races than simply our own. The practise of racial profiling which is being practised for generations now has been violative of rights of an individual and is

discriminatory in nature. Moreover, in respect to Kantian theory, racial profiling is considered as immoral and according to Kant he would scrutinize the action itself and not the consequence of the action. Whereas Jeremy Bentham's Utilitarian approach emphasizes on the happiness of the greater number of people in the society, even if it meant that the said policies were at a disadvantage to the minority community. It is evident that racial profiling is still intact today, and action is required for change or at least a progression towards improvement. In conclusion, the study of targeted identities—more especially, the intricacies associated with racial profiling—reveals a complicated and pervasive problem in contemporary communities. This manuscript has examined the complex relationships between racial profiling and an assortment of social, political, and economic variables, emphasising how race is a multifaceted phenomenon. Analysing systemic biases, historical circumstances, and the effect on targeted populations highlights the need for comprehensive and transformative actions. It is apparent that countering racial profiling calls for an all-encompassing strategy that includes societal awareness, police enforcement training, and legislative measures. Eliminating the ongoing discriminatory practices requires striking a compromise between individual rights protection and national security considerations. It is critical to acknowledge the variety of identities and experiences that exist among racial and ethnic groupings because a comprehensive grasp of these intricacies is necessary to put forward just and equitable solutions. It is critical for moving forward by establishing open communication, cultural competency, and cooperation between law enforcement and the community. We can work to create a society in which people are not discriminated against or singled out for their race or ethnicity by aggressively tearing down institutionalised prejudice, confronting preconceived assumptions, and demolishing stereotypes. In a nutshell, persistent attempts are required at many societal levels to address the intricacies of racial profiling. Building a future where everyone is treated with respect and decency, regardless of their race, is our joint obligation. There can only be hoped to establish a world without the constraints of racial profiling by making a commitment to justice, empathy, and understanding.