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How fair is the Criminal Justice System?

Everyone wants the criminal justice system to be fair. A fair and unbiased system is one where all people, regardless of their identities, are treated equally by everyone in the system, this including the police, the Criminal Prosecution Service (CPS), courts and judges, and others. The main points I will be looking at in this essay is the diversity across the justice system and the treatment of suspects regarding stop and search policies, mainly focusing on the racial aspects of these points.

Is the Criminal Justice System diverse?

Firstly, what do we mean by diversity? The concept of diversity encompasses acceptance and respect. It means recognising our individual differences and understanding everyone is unique. These can be along the lines of age, gender, sexual orientation, race, ethnicity, religion, socio-economic group and any other ideologies. A diverse system would explore all these differences in a safe, positive and accepting environment.

So, is the criminal justice system diverse according to that definition? Simply put, no. The system is full of members that do not represent the real general population. A reason for this is that, since the dawn of time, the world has been mostly controlled by white, cisgender, heterosexual males. And even though

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we have come a long way since then, there is no question that this group still takes the majority percentage of all systems, organisations and much more, including the criminal justice system.

But why is diversity even necessary? Well, one reason is that being reflective of society would give the justice system legitimacy. Members of the society are more likely to respect and trust a system that includes people like themselves. It increases accountability and thus public confidence. Another need for diversity is taken from the equity principle, which states that in a democratic society, in which we are all equal citizens, it is wrong for authority to be wielded by such an unrepresentative section of the population.

Now, let us have a look at the statistics. Some of the groups that are highly mistreated in the justice system and that are underrepresented are BAME (Black, Asian, Minority Ethnic) groups. The Lammy Review, published in 2017, said that people from black, Asian and minority ethnic backgrounds make up 25% of the prison population and 41% of the youth justice system, but only 14% of the general population. Regarding arrests in 2019 according to GOV.UK, black men were over 3 times as likely to be arrested than White men: there were 60 arrests for every 1,000 Black men, and 17 arrests for every 1,000 White men. Overall, men were 6 times as likely to be arrested as women: there were 21 arrests for every 1,000 men, and 3 arrests for every 1,000 women. Showing that there are also issues regarding treatment to different genders. In terms of diversity in the criminal workplace, the Judicial Diversity Statistics 2018 showed some of the following figures: 29% of court judges and 46% of tribunal judges were female. 50% of non-legal members of tribunals were female. Since 2014 there has been a 5-percentage point increase in female representation among court judges. Only 8% of judges identified as BAME (7% of court and 11% of tribunal judges); non-legal tribunal members 17%. These statistics clearly prove that the criminal justice system is not diverse enough and therefore not fair.

The final question is how would we go about bringing more diversity to the justice system? Well, the most important thing as of right now is making sure that the system mirrors the true makeup of our society. This would help in building confidence with the idea that the system is not for or against anyone group of people, but instead pursues justice for all. Since last year, there has been an almost one percent increase in the proportion of BAME people working in the prison and probation service, but of course, there is still a lot more work to do. So, one of the main ways to achieve a more diverse system is by advertising and educating more people on the roles in the system and their importance. As well as the obvious, recruit a more diverse group of people into the roles in the system. However, recruitment does not mean you solve issues of race and systemic discrimination, it is more just the very beginning of rebuilding trust in the system. Mr Lammy spoke about the importance of recruiting BAME people in senior roles as well as junior ones. He said: "The CPS has been relatively successful at recruiting a cadre of black, Asian, and minority ethnic lawyers into the pool, but it's not just about training. It's not just at the most junior levels. It's not just about counting the security guards at the front door. It's about all the way up into the organisation." Even though I haven't discussed many ways of creating more diversity in the justice system, we can still conclude that there are several many ways of doing so, they just need to be properly enforced.

Stop and Search Policies

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This is a much smaller sub-topic into looking at the fairness of the criminal justice system but is still relevant as it also highlights racial injustices even when strict policies and procedures are used.

What powers do the police have in a stop and search? The main legislation that covers police use of stop and search is the Police and Criminal Evidence Act 1984. The police have the power to stop and search you if an officer has reasonable grounds to believe that you have been involved in a crime or think that you are in possession of a prohibited item, for example, illegal drugs, a weapon, or stolen property. You can only be stopped and searched without reasonable grounds if it has been approved by a senior police officer, and in specific situations.

What rights do citizens have when they are stopped and searched? The police must follow a guideline of what they must tell you before being searched. The police officer should tell you: their name, the name of their police station, what they are looking for, and that you are entitled to have a copy of the search record. If the police ask you to take off anything you're wearing for religious reasons, they must take you somewhere out of public view. If the officer wants to remove more than a jacket and gloves, they must be the same sex as you. These being just a few examples.

The most important point of law regarding stop and searches is that you shouldn't be stopped and searched because of your race, age, gender, sexual orientation, disability, religion or faith, the way you dress, the language you speak, or because you have committed a crime in the past. However, whether the police genuinely follow this is a whole different story.

In the Equality and Human Rights Commission report, the figures are stark: if you are a black person, you are at least six times as likely to be stopped and searched by the police in England and Wales as a white person. If you are Asian, you are around twice as likely to be stopped and searched as a white person. And yet despite years of debate and several initiatives aimed at tackling the problem, these ratios have stayed stubbornly high. These statistics imply that stop and search powers are being used in a discriminatory and unlawful way.

But can racial differences in the use of stop and search be justified? Various explanations have been put forward as to why the police use stop and search powers so disproportionately against certain groups. However, they do not justify the extent and persistence of the problem. A common explanation is that black people are more involved in crime, however, is not supported by robust evidence. The main evidence for why BAME groups are more likely to be stopped and searched is purely due to racial discrimination.

Even the effectiveness of the procedure can be questioned. While stop and search plays some role in preventing and detecting crime, the impact is quite small. It is estimated that the number of crimes is only reduced by 0.2% when searches are taken place. Suggesting that it could be deemed as unnecessary and time-wasting. Over the years several initiatives have been aimed at tackling these problems, however, none have made any necessary lasting impact. Even launching new initiatives could not be enough. The police need to make real improvements that are reflected in the statistics.

To conclude, I have attempted to highlight the issues with the stop and search procedure and how it directly affects fairness in the criminal justice system; showing that it is unjust and different procedures could potentially need to be introduced for a fairer system. Along with my evidence showing the

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diversity in the justice system, I can answer the overall question; the criminal justice system is nowhere near fair.