SMIRC Topic Synopsis

Discrimination in the Criminal Justice System

**Background:**

Criminal justice systems are supposed to identify illegal activity, collect evidence, make arrests, lay charges, present cases, execute trials, give sentences, and execute punishment. Aligned with SDG 16, systems aim to promote inclusive and peaceful societies for sustainable development, ensure that everyone has access to justice, and develop social structures at all levels. However, around the world, plenty of these systems are filled with corruption. Cases and criminals slip through the cracks and justice goes undelivered. Corruption comes in all forms such as weak legislature, corrupt officials, and systemic biases to gender, race, identity, and age among others. Victims’ stories aren’t being shared, their families don’t receive closure, entire organizations or even governments share in extreme power, and criminals aren’t being properly persecuted. According to UN human rights specialist Rita Izsák on minority issues, minorities face prejudice in criminal justice systems all over the world. This discrimination can take the form of elevated and occasionally lethal use of power, torture by authorities, longer stays in pre-trial detention, discrimination throughout court proceedings, and biases influencing prosecution. The UNODC explains that in South African developing countries, criminal justice systems fall short in combating organized crime, especially when it comes to economic crimes and money-laundering. Many nations lack the legal framework and judicial resources necessary to combat transnational crimes, including terrorism. There is little local collaboration amongst the prosecuting authorities. Access to justice and the protection of human rights are two areas where legal frameworks and justice systems frequently fall short of international norms. In the US in recent years, the police force has come under backlash for a racial prejudice against the black community. The UN High commissioner for Human rights clarified that law enforcement officials were obligated to “Not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury.” by citing Article 9 of the UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The U.S. has 5 percent of the world’s population but nearly 25 percent of its incarcerated population. Incarceration on both sides of the spectrum runs true. People are being incarcerated on long sentences for petty crimes or short sentences for violent ones. Violence against children is still widespread throughout Middle east and Northern Africa, even in non-conflict areas. This is mainly due to pervasive detrimental societal norms and practices (such as child marriage, female genital mutilation and cutting, child punishment, sexual abuse, and gender-based violence). There is growing evidence of the abuse and exploitation that refugee and migrant children experience on their travels, especially those who travel alone. The primary migratory routes in the MENA region are affected by child trafficking and smuggling.

**UN Involvement:**

Although the UN does not have the authority to implement laws, it focuses on strengthening international rules and regulations in criminal law and criminal justice that are widely accepted.In 1992, ECOSOC founded the CCPJ or The Commission on Crime Prevention and Criminal Justice. The CCPCJ has resource meetings and as the governing body of the UN program for crime prevention and criminal justice, the CCPCPJ meets annually to discuss financial and administrative issues. The GA enacted resolution 61/252 in 2006, which significantly broadened the CCPCJ's powers and gave it the authority to oversee the UNODC and approve the budget for the UN Crime Prevention and Criminal Justice Fund. The creation of the UN Crime and Justice Information Network (UNCJIN) has aided governments and affiliated groups with information distribution and connected interested parties into one community. In order to increase the capacity of governments to gather, process, and communicate information on changes in crime and justice, multiple effective projects have been launched on both the national and global levels. UNCJIN has four avenues of goals. First, to promote greater interconnectedness on the part of the economy in a global market. Next, explaining the growing need for involvement in global activities, continuing focus on problems of social justice. Finally, UNCJIN wants more information being represented and improved communication and collaboration.

**Block Positions/Possible Solutions**

***North America****:* In the United States at the federal, state, and local levels, police are a civil force responsible of maintaining the law and maintaining public order. There are federal law enforcement agents in the US, but there is no national police force. Federal agents work for governmental entities, such the Federal Bureau of Investigation. The US has been criticized for mass incarceration and police brutality. Children have been taken from their families and have nowhere to go. They are transferred to youth detention facilities, shelters, and group homes.  child protection experts agree are the very last alternatives for a children's developing environment. Solutions for mass incarceration could include reducing fiscal bail or altering the prison system to determine what crimes people should go to jail for. Suggestions for police brutality may involve more education, harsher punishment, and fighting racial and gender prejudice through legislation. The foster care system needs changes to be more self sufficient as it is so understaffed, and children need avenues to reach help by themselves.

 Canada has one of the lowest crime rates in the world much of it due to the crime prevention programs offered by Public Safety which include steps to stop the influx of marginalized communities into an already overstrained criminal justice system. As well as lowering gang-related crime rates, defend those who are vulnerable to hate crimes, and address current priorities, such as the Black and Indigenous youth. Provinces and territories have indicated an interest in developing innovative crime prevention strategies that aim to coordinate efforts across sectors to target early risk factors for criminal behavior. An Act respecting the Criminal Law, or the "Criminal Code," is federally enforced law that controls all criminal punishments that may be imposed for criminal justice offenses including sexual assaults, murders, and theft under sovereign government power. Young people do not fall within the authority of the criminal justice system created by the Criminal Code since the Young Offenders Act for minors aged 12 to 17 establishes a distinct criminal justice system for young people.

***Latin America:*** In Latin America, prisoner protests have become more spectacular and violent as conditions continue to stagnate, and in certain nations, even get worse. Massacres, riots, and other violent episodes have been happening in jails all around the continent, exposing that much of Latin America's criminal justice systems are generally ineffective. Corruption scandals have consumed the judiciaries of Latin America. Corrupt politicians threaten the region's delicate system of checks and balances by exposing widespread corruption among those in charge of holding others accountable. They demonstrate that the extensive legal reforms of the past 20 years fell short. The judiciary itself must be professionally organized as the next crucial step. The COVID-19 epidemic, the accompanying economic crisis, and the development of technology that allow criminals remain mostly undetected have all contributed to the worldwide human trafficking market's recent expansion. The situation is particularly concerning in Latin America, namely Mexico. Helping to tackle corruption at the root of the criminal justice system would greatly benefit Latin American nations.

***Europe/ Southern Pacific:*** The domestic criminal justice systems have been deeply entwined with the functional authority of the Council of Europe since the mid-20th century, which has resulted in a profound shift of functional authority and territoriality. This interconnectedness has several facets, including suppression treaties, agreements on judicial cooperation in criminal cases, the European Convention on Human Rights, and the European Court of Human Rights' case law on the subject. As a result, throughout the Council of Europe's collaboration, national criminal policies and the values and ideas that underpin them have undergone significant transformation. For the establishment and implementation of norms in the domestic criminal justice system, the ongoing discussion on values and rights regarding criminal justice between the European convention on Human Rights and the Court of Justice of the European Union is becoming more crucial. Collaboration and legislation on a regional scale is necessary in the EU so looking at reforming laws to untangle loopholes and tackling European migrant smuggling may be of benefit. As far as Russia goes, how the country handles war crimes and any allegations of war should be explored.

***Middle East:*** Although few Middle Eastern countries officially base their legal systems on Islamic Law, Islamic law is often the subject of conventional discourse about the area. upholding general order, the ruling system, as well as the interests and principles of those who support it. The idea of "reform" and the actual state of jails in the Middle East and North Africa seem contradictory. In fact, horrendous conditions and extensive inmate mistreatment have long been associated with facilities throughout the MENA area.  Reforming prison conditions and reducing mass incarceration are important in this region as well as tackling violent breakouts and working from withstanding corruption within officials of the justice system.

***Africa:*** Given that the effective administration of criminal justice has evolved into a gauge of democratic processes throughout the industrialized world, the two cannot be separated. Criminal justice theory provides a framework for analyzing activities and how closely they correspond to defined norms and principles. The only thing that makes Africa different from the rest of the globe is that it is a recovering colonial nation that has adhered to the rules of the residual colonial paradigm. For governing authorities, upholding democracy and the criminal justice system becomes difficult and costly. Africa has long been associated with conflicts, wars, and the consequent mass migration of millions of people. For the formation of the rule of law and the subsequent effectiveness of regimes and criminal justice systems in delivering social justice, the legitimacy of the legal system in Africa has become essential. In nations with no legal standing those who oppose the state have almost no consequences. Repairing legal bonds between African countries and establishing a framework similar to successful ones perhaps like Canada’s would be a good step towards building up an effective system.

***Asia:*** The legal treatment of minors is frequently level with that of adults in a number of Southeast Asian countries, and both adult and juvenile criminal justice systems frequently use deprivation of liberty as the primary sanction. Both can fail to consider what's in the needs and interests of the children. Additionally, there is sometimes a perception that domestic violence is a private affair that only happens behind closed doors, and there are occasionally serious legal inadequacies that make it difficult to investigate and prosecute such crimes. Working on breaking that down first may be conducive to solutions as well as offering more of a differential system for children and adults.

***Questions to consider:***

1. To what extent is there discrimination in your country’s criminal justice system?
2. What reforms does your nation need and how can you collaborate transnationally to accomplish your goals?
3. Can you improve the current system instead of creating new legislation?
4. How did Covid affect the criminal justice system in your country?
5. How does governmental corruption affect your justice system?
6. What is a reasonable amount of time to maximize reforms in?
7. How can you reform incarceration facilities to be more sustainable?
8. How do children factor into your nation’s justice system?
9. Can you link your nations refugee and child foster care systems within the criminal justice system and create effective legislation to tackle both?
10. How is this topic related to the United Nations development goals?

*The Commission on Crime Prevention and Criminal Justice*. United Nations : Office on Drugs and Crime. (n.d.). Retrieved January 15, 2023, from https://www.unodc.org/unodc/en/commissions/CCPCJ/index.html

Council on Foreign Relations. (n.d.). *Latin America Needs better judges*. Council on Foreign Relations. Retrieved January 15, 2023, from https://www.cfr.org/blog/latin-america-needs-better-judges

*Criminal justice reform*. United Nations : UNODC Regional Office for Southeast Asia and the Pacific. (n.d.). Retrieved January 15, 2023, from https://www.unodc.org/roseap/en/what-we-do/criminal-justice/criminal-justice-reform.html

*Day 14: Injustice in the justice system*. United Way for Southeastern Michigan. (n.d.). Retrieved January 15, 2023, from https://unitedwaysem.org/equity\_challenge/day-14-injustice-in-the-justice-system/

*European criminal justice in the European and global context*. (n.d.). Retrieved January 16, 2023, from https://journals.sagepub.com/doi/full/10.1177/2032284419840708

Galston, W. A. (2022, March 9). *Criminal justice reform: Issues and options for the next president*. Brookings. Retrieved January 15, 2023, from https://www.brookings.edu/research/criminal-justice-reform-issues-and-options-for-the-next-president/

Government of Canada, C. S. of C., & Gouvernement du Canada, S. correctionnel du C. (2012, December 1). *Correctional Service of Canada*. Correctional Service Canada / Service correctionnel Canada. Retrieved January 15, 2023, from https://www.csc-scc.gc.ca/

*Latin America's struggle to tackle human trafficking*. Global Initiative. (2021, September 28). Retrieved January 15, 2023, from https://globalinitiative.net/analysis/latam-human-trafficking-ocindex/

*Latin America's struggle to tackle human trafficking*. Global Initiative. (2021, September 28). Retrieved January 15, 2023, from https://globalinitiative.net/analysis/latam-human-trafficking-ocindex/

*'prison reform' in the Middle East and North Africa: Part I*. Mena Prison Forum. (n.d.). Retrieved January 15, 2023, from https://menaprisonforum.org/observer\_detail/11/

*The problem*. Foster America. (n.d.). Retrieved January 15, 2023, from https://www.foster-america.org/the-problem

*The theory and practice of criminal justice in Africa*. (n.d.). Retrieved January 16, 2023, from https://www.files.ethz.ch/isn/104299/MONO161FULL.pdf

*United Nations Crime and Justice Information Network: Providing information to and from developing countries*. United Nations Crime and Justice Information Network: Providing Information to and From Developing Countries | Office of Justice Programs. (n.d.). Retrieved January 15, 2023, from https://www.ojp.gov/ncjrs/virtual-library/abstracts/united-nations-crime-and-justice-information-network-providing

*Ways to end mass incarceration*. Brennan Center for Justice. (n.d.). Retrieved January 15, 2023, from https://www.brennancenter.org/our-work/analysis-opinion/ways-end-mass-incarceration