EXPERT MECHANISM TO ADVANCE RACIAL JUSTICE AND EQUALITY IN LAW ENFORCEMENT

Twelve key elements for a criminal justice system free from racism

As outlined by the Expert Mechanism in its report A/HRC/60/75

To reimagine a criminal justice system free from racism and discrimination, the Expert Mechanism proposes that, at a minimum, the following 12 key elements should be considered:

1 Elimination of racial profiling

States must adopt a legal framework that explicitly prohibits racial profiling, with clear and objective criteria for stop-and-search checks. Accountability mechanisms should be established.

2 Use of disaggregated data

Mandatory collection of data, disaggregated by race or ethnic origin, at all stages of the criminal justice process is essential to identify patterns of systemic discrimination and inform targeted policy responses.

3 Establishment of accountability and oversight mechanisms

Internal police and judiciary accountability units – empowered with investigative authority – are crucial to ensuring transparency, justice and institutional reform.

4 Mandatory comprehensive training and cultural competency

Professionals should operate with an adequate understanding of the cultural and historical backgrounds of the communities that they serve. Comprehensive and ongoing training on racism, history, implicit racial biases, and cultural competence is necessary to counteract prejudice and ensure fair justice outcomes.

5 Community participation, including participatory defence

Marginalized communities should be able to participate meaningfully in the justice processes that affect them. Participatory defence models empower communities to play an active role in shaping legal defence strategies, reducing pretrial detention and harsh sentences.

6 Laws and policies without biases and with racial impact assessments

Reform of criminal laws and policies should be guided by data and community consultation to ensure their equity and effectiveness. Racial and cultural impact assessments are crucial tools for ensuring that proposed criminal justice laws and policies do not inadvertently reinforce or exacerbate existing racial disparities.

7 Sentencing reviews

Sentencing reviews allow courts to consider how a person's race, ethnicity and cultural background may have shaped his or her experiences, interactions with the legal system, and pathways to offending. This more holistic, contextualized approach helps judges to move away from one-size-fits-all sentencing and towards more just and equitable outcomes.

8 Diversity and representation across the justice chain

States should ensure adequate representation of Africans and people of African descent in law enforcement and the criminal justice system to foster public trust and combat systemic bias and racism. Justice institutions should reflect within their ranks the diversity of the communities that they serve.

9 Alternatives to incarceration and restorative justice

Expanding access to alternatives to incarceration, such as diversion programmes, restorative justice and community courts, can reduce the racial disparities in incarceration rates. These context-sensitive, reparative approaches emphasize rehabilitation, accountability and healing, while addressing the root causes of crime and fostering accountability beyond imprisonment.

10 Equal access to justice

Discrimination impedes access to justice for many racialized individuals, especially where legal systems are underresourced or inaccessible. Ensuring free access to timely, effective, adequately resourced and affordable legal aid and interpretation services is crucial.

11 Just and adequate reparations

Defendants of African descent should have access to remedies and redress for any wrongful convictions or decisions taken against them because of discriminatory policies and practices. This process must include financial compensation, public apologies, systemic reforms, and prosecutions and sanctions against those responsible for such acts.

12 Equal access to bail and parole

The persistent discrimination faced by Africans and people of African descent when requesting bail and parole is deeply rooted in false assumptions. To ensure a process free of racial biases, when granting bail or parole, objective criteria should be established, and independent and efficient supervisory bodies should regularly assess their application.

About the Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement

The Expert Mechanism's mandate is detailed in resolutions 47/21 and 56/13 of the United Nations Human Rights Council. It is established "in order to further transformative change for racial justice and equality in the context of law enforcement globally, especially where relating to the legacies of colonialism and the Transatlantic slave trade in enslaved Africans, to investigate Governments' responses to peaceful anti-racism protests and all violations of international human rights law and to contribute to accountability and redress for victims".