

# Discrimination and disparity in the criminal justice system essay sample

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Disparity is not equal to discrimination. Discrimination in the justice system is the differential treatment of individuals or groups based on race, ethnicity, gender, sexual orientation, religion, socio economic standing instead of on their behavior or qualifications. Disparity on the other hand, is a difference between groups that legitimate factors can explain. (Cole and Smith, 2006, p93-94) The line differentiating disparity and discrimination becomes blurred especially as society is increasingly become culturally diversified and a great chance of conflict can arise when a standardized law is applied to people with varied cultural orientations. In which case, the difference between disparity and discrimination becomes critical in matters of justice.

Discrimination is the differential treatment of people on the basis of socially constructed categories like race, belief, gender, etc. without consideration of a person's actual behavior or qualifications. Accordingly, discrimination follows a continuum comprised of systematic discrimination, institutionalized discrimination, contextual discrimination and pure justice. (Walker, Spohn, & Delone, 2004, p17) At the ends of the continuum are the systematic discrimination and pure justice which represent extreme discrimination and the absence of discrimination respectively. Walker et al. concludes that the US justice system falls in the middle of the continuum characterized by institutionalized discrimination and contextual discrimination. (Walker, et al, 2004, p357-359). Institutionalized discrimination pertains to inequalities resulting from the enforcement of policies.

For instance, the police decision to intensify patrolling in minority neighborhoods of high crime rates can be considered a form of

institutionalized discrimination especially when it results to a high rate of arrest of minorities. Contextual discrimination refers to discrimination in a particular situation or context such as when ethnic minorities are treated cruelly at some point and in some places in the criminal justice system but no differently than whites at other points and in other places. (Harr and Hess, 2007, p114) An example of contextual discrimination is reflected in an instance when a harsher means was used by the police to apprehend a minority (Latino or African American) than his counterpart adversary who was white. Another instance of contextual discrimination is the provision of special treatments (i. e. new beddings and pillows) to a convicted celebrity compared to another felon convicted for the same offense.

Disparity as mentioned previously refers to differences between groups that can be explained by legitimate factors. For example, the fact that more 18 – 24 year old men are put to prison out of the proportion to their numbers in the total population is a disparity that can be explained that more men of these ages commit crime. It is not considered to be caused by a discriminative policy that picks out young men to be arrested.

Discrimination occurs when people are treated differently unmindful or remiss of their behavior or qualification as in the case of Hispanics that are regularly arrested and put to prison regardless of their criminal history but because of the stereotype that they are reckless and notorious gang members often engaged in illegal activities.

A major problem of the issue of disparity and difference in the justice system arises is if disparities result from discrimination. For instance, the high

incarceration rates of African Americans or the high proportion of Hispanic inmates in all US prison occurs because the justice system is racist or it reflects the pervasive system extant in American society as a whole instead of the logical explanation that such occurs because more blacks and Latinos simply commit crime. Discrimination and disparity exists within the criminal justice system in one way or another but it entails an intensive examination by experts to resolve and establish if it is a case of discrimination or a disparity. A case can be considered discrimination if the act or decision is based principally on a person's race, color, ethnicity, socio economic condition, sexual preference instead of lawful or valid factors such as a person's hidden agenda or previous criminal record.

Because of the dynamic complexity involved in crime, it is virtually impracticable to attain the end of pure justice. However, the US justice system had continuously exerted efforts to adopt measures and conduct reforms in order to lessen if not eradicate the gross forms of discriminations in our pursuit for justice. For instance, to effectively carry out the goals of justice and public safety, curriculum on police training academies include cross cultural information and ethics training especially focusing on understanding cultural differences. Cross cultural information pertains to any crime associated perceptions and actions resulting from different cultural expectations, attitudes and procedures. (Daye, D. D., 1996)

For instance, basic Spanish language skills as well as Spanish culture can be included in police training and education. Another strategy implemented is the recruitment and deployment of minorities to the force and assigning

them to manage cases involving offenders coming from the same culture. In the legal aspect, a person accused of a crime is also provided rights and privileges by the constitution, which is contained in 4th, 5th, 6th and 8th amendments. These amendments pertain to the right for a trial by jury, representation by an attorney and other procedural rights during the litigation, protection from warrant less search, filing of double jeopardy cases, and regulating the verdict on punishments. (Hall, 2000)

The US criminal justice system continuous to evolve and reform itself to reduce and eliminate discrimination, which is a form of injustice in itself. However, as America become more culturally diverse with the rapid exchange of people, people need to be more watchful and vigilant perceiving any form of discrimination that can arise. The justice system is not a single separate and absolute entity. Every citizen has a stake in participating in the improvement of the justice system to ensure that we maintain peace and order in society.

## References

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