Criminalization of minority youth in the youth justice system in Canada

Adam Lake
York University, Ontario, Canada

ABSTRACT: Despite the immense amount of research completed on adult correctional facilities within North America, little is known about the overrepresentation of visible minority youth within the juvenile justice system. The juvenile justice system is known for violent juvenile offenders, who become and remain habitual offenders. The juvenile justice system then faces questioning for creating professional criminals instead of focusing on effective rehabilitation. The face of the youth justice system within Canada is rapidly changing. Increasing forms of diversity serve as a principal pattern because the criminalization of minority youth occurs from cultural incompetence, unawareness, and insensitivity. This article recovers the institutional or systemic forms of treatment that minority youth face within the criminal justice system. It also further shows that there is little focus on the experiences of minority youth within juvenile correctional facilities due to a lack of information. Racialized and marginalized youth and young adults are apart of the vulnerable population within Canada. One must ensure that youth and young adults who are vulnerable within society, receive the best possible chance at achieve upward mobility. The youth justice system, from a racial justice lens, reveals slave-era origin within youth prisons, limiting opportunities for racialized youth across Canada. Racial antagonism within the youth justice system leads to the criminalization of minority youth, which serves as a foundation for why culture shapes the identity of racialized youth.

Key Words: racialized youth, institutional/systemic racism, crime, juvenile justice system

The criminalization of minority youth in the youth justice system within Canada is often ignored (Ming Kwok et al., 2017). There are a wide range of effects related to race, that show the general public that although we live in a racially diverse nation, certain communities become marginalized. Racism is defined as an individual act or classified as an institutional practice that can perpetuate inequality, due to racial association (Calgary Anti-Racism Education, 2015). Persons of colour may face different treatment when dealing with the entire range of Canada's juvenile justice system (Ward, 2011) . Racial imbalance within the juvenile justice system is existent when the percentage of individuals from a specific racial group is greater than the amount of other racial groups, in the general population (Soung, 2011). This can lead to disparity. Disparity within the justice system can refer to a situation where individuals from different ethnic groups have different perspectives on certain outcomes, which can turn into overrepresentation of racialized youth in the juvenile justice system. One can state that unwarranted and illegitimate forms of racial disparities within the juvenile justice system results from differential treatment that some individuals face, due to their ethnicity. This could include overt forms of discrimination, as racial imbalances result from individual or institutional forms of race-based discrimination. The racial imbalance within juvenile facilities is treated as a predicament, at best as a consequence of the cultivation of impoverishment (Kishna, 2014). Maureen Kishna, in a study on combatting racial disparities within the juvenile system, stated:

There is an imbalance in our nation's juvenile justice system that is not a secret known only within communities of color. The painful reality that many families have perceived and grappled with is that black and Latino youth are more likely to be arrested than their white peers. This has been well documented over the years. Black youth are less likely to be diverted, more likely to be sentenced to secure facilities and even more likely to be transferred to the adult system. Disparities exist at nearly every point in the juvenile-justice system (Kishna, 2014, p.2).

Racial imbalances can differ based on different levels of criminal activity, can include different emphasis on criminality by police units, and policies and decisions made by individuals within the criminal justice system (Jackson et al., 2000). It is important to include racial imbalances within this important subject because racial imbalances challenge the values and beliefs that the justice system rests upon. It eliminates equal justice for everyone, as the justice system becomes unfair instead of fair. When the physical nature of discrimination is ignored within conversations about the rising rate of incarcerated youth and delinquency, it serves as a presumed "Negro domination" on law breaking (The Sentencing Project, 2008). Negro domination was a term coined by white supremacists throughout the early 1900s, in order to preserve Whiteness. Negro domination has always been a term used in order to supress the upward mobility of the Black population, in order to allow Whites to maintain as the superiors within society. Due to a disproportionate amount of racialized youth within juvenile facilities, it can be noted that racial imbalances are now consequences of overt bias within the criminal justice system. As long as racism is in existence in society, it will continue to be within the juvenile justice system, as there is a strong need to address, reduce and eliminate overt forms of racism that flourish in subtle methods. In order to achieve this, one needs to understand racialization. Racialization is the process or act of treating a person, relationship, or group differently through racial terms, as their abilities and values could be different from yours (Gans, 2016).

DELINQUENCY

Delinquency is one of the most prevailing issues in which racialized and marginalized Canadian youth engage. It has become increasingly obvious that information surrounding juvenile delinquency is of importance, especially when it affects vulnerable communities. It is important to understand what delinquency is, as it can help us understand why racialized and marginalized youth, represent the highest rate of juvenile delinquents. It is believed that over one-third of Canadian youth have been involved within some sort of criminal act by the age of fifteen (Satzewich and Shaffir, 2009). Also, approximately 5% of Canadian youth have been charged and incarcerated with federal offences

(Tanovich, 2008). There is a multitude of trajectories that result in delinquency for youth that heavily influence their likelihood of engaging in criminal forms of behaviour (Kishna, 2014). The developmental period of adolescence tends to be sensitive, which greatly impacts their development and the way that they mature. This then leads into the future of their well-being, as certain capacities and behaviours shapes the childhood of youth as they develop into adulthood (Kishna, 2014). Youth who are classified within the high delinquency category often have hostile demeanours, conflicting disobedience, and are uncontrollable (The Sentencing Project, 2008). Juvenile delinquents that are labelled as volatile and dangerous, should receive supportive networks, resources, and education in order to combat stereotypes that are made towards them. Having a great support network from peers and families throughout their adolescent development, will help them to achieve short term and long term goals. This leads to family risk dynamics, which include public housing, limited parental literacy, and single guardianship. This is of importance because social factors play a large role when it comes to youth crime, and the influences that youth face. There is a need to have a cohesive community, with positive role models who are able to supervise youth activity. This could lead to the reduction of crime, enabling positive group interactions between beers, which could be important for eliminating criminal activity.

Through a cultural and identity aspect, minority youth are not only offenders in crimes, but are victim to the juvenile justice system in Canada, due to overt and covert forms of prejudice. The overrepresentation of young people of colour within the juvenile justice system in Canada alerts examination about equality of treatment and equality for minority youth by police organizations, members within the juvenile and criminal justice system, and judiciary. The juvenile justice system experiences overrepresentation at various different stages, as the proportion of a certain population or ethnic groups exceeds the proportion of the general population. Carl James (2002), an educator within the Faculty of Education and the Department of Sociology at York University believes that the life experiences of minorities are based on racial stereotyping and profiling. Throughout the juvenile justice course of action, one can view that race may partially explain why minority youth continue to

prevail within the justice system.

DELINQUENCY OF RACIALIZED YOUTH

There are major disparities when it comes to delinquency and the involvement of racialized youth, in comparison to White youth within the juvenile justice system. When one looks at the disproportionate rate of ethnic representation, it can raise various questions regarding fairness and equality by individuals who are connected to the juvenile justice system. The courts, police, and other institutions should be questioned about their association with racialized youth and the consequences that could occur for the future. Systemic discrimination may play a significant role, as racialized youth within Canada face higher rates of unemployment, community violence, family challenges, and poverty compared to their White counterparts Rankin and Winsa (2013). Once an arrest is made, a systemic cycle is created towards disadvantaged racial youth, as it is well known that minority youth are grossly overrepresented throughout the Canadian criminal justice system. Rankin and Winsa (2013), stated within their article entitled "Unequal justice: Aboriginal and black inmates disproportionately fill Ontario jails" that:

Young black men face racism, poverty, lack of opportunity, social isolation, violence in their neighbourhoods, family challenges and unemployment. Once these men are known to police, systemic issues stack the deck against already disadvantaged groups, say academics and a library of past research, including the 1995 Report of the Commission on Systemic Racism in the Ontario Criminal Justice System (Rankin and Winsa, 2013, para. 23 & 24).

Correctional facilities for youth and adults have become a continual and predictable headline of our collective existence. Correctional facilities have become such a daily part of life that we cannot possibly imagine a successful society without one. Throughout the years there has been an increased amount of racialized and marginalized communities within correctional facilities. It then raises the question of whether Canada should provide better substitutions than offering the foreseeable prison sentence.

Racialized and marginalized youth are then viewed as individuals who continue to complete delinquent forms of activity, which causes society to formulate biasness and prejudice against racialized populations. Rankin and Winsa (2013) also noted that,

Black people go to jail for possessing and selling crack cocaine. White people who sell and use cocaine powder rarely do … White people get all of the discharges and conditional sentences for illegal possession of firearms; black people go to jail. Name any essentially similar offence and the case law always seems to find it more serious when a black man commits it (Rankin and Winsa, 2013, p. 31 & 32).

This is dangerous because individuals involved within policies and legislature do not feel the need to tackle problems within the juvenile justice system. What apparently matters most to the Canadian government is decreasing the amount of criminal activity that is occurring. Through decreasing criminal activity, the Canadian government aims to eliminate it completely - it is assumed that incarceration is the answer. Getting rid of individuals who are classified as criminals due to societal norms and their ascribed status continues the narrative that racialized youth should receive harsher treatment than their White counterparts throughout the process of the juvenile justice system. It is important to acknowledge that institutional forms of discrimination within the juvenile justice system will cause a rapid percentage of young racialized and marginalized youth to spend a large allocation of their lives within correctional facilities. This is because anti-racist policies have not been formulated to ensure fair and adequate justice for the majority and the minority in a multicultural nation.

The direct surveillance of the juvenile justice system within Canada is the cause of the racialized impact of racialized and marginalized youth drawn into the juvenile system (Tanovich, 2014, 20). The racial imbalance of cultural populations is not deemed as institutional or structural discrimination, but rather is summoned as a consequence for the illegality of racialized and marginalized youth within Canada (Tanovich, 2014, 21). Society needs to acknowledge that racism is deeply entrenched within the process of

criminalization. Discrimination and prejudice that has been practiced by the justice system has allowed racial profiling to increase (Tanovich, 2014).. Racial profiling is when law enforcement officials target racialized, marginalized, and low-income civilians for suspicion of crime. The practice of racial profiling completed by individuals within the justice system is usually covered up as it relies on individual discrimination, stereotypes, and prejudice in order to protect communities safely with security. Racial profiling is the status quo for a lot of minorities within Canada (Calgary Anti-Racism Education, 2015). This disproportionate interaction between the criminal justice system and minorities, which is unfair and illegitimate, creates mistrust within the legal system. White institutional or systemic forms of discrimination are visible within neighbourhoods, regions, institutions and families. Most importantly, it is visible when members of law enforcement such as the police, who are the most visible representation of the justice system, interact with low income and communities of colour. A victim to police brutality stated on a poster;

Police officers are trained to handle the law, not abuse it. Having a bad day is not an excuse for brutality, and obviously the people saying this have never experienced forms of police brutality. If you are a police officer that has a bad day every now and then and senselessly beats citizens, sometimes using weapons against them, and in some cases killing them, you SHOULD NOT be a police officer (Victim of Police Brutality, September 2012).

The dominant growth of police agencies assisted by the perseverance of discrimination continues to increase and support racist practices that promote the criminalization of minority youth. The product of resent that is gradual becomes frustrating because of the injustices that are faced within minority communities. It is considered as the most harmful consequence generated from the Canadian Criminal Justice System as racial injustice is disregarded within the Charter (Tanovich, 2014). One might possibly ask why culture and race is significant? The institution of prison has allowed for perplexing challenges to occur for minority youth who have become accustomed to its existence.

Hirschi (1969) further believed that it was important to ask the question, "Why do they

do it?". Hirschi wanted to show how effective the juvenile justice system was and if it was possible for juvenile delinquents to stop offending as adults, becoming non-delinquents. This further allows social control theory to introduce the act of social bonds (Hirschi, 1969). A social bond is bonding ties to the institution of family. Through bonding ties to the family the institution of education, the workplace, and community is included. Through the integration of society, one's social bond can vary. The explanation of social bonds allows society to understand why not everyone completes criminal activity, which can further question our non-involvement when it comes to dismantling over and under policing of racialized communities. Through an individual's bonds they either face limitations or advantages to completing deviant forms of behaviour. When an individual has strong bonds to society, their intention on completing criminal forms of activity are limited (Hirschi, 1969). When an individual has weak bonds, the likelihood of completing delinquent activity increases drastically (Hirschi, 1969). Through the discussion of social bonds, an individual having weak bonds to society is not a justification to delinquency. It does however allow delinquent behaviours to occur within society, which can halter their upward mobility.

The overrepresentation of racialized and marginalized youth within the Canadian juvenile justice system is not only important, but requires attention immediately. There are risks that come along to the disproportional ethnic representation. These risks raise concerns of unfairness and unequal treatment of Black and Latino youth by the court, police force and other individuals within the justice system in Canada. There also needs to be more research that demonstrates an understanding of the various factors that continue to contribute to racial imbalances and ethnic discrimination within the juvenile justice system. There is a huge problem within the juvenile justice system in Canada and a focus of crime, race, and the juvenile justice system needs to be addressed. I believe that a long-term plan that addresses systemic and institutional issues of the juvenile justice system can reduce racial imbalance. When the Canadian government can create a plan combatting this issue with funding, researchers can examine the juvenile justice system at all stages. There can be an examination of policy and practice within the production of juvenile

arrests, sentencing, and confinement, as well as a focus on biasness within the juvenile justice system. When the Canadian government pays attention to this issue we can examine how racialized and lower income youth are victim to racial disproportionality because of their communities, gender, and racial origin.

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