
Problem Of Intersectionality In Australia

In Australia certain populations are more prevalent in the criminal justice system (CJS) than others and this fact is especially prominent for Indigenous Australian and Sudanese people. Per-population, these two groups are significantly overrepresented as criminal offenders in Australia and this overrepresentation is only increasing over time. However, just because these groups are disproportionately imprisoned, does not mean they are inherently criminal by nature. Recurring and thematic trends shared between these two groups is that of disadvantage and societally imposed oppression leading to an increased interaction with the CJS. This is a significant issue to analyse. If collective society can better understand why and how disadvantaged groups are so common within the criminal offender population; changes can be made to develop a fairer and safer society. Consequently, under the framework of intersectionality and through analysis of the inequalities Indigenous Australian and Sudanese Australians face at the hands of the CJS, the media and collective society; it is determined that populations who face unfavourable conditions are more likely to hold disproportionate incarceration rates.

Context: The link between crime and disadvantaged populations

Baldry et al. (2006) concluded that unemployment and residing from disadvantaged communities is a common trend in criminal offenders. In support of this conclusion, a census conducted by the Department of Immigration and Citizenship (2011) found that the average weekly income for an adult Sudanese person living in Australia is 244 dollars less than that of overseas born Australians. Moreover, three years after this census was published, the Australian Bureau of Statistics (2014) reported that Sudanese Australians have the highest offender rate per population of any overseas ethnicity living in Australia. In turn, this demonstrates how disadvantaged populations are directly linked to higher levels of imprisonment. Atop of this, findings published by the Australian Human Rights Commission (2006) noted that per-population, Indigenous Australians earn less money for the same job and also face an unemployment rate triple that of non-Indigenous Australians. In conjuncts to these findings, the Australian institute of criminology (2009) reported that Indigenous Australian incarceration rates increased 34.5% from the year 2000 to 2008; portraying an increased imprisonment rate seven times that of non-Indigenous people over the same duration. The point is, there is an interconnected trend demonstrating how those prevalent in the criminal justice system are disadvantaged and this trend is simply to reoccurring to be dismissed as coincidence. However, whilst this data establishes a clear link between those who experience disadvantage and disproportionate incarceration rates, statistics are superficial and do not provide the full story of how these populations are coming into contact with the CJS. In other words, just because Sudanese and Indigenous Australians face higher levels of imprisonment; does not necessarily mean they are committing higher levels of crime. In support of this notion, Intersectionality is a credible theory that provides an explanation as to how and why disadvantage populations are prominent in the CJS.

Elaboration: The crime-disadvantage link explored through the lens of intersectionality

“Intersectionality – the interaction of multiple identities and experiences of exclusion and subordination” (Davis 2008, p. 67). Is a renowned framework that explains how oppression experienced by different demographics is interrelated and directly and/ or indirectly imposed by intertwining systems of society. Furthermore, for the purpose of clarity; it is important to note that the concept of oppression/disadvantage is not limited to any solitary factor. Instead, the notion of disadvantage entails a plethora of variables relating to the social inequalities and mistreatment an individual may experience. Nonetheless, as those most prevalent in the CJS come from underprivileged backgrounds; gaining insight into how and why disadvantaged populations are directly linked to increased imprisonment rates can allow society to make changes that accommodate for a safer and fairer Australia. In like manner, the framework of intersectionality proposes that lawbreaking behaviour is not solely the result of one’s inherit criminal propensity but a result of cumulative disadvantage imposed by interconnected social hierarchies (Sampson & Laub 1999, Pp. 145 – 146). In support of this notion, a variety of government data has depicted that Indigenous Australians are unnecessarily overpoliced and unfairly targeted by Australian law enforcement.

Analysis: Examining how disadvantaged populations come into contact with the law – Indigenous Australians.

The Human Rights Commission (HRC) (2017) published a report demonstrating that Indigenous Australians are prominently imprisoned due to minor offences including public intoxication, traffic offences, good order offences and so forth. The report also explained that whilst Indigenous Australian offenders are overrepresented in the category of assault occasioning in no harm; sentencing patterns show they are three times more likely to be sentenced for such a crime than non-Indigenous offenders (HRC 2017). Moreover, the fact that Indigenous Australians are so commonly incarcerated for minor crimes shows that they are no more dangerous or criminal than non-Indigenous Australians. Instead, it reflects how western institutions of justice “frequently impose contextually inappropriate structures onto Aboriginal communities” (Blagg 2008, p. 132). To elaborate, police are meant to view arrest as a last resort, especially for petty crimes such as public intoxication. Yet, the fact that Indigenous Australians are so often imprisoned for minor offences exhibits how the CJS is imposing unnecessary cumulative disadvantage onto certain people. In like manner, scholars from the Indigenous law bulletin such as Yang (2015) contend that government legislation is being used by police as a tool of oppression to further disadvantage Indigenous Australians.

Currently active in the Northern Territory, the Paperless Arrest Provisions Amendment Act grants police the power to arrest and detain people for petty crimes without having to oblige to the usually required paperwork. In turn, “80% of the almost 2,000 arrests under the scheme so far have been of Indigenous people” (Davidson 2015). Moreover, it is important to note that these statistics exhibiting the disproportionate arrests of Indigenous Australians cannot be dismissed to locational circumstances. For instance, alike the Northern Territory’s paperless arrest Act, New South Wales police follows a similar legislation known as the Suspect Targeting Management Plan. Moreover, “44 per cent of all people on the Suspect targeting management plan are of Aboriginal descent” (Morelli 2017). Consequently, this data demonstrates why Indigenous Australians are being imprisoned so often for petty crimes and how despite making up “only 3% of the total population; Aboriginal Australians make up for more than 28% of Australia’s prison population” (Kroff 2019). Put simply, the more a population is unfavourably targeted by the police, the more likely they are to be arrested and imprisoned. On that note,

Indigenous Australians also face unfavourable sentencing through the Australian court system; further depicting how disadvantaged populations attain disproportionate levels of incarceration.

A research article on sentencing patterns in Australia revealed that on average; Indigenous offenders are not only sentenced more severely but also face a higher likelihood of being sentenced to prison than non-Indigenous offenders for the same crime (Bond & Jeffries 2013, p. 15). Consequently, the fact that Indigenous Australians are not only over policed, but also treated unfairly during the trial process further depicts how populations are oppressed by society; therefore becoming prevalent in the CJS. In like manner, the Australian Bureau of Statistics (2017) found that Sudanese imprisonment rates are rising in Australia; once again depicting how disadvantaged populations are prevalent in the CJS.

Analysis: Examining how disadvantaged populations come into contact with the law -Sudanese Australians.

A research report into the circumstances that lead Sudanese offenders to their incarceration displayed overwhelming themes of disadvantage and imposed societal oppression. As detailed by Shepard et al. (2017) eight Sudanese prisoners were interviewed on the circumstances leading up to their imprisonment. Moreover, all interviewed participants reported that they have experienced a lifetime of cumulative disadvantage including (but not limited to) financial burden, emotional issues, a lack of educational opportunities, being racially bullied and so forth. Moreover, what prisoners emphasized most emphatically during their interviews was how they are mistreated by police, with one participant stating: “police harass me, pick on me, arrest me; for nothing” (Shepard 2017, P. 490). Once again, these interviews reflect How disadvantaged populations are pulled into the CJS by structures of societal oppression. In support of this notion, scholars such as Gatt (2015) argue that police along with the media racially profile and stereotype Sudanese Australians as a dangerous population.

The media often jump at the opportunity to impose prejudice based racial profiling against Sudanese populations living in Australia. For instance, in 2016 a riot occurred during the Melbourne Moomba festival (Moomba riots) that was brought on by a variety of youth ethnic groups including but not limited to Sudanese youth. Nonetheless, an abundance of media reports on the Moomba riots centred around racially profiling Sudanese Australians as criminogenic, gang members and hazardous to the safety of Australian society. For example, one article even went as far to state 'deport the violent muddy back to Sudan' (Hood 2016). Incidentally, as argued by Coventry et al. (2014) media reports that negatively profile Sudanese populations are responsible for the rising levels of animosity prevalent between Sudanese and systems of authority. For instance, following the Moomba riots, a variety of Sudanese civilians were interviewed for a research report on what it is like to be a Sudanese person living in Melbourne. The results revealed a community who feel they have been isolated, misrepresented, mistreated and oppressed. For example, one Sudanese participant reported:

Say, I want to apply for a job and I mention my background, I feel like my potential employers think 'Oh, she's South Sudanese. What if she's got a criminal record or what if she's related with the so-called Apex Gang?' You know the media really did give us a bad name and the media has the power to do that because they can legit overexaggerate anything that happens. (Benier et al 2018, p. 36)

Furthermore, the above quote provides significant insight into how racial profiling overseen by the media has negative implications for the way Sudanese Australians are viewed and treated by collective society. Put simply, 'negative political and media rhetoric has not only criminalized whole community groups but has encouraged racism and segregation' (Gatt 2015 p. 215). The point is, alike Indigenous Australians; Sudanese Australians are being unfavourably targeted and disadvantaged by varying institutions of society, resulting in increased interaction with the CJS.

Discussion / conclusion

This analysis was designed to draw a comparison between prominent offender populations and the implications intersectionality has in relation to crime and the CJS. Likewise, the purpose of this examination was not to declare if Indigenous and/ or Sudanese populations are justified in partaking in any form of criminal behaviour; nor was it to definitively conclude why people commit a crime. On that note, whether it is a disadvantage in the form of financial disparity, over-policing, unfair sentencing patterns, the implementation of inappropriate government legislation, prejudiced media representation or general societal mistreatment. There is a thematic trend in Australia that shows how interrelated disadvantaged groups are commonly oppressed by interconnected systems of society resulting in increased imprisonment rates. In other words, through the example of Sudanese and Indigenous Australians, it can be concluded that populations who face unfavourable conditions are more likely to hold disproportionate incarceration rates. Moreover, this issue requires action. If society and the CJS is to develop in a progressive and fair manner; changes need to be made. So, to all members of society - do your best to remove prejudiced opinions and actions from your life and the world will be a better place.