

# GLOBAL RACISM: RACISM AS RISK FACTOR FOR ATROCITY CRIMES

## POLICY BRIEF

### Introduction

Global racism and racial injustice are pervasive, multifaceted and complex issues affecting a number of countries globally and is marked by discrimination, prejudice and unequal treatment of people based on race and ethnicity. Often influenced by historical, social and cultural factors, it manifests in various forms including systemic racism, racial profiling and disparities in access to opportunities and resources. The lived experiences of historically disadvantaged people including people of African descent, religious and ethnic minorities and other racialised communities show that racial injustice is widespread and has been one of the main causes of mass atrocities, current violence, gross human rights violations and international crimes.

While there is an increased recognition of the widespread nature of racism and its threat to peace and stability, particularly since the summer of 2020, when a police officer killed George Floyd, an unarmed Black man, in the United States; there is still a need to address racism in a deliberate and targeted way. Floyd's indiscriminate killing called attention to the centuries of racism prevalent in the United States and highlighted the structural prejudices that were born from the transatlantic slave trade and colonialism. This coupled with the COVID19 pandemic that highlighted the unequal access to resources and services

between the Global North and Global South and the increase of authoritarianism to crack down on human rights, resulted in a watershed moment worldwide as global protests brought to the forefront questions related to the intersections of identity and discrimination, highlighting the plights of vulnerable groups such as women and LGBTQI+ people of color, people of African descent and immigrants of color. Drawing on case studies<sup>1</sup> from Brazil, Namibia, South Africa, Sri Lanka and Colombia, this policy brief explores racism as a risk factor for atrocity crimes and provides recommendations for states, local civil society organizations (CSOs) and intergovernmental organizations (IGOs) to undertake as a means towards upstream prevention.

## Summary

**Racism is linked to human rights violations globally and can be understood as a widespread cause and consequence of local and state conflict, authoritarian rule, and histories of colonialism. Racism includes intentional inequities and discrimination based on a racial classification and is generally understood to be “any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms...”<sup>2</sup> Such injustice presents in violations of human rights including genocide, crimes against humanity, war crimes, and ethnic cleansing. Racism is often cited as the main cause of mass atrocities such as in the Rwandan and Namibian genocides, and a basis for colonialism, and the transatlantic slave trade. While these examples highlight racism as a root cause, racism as a global phenomenon is more insidious in nature, permeating all levels of society and affecting policy and practice in social, cultural and economic spheres. The conditions of inequality and structural violence that this creates has the potential to culminate in civil and political rights violations as well as social, economic, and cultural rights violations as seen in the countries under study.**

Notwithstanding the existence of human rights instruments<sup>3</sup> and mechanisms aimed at combating racism and racial discrimination which include the Convention to Eliminate All Forms of Racial Discrimination (CERD) of 1969, the Committee for the Elimination of Racial Discrimination, and the 2001 Durban Declaration and Program of Action (DDPA)—the United Nation’s blueprint to combat racism, racial discrimination, xenophobia and related intolerance globally—a number of countries

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continue to grapple with deep-seated racial prejudices and inequalities. In most countries, racism is systemic, with racial disparities embedded in institutions, policies and laws, resulting in unequal access to education, healthcare and other socio-economic rights. Racial discrimination continues unabated, whether overtly or covertly, through hate crimes, racial exclusion and racial bias. Xenophobia, hostility and intolerance towards immigrants and minority groups are prevalent in some countries, further fuelling racial tensions. While social movements have brought both global and national attention to racial injustice, sparking debate and discussion about racial disparities, and despite progress towards addressing racism in some countries, significant challenges still exist that call for collective action by multiple stakeholders. If left unchecked, protracted structural racism combined with patterns of racial targeting and violence and denial and resistance to acknowledge racism could have the potential to lead to atrocity crimes.<sup>4</sup>

In Sri Lanka, ethnic tensions between the Sinhalese and mainly Tamil minority, have led to numerous race-based riots across the country notably in the 1970s and 1980s culminating in a war that lasted over a decade. Despite multiple mechanisms to address the past that have showed no results because of limited political will, and under an authoritarian state, the legacies of racial discrimination against Tamil and Muslim minorities have resulted in a series of human rights violations, including torture, unlawful detention, and extrajudicial killings. The most prominent incidents of violence in Aluthgama (2014), Digana (2018) and the post-Easter Sunday attacks in 2019 were linked to hardline Sinhalese groups with the involvement of extremist Buddhist clergy who incited violence against the Muslim community (Saroor 2021). Political groups such as the Bodu Bala Sena (BBS) have been accused of inciting violence against minority groups, and acting with impunity. Misinformation and the use of social media to spread fake news and hate speech resulted in the temporary shutdown of some platforms, however no known action was taken against those spreading fake news or inciting violence. Structural inequalities including underdevelopment, unequal access to justice, education, and healthcare continue to plague minority populations. While the Thirteenth Amendment of the Constitution recognized Tamil as an official language, the legacy of the Sinhala Only Act as resulted in ongoing practical challenges for Tamil speaking communities as official documents, notices and even official signboards continue to be in Sinhala. In schools, this has adverse effects for Tamil-speaking students particularly in schools where the language of instruction is Sinhalese. It has reduced their access to education and ability to demonstrate leadership within state campuses in institutions of higher learning. Historic ethnic tensions targeting the Tamil communities in Sri Lanka have affected access to healthcare for the Tamil people and this disparity extends to healthcare infrastructure and resources allocated to Tamil communities.

In Colombia, the United Nations Committee on the Elimination of Racial Discrimination found that racial injustice was a complex cultural problem rooted in Colombian and Latin American history, which has traditionally subjected indigenous communities and Colombians of African descent to marginalization, poverty, and vulnerability to violence.<sup>5</sup> The problem of racism in Colombia and the Americas goes as far back as the transatlantic slave trade where ideas of white superiority and the inferiority of indigenous people and people of African descent were used to justify not only slavery but also the ill-treatment and inequality that followed.<sup>6</sup> In 1512, the enslavement of indigenous peoples was abolished, but continued on the margin of the law. After the indigenous population was decimated, beginning in the second half of the 16th century, African slaves were shipped to the country en masse. Despite the abolishment of slavery in 1851, Colombia continues to show systemic racial discrimination against ethnic populations and *campesinos*. Recognizing the systemic and structural nature of racism in Colombia and the United States, the Government of Colombia and the United States Government, signed the US-Colombia Action Plan on Racial and Ethnic Equality. The plan recognizes the contri-

butions of people of African descent and indigenous peoples, seeking to implement programs and share best practices to improve their lives through education, employment, cultural recognition, and inclusion into national narratives.<sup>7</sup> Similarly, the 2016 Colombian Peace Accord included an Ethnic Chapter (supported by the United States) noting the disproportionate effects that the war had on the indigenous populations and Colombians of African descent, with 27% and 38% respectively registering as victims of the war.<sup>8</sup> The recently completed Truth Commission also highlighted that regions with a high proportion of ethnic populations continue to be those with the lowest investment in education and development programs and have made recommendations to address these inequities. Poverty rates remain disproportionately high in ethnically configured municipalities as compared to majority white territories where these rates are lower. Students of African descent often face discrimination and are subjected to negative stereotyping which affects their access to quality education. The majority of Afro-Colombian students attend schools in their communities that have limited resources, less qualified teachers and poor infrastructure. The language of instruction in most schools is Spanish, which poses language barriers for Afro-Colombian students who speak different languages and dialects. Although various programmes have been put in place to increase the number of Afro-Colombians in institutions of higher learning, there are still fewer Afro-Colombians who have access to higher education owing to economic barriers and lack of opportunities, a phenomenon that further limits their ability to pursue university education and subsequently better paying jobs. Furthermore, violence and displacement in the regions where Afro-Colombians live has an adverse effect of disrupting the access to education of children and youth of school-going age. Afro-Colombians and indigenous communities also have limited access to quality healthcare and their communities remain under-resourced.

South Africa famously utilized Apartheid, a system based on a racial hierarchy, favoring whiteness to institutionalize racial segregation from the late 1940s to early 1990s, the effects of which are still negatively affecting the country. Despite the establishment of a Truth and Reconciliation Commission in 1995 to investigate the human rights violations committed during the Apartheid era and to provide a platform for social healing and rebuilding, as well as the implementation of legislation to address the inequities, the country continues to experience structural disparities with formerly Black townships being among the poorest. The cultural roots of racism and violence characteristic of the Apartheid era continues to plague South Africans in their daily exchanges; highlighted in spikes of intercommunal violence,<sup>9</sup> and in the ways they interact with fellow Africans. In July 2022, the United Nations Human Rights Office of the High Commissioner verified reports of escalating violence against foreign nationals in South Africa, specifically noting that xenophobic violence and discrimination have increased to the level of vigilante violence, violent protests, arson, and murder targeting migrants.<sup>10</sup> Although the apartheid system policies related to the spatial settlement of black people was dismantled, all race groups predominantly remain in the previously designated Apartheid areas (SERI, 2018), and continue to experience the legacies of unequal social services and limited access to basic services. Studies in Poverty and Inequality Institute report highlighted that more than 55.5 percent of South Africans live in poverty and that one in four of them live below the poverty line (Moss, 2019). Apartheid-era policies enforced racial segregation in the education sector, and while the legal and policy framework has been reformed, *de facto* segregation persists. The quality of education and inadequate access to educational facilities and resources disproportionately affect Black communities throughout the nation. Although attempts have been made to address health-care disparities, including entrenching the right to healthcare in the Bill of Rights in the South African Constitution, the changes are slow in coming for the majority of black people who continue to wait for longer periods of time for complex medical procedures. For the rural population, hospitals are usually located too far from their communities and local clinics are often inadequately resourced for serious illnesses. The disparity when it comes to access to quality healthcare services between the urban popula-

tion, mostly white and middle-class, and the rural population who are the majority black people is also glaring in the country, owing to the history of discrimination during colonialism and apartheid.

Namibia, formerly known as South West Africa, has a long history of human rights violations based on racism. From 1884 to 1915, as a colony of Germany, Germans targeted the indigenous Herero and Nama people. Indigenous Namibians were massacred, subjected to starvation, forced labor, concentration camps and medical experiments. This mass execution of almost 100 000 people<sup>11</sup> in order to access their land is cited as the first genocide of the 20th century, one that laid the foundation for the Holocaust.<sup>12</sup> In addition to the genocide, indigenous Namibians and Namibians of color were further discriminated against when South Africa took over the governance of Namibia during World War I. Not only did the South African Apartheid government treat the country as an outpost of South Africa but it also implemented the same segregation policies in the country that created a racial hierarchy in favor of whites. In recent years, the German government acknowledged its role in the genocide and in 2018 repatriated human remains that were used as part of medical experiments; however, it did so without an offer for reparations. Following negotiations between the Namibian government and the German government, in May 2020, Germany apologized for the genocide against indigenous Namibians and agreed to provide \$1.3 billion in aid as a form of reparations. While the Namibian government did not implement a truth commission to investigate Apartheid era crimes, it did adopt a national reconciliation policy. Violence associated with Namibia's violent past and racism include hate crimes and land disputes. Hate speech and inflammatory rhetoric against specific ethnic groups and at the LGBTQI+ community are rife. In a country where hate speech is not criminalised, such acts can easily incite violence and other human rights violations. Land disputes owing to the dispossession and displacement of the indigenous and marginalized communities continue to pose divisions and threats of violence. In Namibia, Windhoek is recognised as one of Sub-Saharan Africa's most unequal cities, with an unequal distribution of resources and services traced back to Namibia's colonial apartheid heritage, which imposed geographical, economic, and social isolation. The majority of black people continue to live either in villages or in informal settlements, reflecting a housing crisis and a troubling image of racial segregation.

Brazil, a former Portuguese colony, is yet another example of a country deeply touched by colonialism and racism, having annihilated and enslaved many indigenous peoples after the 1500s. During the decades that followed the abolition of slavery in 1889, Afro-Brazilians descended into extreme poverty. They were pushed to the outskirts of cities and were discriminated against through a plethora of exclusionary laws, written to mask a structural racism that only strengthened over the decades under a false myth of racial democracy. From the early 2000s movements for racial and social justice gained momentum. In March 2008, the Government of Brazil and the United States Government signed the Joint Action Plan to Eliminate Racial and Ethnic Discrimination and Promote Equality (JAPER). The partnership focuses on policy reform across agencies in both governments, working with civil society and the private sector to address racial disparities in health, education, justice and the economic sectors.<sup>13</sup> While there was some progress towards achieving JAPER's goals, much of the progress is based on political will.<sup>14</sup> In February 2023, President Biden and President Lula committed to reinvigorating the action plan. In 2016, the Brazilian Bar Association (OAB) advocated for the creation of the National Truth Commission on Black Slavery in Brazil that aimed to examine the period of slavery in Brazil and discuss opportunities for reparation. OAB also recommended that the federal government create a similar commission; however, those recommendations were not implemented. While there are several anti-racism and affirmative action laws that were implemented at a national level, the country continues to struggle with racism. According to Time Magazine, 56% of Brazilians identify as Black, making up the largest population of African descent outside of Africa (Time, 2020). Afro-Brazilians who make up the majority of the Brazilian

population experience higher rates of poverty, unemployment and lower wages for those who are employed. Furthermore, research has indicated that young Black men are disproportionately targeted by police and security forces. The discrimination that Afro-Brazilians face in the employment market has led to their limited access to formal employment, thus relegating them to low-paying jobs with limited to no job security. The majority of Afro-Brazilians live in favelas where there is overcrowding and lack of basic infrastructure. Brazil has experienced lack of diversity in the curricula and limited access to quality education for communities of color. The indigeneous Brazilians and Afro-Brazilians have not been effectively represented in the educational system as text books at primary and secondary levels have not adequately included their history. Although attempts were made to address the lack of diversity in the curriculum and to include Afro-Brazilian history in school curricula through enactment of legislation, Law No. 10.639 of 2003 and an updated Law 11.645 of 2008 which made it compulsory to educate about indigeneous people and Afro-Brazilian history and culture in both government-funded and privately-funded elementary and secondary schools in Brazil, implementation of this law fell short due to lack of budget to roll out its implementation.

## Recommendations

The research carried out by GIJTR partners in these five countries show that racism, discrimination and injustice is inextricably linked to historical, economic and social factors. Therefore, addressing racism, racial injustice and racial discrimination will require a collective effort from various stakeholders, and a multi-pronged approach that involves policy and legislative reform, education and awareness raising, economic empowerment, reconciliation and racial healing for affected communities. The following multi-stakeholder recommendations targeting states, IGOs and both national and international civil society are made:

### For States:

**Promote social and economic equality for all populations, regardless of race, color, ethnicity, descent, origin or other status.** This can be achieved through adopting or strengthening laws and policies that ensure equitable access to resources, opportunities for development and advancement, employment, property including land ownership, and social safety net programs. It also calls for implementation of transitional justice and reconciliation recommendations aimed at instituting corrective justice, redistributive justice, developmental justice and reparations including restitution.

**Strengthen the transparency, inclusivity and accountability of public institutions.** Such strengthening will require including initiating institutional reforms that promote the full and equal participation of underrepresented groups in leadership and decision-making positions as well as in government institutions, reflecting the full diversity of the communities they govern. It also calls taking affirmative measures to ensure racial parity and representation of all races in key positions and in employment. Where necessary, reform laws and policies by repealing laws that promote racial exclusion, profiling and discrimination, whether covertly or overtly, amending laws with specific gaps when it comes to protecting the most vulnerable, marginalized and racialized groups in society and enact laws that promote inclusivity and criminalize racially motivated behaviors and actions such as hate crimes and hate speech.

**Promote racial healing and social cohesion towards reconciling communities and society.** Racial healing and building social cohesion will require making psychosocial support services available to racialized communities and victims of racial injustice, discrimination and violence, to address the various dimensions of their trauma (which include legacies of unresolved historical trauma as root causes of current atrocities and violence, intergenerational trauma and current trauma as a result of social-economic shocks and systemic inequality). Social cohesion and reconciliation is necessary for addressing inter-communal and inter-racial tensions at the local level and will require localized mediation and community dialogue programs, promoting local peacebuilding initiatives, and supporting initiatives aimed at promoting inclusivity and impartiality of local dispute resolution processes.

**Utilize the education sector to promote tolerance, respect for diversity and an understanding of the history of mass atrocities.** This will entail reviewing and revising national curricula to ensure the teaching of history that includes narratives that have been historically excluded or those that have been suppressed and support schools to serve as platforms for building social cohesion in their communities. It will also involve developing educational resources that combat negative stereotyping and supremacist narratives while promoting tolerance and respect for diversity.

**Submit periodic reports to regional, continental and international human rights bodies with a mandate for addressing racial injustice and racial discrimination as well as protecting the rights of minorities.** States are encouraged to submit the periodic reports to the Universal Peer Review (UPR) process at the Human Rights Council, and to the special mechanisms such as the Committee on the Elimination of Racial Discrimination that monitors the implementation of the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that monitors effective implementation of the United Nations Declaration on the Rights of Indigenous Peoples. Periodic reporting is important as it gives an opportunity for member states to appraise on the status of human rights situation and implementation of specific human rights instruments and receive recommendations for improving protection of rights for their citizens.

**Implement security sector reform by strengthening the professionalism, effectiveness and legitimacy of the police and security forces.** This will involve establishing codes of conduct that require police and security forces to comply with international human rights standards, enforcing disciplinary procedures for non-compliance, thoroughly and transparently investigating incidents that result in civilian harm or that demonstrate biased treatment on the basis of race, descent, color, origin, ethnicity or other status.

#### **For the United Nations and Regional Organizations:**

**Establish and sufficiently resource offices, special mechanisms, committees and other entities that work towards the elimination of racial and ethnic discrimination at international and regional levels.**

**Continue to conduct country visits and issue statements as part of monitoring and shining the spotlight on racial injustice and discrimination as well as the plight of racialized communities.** These activities of special mechanisms of the United Nations and other regional mechanisms are impactful and have had the effect of naming and shaming implicated countries, compelling them to address the issues and institute reforms.

Provide technical assistance and capacity building programs for countries, include programs that specifically address racial and ethnic discrimination. This technical assistance can be in the form of developing guidelines, toolkits, guidance notes, etc on best practices on addressing structural and institutional racism and other emerging forms and manifestations of global racism and injustice.



## To Local, National and International Civil Society Organizations:

**Promote social and communal cohesion through educational programs.** These educational programs can focus on educating the general public and raising awareness on how structural and institutional racism affect everyday life experiences of particular racialized and ethnic groups, thus creating empathy and facilitating tolerance for one another across racial lines and build social cohesion. Communal and social cohesion will require creating platforms that promote inter-racial and inter-communal dialogue to foster understanding of one another's experiences and challenges.

**Provide a platform and elevate voices of local and indigenous civil society and actors who are often at the front lines of resistance.** This can be achieved through facilitating participation of and shadow reporting from communities and voices affected by racial injustice and discrimination and capacitating them to speak at the Human Rights Council or at various United Nations platforms to share their lived experiences of gross human rights violations, thus activating their agency.

- Create coalitions that can elevate and amplify messaging to state and non-state actors on addressing institutional and structural violence often experienced by particular racial and ethnic groups.
- Promote national, regional and international solidarity with other civil society organizations working on similar themes.

## Endnotes

- 1 See case studies for more in-depth country information
- 2 International Convention of the Elimination of All Forms of Racial Discrimination, Adopted 21 December 1965, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>, Part I
- 3 See also [https://gijtr.org/wp-content/uploads/2023/04/Racism-Ethnicity-and-TJ-final\\_2023.pdf](https://gijtr.org/wp-content/uploads/2023/04/Racism-Ethnicity-and-TJ-final_2023.pdf)
- 4 See Indicator Assessment Tool (IAT) for list of risk factors
- 5 Report of Colombia, UN Committee on Elimination of Racial Discrimination, 13 August 2009, available at: <https://www.ohchr.org/en/press-releases/2009/10/committee-elimination-racial-discrimination-considers-report-colombia>
- 6 <https://www.theguardian.com/commentisfree/2015/sep/08/european-racism-africa-slavery>
- 7 <https://www.state.gov/u-s-colombia-action-plan-on-racial-and-ethnic-equality/>
- 8 <https://www.state.gov/secretary-antony-j-blinken-and-colombian-vice-president-francia-marquez-at-a-signing-ceremony-to-support-the-comprehensive-implementation-of-the-ethnic-chapter-of-the-2016-peace-agreement/>
- 9 <https://www.washingtonpost.com/world/interactive/2021/south-africa-phoenix-massacre/>
- 10 South Africa: UN experts condemn xenophobic violence and racial discrimination against foreign nationals, OHCHR Press Release, 15 July 2022, available at <https://www.ohchr.org/en/press-releases/2022/07/south-africa-un-experts-condemn-xenophobic-violence-and-racial>
- 11 <https://www.bbc.com/news/world-africa-45342586>
- 12 <https://www.ushmm.org/collections/bibliography/herero-and-nama-genocide>
- 13 <https://2009-2017.state.gov/p/wha/rls/2008/111446.htm>
- 14 <https://amsterdamnews.com/news/2023/02/16/brazils-black-movement-wants-lula-and-biden-to-reimplement-japer/>



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