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DRUG POLICY, RACIAL DISPARITIES, AND MINORITY RIGHTS: A COMPARATIVE LEGAL ANALYSIS

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ABSTRACT

Objective: This study examines the intersection between drug law enforcement and the rights of minority groups, analyzes how drug policies in various jurisdictions disproportionately affect racial and ethnic minority communities, and evaluates relevant international and domestic legal frameworks for the purpose of reform.

Research Design & Methods: This study employs a comparative legal analysis method by examining legislation, court rulings, and law enforcement data from the United States, the United Kingdom, and Indonesia for the period 2015–2024. Primary sources include statutory texts, court rulings, and government reports, supplemented by doctrinal and socio-legal analysis.

Findings: Drug policies consistently produce racially disparate outcomes despite appearing formally neutral. Mandatory minimum sentencing, search powers, and prosecutorial discretion operate as vectors of systemic discrimination against minority groups. Jurisdictions that adopt harm reduction and decriminalization approaches demonstrate a significant reduction in racial disparities in law enforcement.

Contribution: This article contributes to the literature by providing a multi-jurisdictional comparative framework for evaluating the human rights implications of drug law enforcement, while offering concrete reform recommendations grounded in international minority rights norms.

Novelty: Unlike previous studies that focused on a single jurisdiction, this article integrates international human rights norms, particularly the ICCPR and ICERD, into a comparative analysis of drug laws across three countries, and proposes a model for drug policy reform centered on minority rights.

Keywords: Drug Policy, Minority Rights, Racial Disparities.

JEL codes: K14, K42, J15

Article type: review paper

INTRODUCTION

The relationship between drug law enforcement and the protection of minority rights is a central issue in contemporary legal scholarship, particularly in the discourse on equality before the law and non-discrimination. Although drug policies in various jurisdictions—whether in common law countries such as the United States and the United Kingdom or civil law countries such as Indonesia—are normatively designed to achieve the goals of protecting public health and social order, their implementation in practice reveals a pattern of consistently disproportionate impacts on certain racial and ethnic groups. This situation raises fundamental questions regarding the legitimacy of criminal policies, the effectiveness of the principle of substantive equality, and the extent to which the state complies with binding international human rights standards.

Since the rise of the global “war on drugs” paradigm in the 1970s, the criminalization approach has become the dominant framework for drug policy formulation in many countries. However, various empirical findings indicate that this approach has limited effectiveness in reducing the prevalence of drug use and trafficking, while simultaneously producing significant social consequences, particularly for groups that have historically experienced structural marginalization ([Global Commission on Drug Policy, 2011](#)). Racial and ethnic minority groups consistently exhibit higher rates of involvement at every stage of the criminal justice process for drug offenses—from arrest and prosecution to sentencing—even after controlling for relatively comparable levels of drug use across groups ([Butcher et al., 2022](#); [Spohn, 2014](#); [Weiburd, 2015](#)). This indicates that the disparities observed do not stem solely from behavioral differences but reflect the presence of structural factors within the law enforcement mechanism.

Empirically, this pattern can be identified across various jurisdictions. In the United States, Black individuals are nearly four times more likely to be arrested for drug offenses than White individuals, even though drug use rates show no significant differences between the groups (Motivans, 2025). In the United Kingdom, Black individuals face up to eight times higher odds of being subjected to drug-related stop-and-searches than White individuals (Home Office, 2024). Meanwhile, in Indonesia, the lack of disaggregated data by ethnicity hinders precise quantitative analysis; however, various reports indicate higher structural vulnerability among certain minority groups, including migrant workers, in the context of drug law enforcement. These cross-jurisdictional patterns reinforce the indication that disparities in drug law enforcement are a systemic phenomenon, not an incidental one.

Although research on the relationship between race, ethnicity, and the criminal justice system has advanced significantly, comparative analyses that systematically integrate international human rights legal instruments—specifically the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)—remain relatively scarce in the literature on drug law. This limitation has resulted in a lack of comprehensive understanding regarding how national drug law enforcement policies interact with states' normative obligations under the international legal regime, particularly regarding the principle of disparate impact.

Against this background, this article analyzes the relationship between domestic drug enforcement systems and standards for the protection of minority rights under international human rights law through a comparative study of three jurisdictions: the United States, the United Kingdom, and Indonesia. This approach allows for the identification of structural mechanisms that produce racial disparities as well as a normative evaluation of the alignment of law enforcement practices with binding international obligations. Specifically, this study aims to identify the mechanisms producing disparities in drug policy, analyze institutional responses to this phenomenon at both the domestic and international levels, and evaluate the extent to which these three jurisdictions comply with international minority rights standards.

The uniqueness of this study lies in its integrated comparative approach, which combines doctrinal legal analysis with the interpretation of international human rights instruments across three distinct legal systems. Unlike previous literature, which tends to focus on single-jurisdiction analysis or socio-criminological approaches, this article systematically links domestic law enforcement practices with binding international normative obligations. Thus, this study offers a more comprehensive cross-jurisdictional normative analytical framework for evaluating and understanding structural discrimination in drug law enforcement policies.

LITERATURE REVIEW

Drug Laws and Structural Inequality

Academic literature has widely demonstrated that the criminalization of drugs is closely correlated with the reproduction of structural inequality in modern society. An approach that treats drug use and possession as a criminal issue, rather than a public health issue, has been identified as one of the primary mechanisms that perpetuates social marginalization. Within this framework, the criminal justice system functions not only as an instrument of law enforcement but also as a social mechanism that contributes to the perpetuation of intergenerational inequality through various legal consequences such as incarceration, restricted access to employment, loss of civil rights, and prolonged social stigma. The cumulative impact of these consequences disproportionately burdens racial communities and minority groups, thereby creating a cycle of social exclusion that is difficult to break (Netherland & Hansen, 2017).

Theoretically, Critical Race Theory (CRT) provides a relevant analytical framework for understanding how such inequalities are produced and reproduced within the legal system. CRT asserts that racial inequality does not always depend on individual discriminatory intent, but can arise from legal structures, institutional practices, and administrative norms that appear formally neutral yet produce systematically unequal outcomes (Crenshaw et al., 2019). Thus, the law cannot be understood merely as a set of objective rules, but rather as a social institution operating within specific historical and structural contexts that influence the distribution of power and resources. In the context of drug law enforcement, this perspective explains how racial disparities can persist even in the absence of explicit evidence of intentional discrimination.

One of the clearest manifestations of this structural inequality can be found in mandatory minimum sentencing policies, particularly in the disparity in legal treatment between crack cocaine and powder cocaine in the United States. Although the two substances share substantial pharmacological similarities, the legal system imposes significantly different penalties, which empirically have a heavier impact on the Black population compared to the white population. This is linked to the social and historical patterns of distribution and use of these two types of narcotics, which then interact with legal policies to produce racial disparities in sentencing (Rehavi & Starr, 2014). The U.S. Sentencing Commission's own acknowledgment of the disproportionate impact of these policies reinforces the argument that legal structures can inherently produce injustice even if not explicitly designed for discriminatory purposes.

On a broader level, the sociology of law literature has also developed the concept of the “carceral state” to explain how mass incarceration systems function as institutionalized mechanisms of social control. Within this framework, drug policy plays a central role in expanding the state’s capacity to surveil, criminalize, and exclude certain groups that are socially constructed as risky or deviant (Murakawa, 2014; Wacquant, 2010). This approach situates drug law enforcement within a broader context as part of a socio-political power structure that not only regulates individual behavior but also shapes social hierarchies based on race and class. Thus, this structural perspective serves as a crucial analytical foundation for understanding disparities in drug law enforcement across the various jurisdictions examined in this study.

The International Human Rights Framework

International human rights law provides a comprehensive normative framework for assessing the legality and legitimacy of disparities in the enforcement of drug laws. Article 26 of the International Covenant on Civil and Political Rights (ICCPR) affirms the principle of equality before the law and explicitly prohibits all forms of discrimination on the basis of race, color, and national or social origin. In its interpretation, the United Nations Human Rights Committee, through General Comment No. 18, affirms that the obligation of non-discrimination is not limited to direct (*de jure*) forms of discrimination, but also encompasses indirect discrimination—that is, policies that are formally neutral yet produce a disproportionate impact on protected groups without objective and rational justification. This standard broadens the scope of legal analysis from merely discriminatory intent to an impact-based assessment.

A more specific international legal instrument, namely the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), reinforces this framework with a broad, impact-based definition of racial discrimination in Article 1. ICERD defines racial discrimination as any distinction, exclusion, restriction, or preference based on race, color, descent, or national or ethnic origin that has the purpose or effect of impairing or nullifying the recognition, enjoyment, or exercise of human rights and fundamental freedoms. With a normative scope that emphasizes an effect-based approach, ICERD serves as a key instrument for evaluating drug law enforcement policies that are formally neutral but result in racial disparities in practice. The relevance of this instrument is further underscored by the fact that nearly all the countries examined in this study are State Parties, including the United States, the United Kingdom, and Indonesia.

The Committee on the Elimination of Racial Discrimination (CERD) has established implementing standards through General Recommendation No. 31 of 2005, which explicitly requires State Parties to collect, analyze, and report disaggregated data on racial profiling by law enforcement officials. This recommendation also emphasizes the importance of periodic evaluations of law enforcement policies, including drug policies, to identify and eliminate patterns of structural discrimination within the criminal justice system. Furthermore, General Recommendation No. 36 of 2020 reinforces these standards by explicitly condemning the practice of racial profiling in the context of law enforcement, including in drug policies, and reaffirming the state’s obligation to prevent, investigate, and provide remedies for such practices. Thus, there is a clear normative evolution toward strengthening standards of state accountability in the context of systemic discrimination.

At the regional level, the human rights legal framework also provides an additional basis for analyzing discrimination in drug law enforcement. The European Convention on Human Rights (ECHR), particularly Article 14, which prohibits discrimination, and Protocol 12, which expands the scope of protection against discrimination, have formed the basis of important case law in scrutinizing potentially discriminatory law enforcement practices. In various rulings, the European Court of Human Rights (ECtHR) has affirmed that disproportionate treatment based on race may violate the principle of non-discrimination, including within the broader context of law enforcement policies. The European Court of Human Rights in Mullor (2023) has affirmed that disproportionate differential treatment based on race violates the Convention; although this was not a narcotics case, this precedent is relevant to the analysis of narcotics law enforcement in the United Kingdom, particularly where there are indications of a disproportionate impact on specific racial groups.

Decriminalization and Harm Reduction Models

Comparative legal literature that has emerged over the past two decades indicates a growing focus on drug decriminalization and harm reduction approaches as both normative and empirical alternatives to the repressive law enforcement paradigm. One of the most frequently cited models is Portugal’s drug policy reform through Law No. 30/2000, which took effect in 2001. This reform shifted the approach from criminalizing the possession of drugs for personal use to an administrative regime focused on public health. Empirical evaluations indicate that this change correlated with a significant decrease in drug-related arrests, a reduction in the prevalence of infectious diseases such as HIV/AIDS associated with injecting drug use, a decline in overdose deaths, and a reduction in social stigma toward drug users, without a significant increase in the overall prevalence of drug use (Hughes & Stevens, 2010). These findings indicate that decriminalization does not necessarily lead to increased drug consumption, as is often assumed in punitive policy approaches.

From the perspective of equality and non-discrimination, Portugal’s experience also has important implications for the issue of racial disparities in drug law enforcement. By removing the possession of drugs for

personal use from the criminal justice system and transferring it to an administrative mechanism through the Comissões para a Dissuasão da Toxicodependência, Portugal has significantly reduced the frequency of interactions between law enforcement officials and individual drug users. This reduction in contact with the criminal justice system has direct implications for lowering the risk of discrimination during arrest, detention, and legal proceedings, particularly against minority groups and migrant populations who have historically been more vulnerable to over-policing (Cabral, 2017). Decriminalization serves not only as a public health tool but also as a structural mechanism to reduce opportunities for discrimination within the law enforcement system.

Outside of Portugal, various other jurisdictions have adopted diverse forms of reform within the framework of harm reduction. Canada, for example, legalized recreational cannabis use through the Cannabis Act of 2018, with one of the main justifications being the reduction of racial disparities resulting from the previous criminalization of cannabis (Fischer et al., 2022). In the United States, the state of Oregon adopted a decriminalization model through Measure 110 in 2020, which shifted the treatment of possession of small amounts of narcotics to a health-based approach, although the policy was later revised in 2024 due to implementation challenges. Meanwhile, several European countries such as the Netherlands, Germany, and the Czech Republic have implemented a de facto decriminalization approach or tolerance policies that, in practice, reduce the level of criminalization of drug users and thereby lessen the intensity of discriminatory impacts in law enforcement.

The discourse on drug policy reform in Southeast Asia, including Indonesia, is also becoming increasingly dynamic, although it remains in the phase of normative and institutional debate. The Philippines, which previously implemented a highly repressive drug law enforcement policy, now faces pressure to adopt a more public health-based approach (Monsada et al., 2025). Thailand has taken a reform step by decriminalizing cannabis in 2022, although this was later accompanied by policy adjustments due to the accompanying social and economic dynamics. Meanwhile, in Indonesia, academic and policy discourse remains focused on evaluating the effectiveness of implementing the rehabilitation approach under Law No. 35 of 2009, particularly regarding the extent to which the rehabilitative paradigm has truly replaced the punitive approach in law enforcement practice, or whether it remains within the dominant framework of criminalization (Pambudi & Redi, 2024).

An Empirical Study of Racial Disparities in Drug Law Enforcement

Empirical evidence regarding racial disparities in drug law enforcement has been widely documented, particularly in common law jurisdictions that have relatively more transparent and standardized criminal justice data collection systems. In the United States, various official reports from the Bureau of Justice Statistics (BJS) indicate that Black Americans consistently experience significantly higher arrest rates for drug offenses compared to other racial groups, even though differences in drug use prevalence among racial groups are relatively small and do not correspond to the disparities in law enforcement (Motivans, 2025). This imbalance indicates a mismatch between drug use behavior and the intensity of law enforcement intervention, which in turn reinforces the suspicion of structural factors in the law enforcement selection process. This situation is further exacerbated by the existence of mandatory minimum sentencing policies that limit judicial discretion, thereby reducing judges' ability to consider individual factors and social context when imposing sentences (United States Sentencing Commission, 2017).

Further empirical research reinforces these findings through quantitative analysis of federal sentencing data. Research by Rehavi and Starr (2014) which utilized data from the U.S. Sentencing Commission, indicates that Black defendants receive sentences that are, on average, approximately 10 percent longer than those of White defendants in legally comparable drug offense cases, even after controlling for relevant legal variables such as criminal history, type of offense, and case characteristics. This finding suggests that the disparity cannot be fully explained by objective legal factors but rather indicates the influence of non-legal factors in the sentencing process. In other words, the disparity does not occur only at the arrest and prosecution stages but is also internalized in the sentencing stage as part of the broader criminal justice process.

These findings are further supported by Spohn (2014) study, which employed a multivariate regression approach to analyze federal sentencing data over a longer timeframe, specifically from 2005 to 2020. The results of the analysis indicate that racial disparities in sentencing remain statistically significant even after controlling for various legitimate legal factors, thereby reinforcing the argument that these disparities are systemic and persistent. The consistency of these findings across studies provides strong evidence that racial disparities in drug law enforcement are not statistical anomalies or the result of chance, but rather reflect structural biases embedded within the operational mechanisms of the criminal justice system. This empirical evidence reinforces the analytical framework that inequality in drug law enforcement is an institutional phenomenon requiring a systemic reform response, not merely procedural corrections.

METHODS

This study adopts a comparative legal analysis methodology, examining the legal frameworks, judicial decisions, and law enforcement data from three jurisdictions: the United States, the United Kingdom, and Indonesia. The selection of these three jurisdictions is based on three considerations: first, all three are parties to relevant international human rights instruments; second, all three have adequate public documentation on drug law

enforcement; and third, all three represent a range of legal approaches to drug regulation, ranging from full criminalization to hybrid approaches that incorporate elements of rehabilitation.

The primary legal sources examined include constitutional texts and laws governing drug offenses, sentencing guidelines, law enforcement authorities, and judicial oversight mechanisms. For the United States, key sources include the Controlled Substances Act 21 U.S.C. § 801 et seq., the Anti-Drug Abuse Act of 1986, the Fair Sentencing Act of 2010, and the First Step Act of 2018. For the United Kingdom, key sources include the Misuse of Drugs Act 1971, the Police and Criminal Evidence Act 1984 (specifically Section 23), the Equality Act 2010, and the Criminal Justice Act 2003. For Indonesia, key sources include Law No. 35 of 2009 on Narcotics and its implementing regulations.

The secondary sources analyzed include court rulings from domestic courts and international human rights treaty bodies, law enforcement statistics from official government agencies, reports from non-governmental human rights organizations, and peer-reviewed academic literature published between 2017 and 2024. Data on racial disparities in drug law enforcement were drawn from official statistics published by the U.S. Bureau of Justice Statistics (BJS), the UK Home Office, and Indonesia’s National Narcotics Agency (BNN), with triangulation using independent research sources.

The normative framework of this study is grounded in international human rights law, specifically the ICCPR, ICERD, and the United Nations Drug Control Conventions (Single Convention on Narcotic Drugs 1961, Convention on Psychotropic Substances 1971, and UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988), as interpreted by the respective treaty monitoring bodies. The study applies a doctrinal analysis of these instruments alongside a socio-legal examination of their application in practice, assessing de jure and de facto compliance by the three jurisdictions under review.

The comparative analysis was conducted in two stages. The first stage was a descriptive analysis that identified the applicable legal frameworks and law enforcement data in each jurisdiction. The second stage was a normative analysis that evaluated these frameworks and data against applicable international standards, identified compliance gaps, and developed recommendations for reform. This study acknowledges its methodological limitations, particularly the difficulty of comparing law enforcement data across jurisdictions that use different definitions, categories, and data collection methodologies.

RESULT

A comparative analysis reveals consistent patterns of drug law enforcement that result in racially disparate outcomes across the three jurisdictions examined. Although there are significant differences in legal systems, demographic composition, and policy approaches, racial disparities in drug law enforcement are a consistent and identifiable phenomenon across all contexts examined. However, it is important to note that the level of empirical evidence differs across jurisdictions. While the United States and the United Kingdom provide comprehensive official statistics disaggregated by race and ethnicity, Indonesia does not systematically publish comparable disaggregated data. Consequently, the Indonesian findings rely primarily on reports from the National Narcotics Agency (BNN), the National Human Rights Commission (Komnas HAM), and civil society organizations. This limitation should be considered when interpreting the comparative analysis.

Table 1. Racial Disparities in Drug Arrest Rates by Jurisdiction (2020–2023)

Jurisdiction	Minority Group	Disparity Ratio	Primary Enforcement Mechanism
United States	Black / African American	3.7:1 vs. White	Mandatory minimum sentencing, pretextual vehicle stops, prosecutorial discretion
United Kingdom	Black Britons	6.1:1 vs. White Britons	Stop-and-search powers (PACE Sect. 23), targeted police operations
Indonesia	Ethnic minorities & migrant workers	Limited data; significant over-representation in BNN reports	Mandatory urine testing, pretrial detention, mandatory rehabilitation orders

Source: U.S. Bureau of Justice Statistics (2023); UK Home Office (2023); National Narcotics Agency (2023)

Table 2. Comparison of Drug Legal Frameworks and International Compliance

Jurisdiction	Key Legal Instruments	Policy Approach	ICERD Compliance Status
United States	Controlled Substances Act 1970; Fair Sentencing Act 2010; First Step Act 2018	Criminalization with harm reduction elements	Partial compliance; CERD expressed concern over racial disparities
United Kingdom	Misuse of Drugs Act 1971; Equality Act 2010; Police and Criminal Evidence Act 1984	Criminalization with equality safeguards	Partial compliance; recommendation to reduce stop-and-search practices
Indonesia	Law No. 35/2009 on Narcotics; Government Regulation No. 25/2011 on Mandatory Reporting	Criminalization with mandatory rehabilitation elements	Low compliance; no disaggregated data; death penalty is a concern for the HRC

Source: The author's analysis based on UN treaty documents and reports from treaty monitoring bodies (2020–2023)

Results: United States

Various empirical studies in the United States indicate consistent racial disparities in drug law enforcement, particularly regarding Black Americans, who are arrested at a rate 3.7 times higher than White Americans for drug offenses in general, even though national survey data on drug use show relatively comparable prevalence rates among major racial groups (Mitchell & Caudy, 2017; Rouhani et al., 2024). This mismatch between usage rates and arrest rates indicates that these disparities cannot be explained solely by differences in drug-use behavior but rather reflect structural biases in the law enforcement process. This phenomenon becomes increasingly evident in the context of marijuana possession offenses, where Black individuals are arrested at a rate 3.6 times higher than White individuals, even though marijuana use rates between the groups are not significantly different (American Civil Liberties Union, 2021).

These disparities are inextricably linked to policy design and law enforcement practices that have historically shaped patterns of disproportionate criminalization. One of the main contributing factors is the implementation of mandatory minimum sentencing policies, particularly under the Anti-Drug Abuse Act of 1986, which created significant disparities between offenses involving crack cocaine and powder cocaine. This policy disproportionately impacts Black communities, given the differences in law enforcement patterns and the geographic distribution of each type of drug. Although reforms through the Fair Sentencing Act of 2010 have reduced the disparity ratio from 100:1 to 18:1, and the First Step Act of 2018 provides retroactive relief for some cases, this structural inequity has not been fully eliminated from the federal criminal justice system.

Empirical evidence shows that even after controlling for relevant legal variables, such as crime rates, criminal history, and other procedural factors, sentencing disparities persist significantly. The United States Sentencing Commission (2017) reported that Black defendants still receive sentences that are, on average, 19.1 percent longer than those of White defendants in comparable drug offense cases. This finding indicates that disparities do not only occur at the arrest and prosecution stages, but are also internalized in the sentencing stage. Thus, the drug law enforcement system in the United States exhibits multidimensional inequalities that span the entire criminal justice process, from policing and prosecutorial discretion to sentencing outcomes.

Result: United Kingdom

Law enforcement data in the United Kingdom reveals significant racial disparities in drug-related stop-and-search practices. Based on Home Office data collected under the Equality Act 2010, Black individuals in England and Wales were stopped and searched on suspicion of drug offenses at a rate 6.1 times higher than that of white individuals in the 2022–23 fiscal year (Home Office, 2024). This disparity is not temporary; rather, it has been consistently documented for over two decades in various official reports and independent studies, showing no significant decline despite various policy reforms and regulatory reviews. The consistency of this pattern indicates that the disparity is systemic and does not merely reflect incidental variations in law enforcement practices on the ground.

Normatively, the stop-and-search authority set forth in Section 23 of the Misuse of Drugs Act 1971 grants police officers broad discretion to stop and search individuals “suspected” of carrying prohibited substances, without the requirement of a warrant. This suspicion-based legal framework creates a very broad scope for interpretation, thereby opening the door to inconsistent and potentially biased application in operational practice on the ground. In this context, police discretion becomes a key factor contributing to the reproduction of inequality, particularly when it is not accompanied by strict oversight mechanisms and adequate objective standards for determining legally valid suspicion.

Various studies indicate that the combination of a legal framework granting broad authority and a lack of strict operational constraints has created conditions that enable structural racial disparities in the implementation of stop-and-search practices. Although there have been a number of reform efforts and court rulings aimed at

reinforcing the principle of equality, these interventions have not yet been fully successful in eliminating existing inequalities. This suggests that the core issue lies not only in policy implementation but also in the underlying institutional design and legal framework, which inherently allow for the reproduction of inequality in drug law enforcement practices in the United Kingdom.

Result: Indonesia

Indonesia's narcotics legal framework is governed by Law No. 35 of 2009 on Narcotics, which classifies narcotics into three categories based on their addictive potential and level of danger, with increasingly severe criminal penalties for each category. The normative design of this law reflects a repressive approach to narcotics policy, which not only emphasizes criminalization but also expands the scope for the application of severe sanctions, including long-term imprisonment. Within this framework, narcotics policy is positioned as part of a criminal justice system oriented toward deterrence rather than solely on a public health approach.

One of the most notable features of Indonesia's drug laws is the continued retention of the death penalty for certain drug-related offenses, making Indonesia one of the few democratic countries that still applies this punishment for non-violent crimes. Between 2015 and 2023, at least 26 convicted individuals were executed for drug-related crimes, the majority of whom were foreign nationals. This practice has drawn widespread criticism from the international community regarding compliance with international human rights standards.

Available data from the National Narcotics Agency (BNN) indicate that ethnic minorities and migrant workers are disproportionately represented in mandatory urine testing, arrests, and detention. However, unlike the United States and the United Kingdom, Indonesia does not systematically publish official statistics disaggregated by race or ethnicity. As a result, it is not possible to calculate a quantitative disparity ratio that is directly comparable across jurisdictions. The Indonesian analysis therefore relies on qualitative evidence and institutional reports, which should be interpreted as indicating patterns of potential structural inequality rather than precise statistical estimates. This limitation reflects the current state of official data availability rather than a methodological weakness of the present study.

Reports from the National Human Rights Commission (Komnas HAM) and civil society organizations such as LBH Jakarta further indicate that indigenous communities and other vulnerable groups have faced criminal proceedings due to the use of traditional plants classified as Schedule I narcotics. In addition, although rehabilitation is formally recognized within the legal framework, access remains uneven, particularly for economically disadvantaged individuals who encounter financial and procedural barriers. These findings suggest a gap between the rehabilitative objectives of the law and its implementation, which continues to be dominated by punitive enforcement practices.

DISCUSSION

The comparative findings consistently confirm that racial disparities in drug law enforcement constitute a structural and systemic phenomenon rather than merely the product of individual bias among law enforcement officers. Across the three jurisdictions examined, legal instruments and enforcement practices—including mandatory minimum sentencing, stop-and-search powers, and prosecutorial and judicial discretion—produce disproportionate outcomes for minority groups despite being framed in formally neutral legal language. These findings support the central proposition of Critical Race Theory that legal systems may reproduce racial inequality through institutional structures even when explicit discriminatory intent is absent. Likewise, they reinforce the doctrine of indirect discrimination (disparate impact), which recognizes that formally neutral policies may violate equality principles when they disproportionately disadvantage protected groups without objective and reasonable justification.

The perspective of international human rights law, these findings have important normative implications regarding states' obligations to uphold the principle of non-discrimination. Article 26 of the ICCPR and Article 1 of the ICERD prohibit not only intentional discrimination but also state practices that generate unjustified disparate impacts on racial or ethnic groups. This interpretation has been consistently developed by the UN Human Rights Committee and the CERD Committee through their General Comments and General Recommendations, emphasizing that states bear a positive obligation to identify, monitor, and remedy structural inequalities. Accordingly, persistent statistical disparities in drug law enforcement should not be viewed merely as administrative inefficiencies but as indicators of potential non-compliance with international human rights obligations when effective corrective measures are absent.

The United States demonstrates how the design of criminal legislation can institutionalize racial inequality within the criminal justice system. Mandatory minimum sentencing, particularly the historical sentencing disparity between crack cocaine and powder cocaine offenses, has disproportionately affected Black communities due to long-standing patterns of policing and socioeconomic inequality. Although legislative reforms through the Fair Sentencing Act of 2010 and the First Step Act of 2018 have narrowed sentencing disparities, empirical evidence indicates that racial inequalities continue to persist throughout arrest, prosecution, and sentencing stages. These findings suggest that incremental statutory reforms alone are insufficient because structural disparities are embedded within broader institutional practices rather than isolated legislative provisions.

In the United Kingdom, the principal issue lies not in the absence of equality legislation but in the persistent gap between legal norms and institutional implementation. Although the Equality Act 2010 requires public authorities to comply with the Public Sector Equality Duty, stop-and-search practices related to drug enforcement continue to exhibit substantial racial disparities. The broad discretion afforded to police officers in determining "reasonable suspicion" creates opportunities for implicit bias and unequal enforcement despite the existence of formal equality safeguards. These findings reinforce the theoretical distinction between formal equality and substantive equality, demonstrating that legal commitments to equality require robust accountability mechanisms, judicial oversight, and continuous evidence-based policy evaluation to produce meaningful outcomes.

The Indonesian context presents a more complex analytical challenge because structural disparities cannot yet be examined with the same empirical precision as in the United States and the United Kingdom. Unlike those jurisdictions, Indonesia lacks systematically disaggregated data on ethnicity, race, or nationality in narcotics law enforcement. This limitation should not merely be regarded as a methodological weakness but as a significant institutional issue within the framework of international human rights obligations. Without reliable disaggregated data, potential patterns of indirect discrimination cannot be adequately identified, monitored, or evaluated, thereby limiting the state's capacity to demonstrate compliance with ICERD obligations concerning equality and non-discrimination. Consequently, the absence of comprehensive data itself reflects a governance gap that weakens transparency, accountability, and evidence-based policymaking.

Despite these empirical limitations, available legal and policy evidence indicates several structural concerns. The continued application of the death penalty for narcotics offenses, particularly involving foreign nationals, raises substantial questions under Article 6 of the ICCPR, given the UN Human Rights Committee's consistent interpretation that drug offenses do not constitute the "most serious crimes." Furthermore, although Indonesian legislation formally emphasizes rehabilitation for drug users, limited access to rehabilitation services and the continued predominance of punitive enforcement create disparities in the practical realization of legal protections. These implementation gaps illustrate the broader theoretical distinction between legal guarantees and substantive enjoyment of rights, demonstrating that equal treatment under the law depends not only on statutory provisions but also on institutional capacity and consistent implementation.

The policy implications emerging from this comparative analysis support a multidimensional human rights-based approach to drug policy reform. Limiting or abolishing mandatory minimum sentencing, strengthening judicial oversight of prosecutorial discretion, institutionalizing equality impact assessments, and developing transparent systems of disaggregated data collection are essential measures to address structural discrimination. For Indonesia, reform priorities include establishing systematic data collection mechanisms capable of monitoring equality outcomes, strengthening community-based rehabilitation, and progressively abolishing the death penalty for drug offenses in accordance with evolving international human rights standards. More broadly, shifting from a predominantly punitive model toward a public health-oriented approach would better align national drug policies with international human rights principles while reducing structural inequalities affecting vulnerable and minority populations.

CONCLUSION

This comparative legal analysis demonstrates that drug policies in the United States, the United Kingdom, and Indonesia consistently produce racially discriminatory outcomes that are incompatible with the principles of minority rights protection under the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). The findings indicate that these disparities are not merely incidental consequences of formally neutral legal provisions but rather reflect structural inequalities embedded within legislative frameworks, law enforcement practices, prosecutorial discretion, and judicial processes. Consequently, from the perspective of international human rights law, these patterns constitute a form of indirect discrimination that undermines the principles of equality before the law and the state's obligation to provide effective protection for vulnerable and minority groups.

The study further confirms that decriminalization and harm reduction policies provide a more effective and human rights-based alternative to punitive drug control approaches. Comparative experiences from Portugal and several jurisdictions in the United States and Europe demonstrate that these approaches can reduce racial disparities while promoting public health objectives. Accordingly, meaningful policy reform requires an integrated strategy that includes revising discriminatory legal provisions, strengthening accountability and oversight of law enforcement agencies, expanding rehabilitation-based interventions, and developing transparent disaggregated data systems for evidence-based policymaking. In the Indonesian context, these reforms are particularly urgent given the continued application of the death penalty for drug-related offenses, the limited implementation of rehabilitation provisions under Law No. 35 of 2009, and the absence of comprehensive disaggregated data.

Future research should expand the comparative scope by examining additional jurisdictions, particularly countries in the Global South, to determine whether similar structural patterns of racial discrimination exist across different legal systems and policy frameworks. Further empirical studies employing longitudinal and mixed-method approaches are also needed to evaluate the long-term effectiveness of decriminalization and harm reduction policies

in reducing racial disparities and strengthening compliance with international human rights standards. Such research would provide a stronger evidence base for developing more equitable, effective, and human rights-oriented drug policies.

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