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“I CAN’T BREATHE”: A COMPARISON OF RACIAL INEQUITY AND POLICE
BRUTALITY OBSERVED IN FRANCE AND THE UNITED STATES

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ABSTRACT

This paper explores the unanticipated convergence of human experiences among Black and Brown citizens of France and the United States, despite their historical and legislative differences. Investigating racial inequity and police brutality through a comparative lens, this paper highlights global connections forged by racial and ethnic minorities in their shared anti-racist struggles. Emphasizing the transformative potential of acknowledging and sharing these narratives, this paper navigates linguistic, social, and legislative dimensions, providing insights into legal standings and communal ideologies. Addressing the lasting consequences of racial bias, this paper urges a reevaluation of societal structures and legal frameworks to foster global racial and social equity.

Key words: Comparative law, international law, racial justice, social justice, equity, police brutality

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I. INTRODUCTION

France and the United States have developed two vastly different approaches to race, both of which have resulted in a remarkably similar human experience. By examining the issues of racial inequity and police brutality, through the lens of both France and the United States, using the comparative perspective, we can adequately observe and in turn “consider how racial and ethnic minorities are connecting their racial oppression and anti-racist struggles worldwide.”²

Human experience is built upon the subjective lens through which the world around us is perceived and interpreted.³ These personal experiences lend themselves to the all-encompassing formation of an individual’s interactions, emotions, and thoughts through their life journey.⁴ Plainly, the human experience is the encapsulation of the holistic journey beginning with birth and ending with death.⁵

Experiences may manifest in ways that are physical, emotional, or social, all of which are projected through daily interactions within society.⁶ These experiences go beyond any single interaction. Racial profiling, whether it takes place in the workplace or in a social situation, is an upending of one’s comfort in their personhood. Some of these changes have been identified as black fatigue and code switching.⁷ Based on the significance of each experience, it can be insinuated that the lasting impacts of racial bias projected onto Black and Brown communities in France and the United States have led to stigmatization, continued racial inequity, and racial inequality that may align with one another.

This paper offers insight into France and the United States’ differing historical and legislative approaches, and the resulting commonality in the human experiences of Black and Brown persons residing in these countries. While France and the United States fundamentally diverge in their approaches to race, both nations have yielded similar human experiences. Based on independent observations and research, this acknowledgment and sharing of tales of human

² Jean Beaman, *Minneapolis in Paris*, SPECTRE J. (Aug. 18, 2020), <https://spectrejournal.com/minneapolis-in-paris/>.

³ LeTeisha Newton, *What is HX and Why Does it Matter?*, SOGOLYTICS (Oct. 20, 2023), <https://www.sogolytics.com/blog/what-is-human-experience/>.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Patricia Saucedo Kramer & Kiana Atkins, *What is Black Fatigue and Code-Switching, and Why Do They Matter to Organizations?*, NAT’L INST. OF HEALTH (Feb. 7, 2023), <https://www.edi.nih.gov/blog/opinion/what-black-fatigue-and-code-switching-and-why-do-they-matter-organizations>.

experiences has acted as a gateway to racial and social equity and equality.

Following this Introduction, Part II will set the stage by showing the historical approaches that France and the United States have taken to race. This will include discussion of the treatment given to “race” linguistically as well as its social and legislative roles. The abundance of information required to fulfill the goal of Part II is substantial. Therefore, this analysis will begin by discussing the time periods specific to events in France and the United States that contributed to each country's current legal standing and communal ideology of race. In differentiating these events, undoubtedly similar patriotic ideologies are uncovered. Following this revelation is an exploration of the two countries' common socioracial impacts.

Part III will then explore the particularities and compare the experiences of Black and Brown children, both at home and in school. This will include instances of racial inequity faced by children at home, describing how their parents navigate the current social climate. Additionally, at school, displaying how the public-school system has both contributed and attempted to alleviate the evident effects of racial inequity. Case studies are included. Part III will further address how these experiences may affect opportunities presented, or withheld, during the transition to adulthood.

Part IV will then discuss the reality and finality of racial inequity and racial inequality during police interactions. Rather than repeating issues previously addressed in Part III, Part IV serves as a reminder that this is the discussion of actual human experiences, not conceptualized hypotheticals.

Part V then analyzes a significant question: How can it be determined that the previously discussed inequity and police brutality are racially motivated? To answer this question, Part V introduces quantitative data specific to the United States and draws connections to qualitative data and case studies from both countries. Included in the analysis are accounts of the human experience, legislative actions taken in retaliation to these experiences, and the manifestation of such experiences seen in human creation, like social media, and art. A short Conclusion follows.

II. HISTORY

“History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again.”

-Maya Angelou

A. United States

1. Prologue 1640-1896

The years 1640-1896 were a period in which the very founding and development of the United States held the institution of the enslavement of human beings.⁸ Colonies, eventually states, codified the authorization of slavery in their legislation.⁹ Within this same period, the process of emancipation slowly took place. In 1863, the Emancipation Proclamation took effect, and the 13th, 14th, and 15th Amendments were passed.¹⁰ These Amendments were dubbed the “Reconstruction Amendments,” because they were the first to be enacted post-Civil War, and their adoption had a significant role in addressing the political and legal status of previously enslaved persons.¹¹

In 1875, the Civil Rights Act was passed guaranteeing Black Americans equal treatment in public accommodations, public transportation, and prohibited their exclusion from jury service.¹² However, in 1883, the Civil Rights Cases declared the 1875 Civil Rights Act unconstitutional in part, including the prohibition of racial discrimination in public conveyances, inns, and places of public amusement.¹³ The five legal cases consolidated into a single ruling due to their similarity are now known as the Civil Rights Cases of 1883. Such cases include: *United States v. Stanley*; *United States v. Ryan*; *United States v. Nichols*; *United States v. Singleton*; and *Robinson et ux. v. Memphis & Charleston R.R. Co.*¹⁴

⁸ *The Civil Rights Act of 1964: A Long Struggle for Freedom*, LIBR. OF CONG., <https://www.loc.gov/exhibits/civil-rights-act/legal-events-timeline.html> (last visited Oct. 14, 2023).

⁹ *Id.*

¹⁰ U.S. CONST. amend. XVIII; U.S. CONST. amend. XIV; U.S. CONST. amend. XV.

¹¹ *The Constitution: Amendments 11-27*, NAT’L ARCHIVES, (June 8, 2022), <https://www.archives.gov/founding-docs/amendments-11-27>.

¹² *The Civil Rights Act of 1964: A Long Struggle for Freedom*, *supra* note 7.

¹³ Joseph P. Bradley, *U.S. Reports: Civil Rights Cases*, 109 U.S. 3 (1883), STATE HIST. SOC’Y OF IOWA 9-10 <https://history.iowa.gov/history/education/educator-resources/primary-source-sets/reconstruction-and-its-impact/us-supreme-1#:~:text=The%20Civil%20Rights%20Cases%20of,or%20previous%20condition%20of%20servit ude> (last visited Oct. 14, 2023).

¹⁴ *Id.* at 25. (“On the whole we are of opinion, that no countenance of authority for the passage of the law in question can be found in either the Thirteenth or Fourteenth Amendment of the

2. Segregation 1903-1939

During this period, several states considered Black Americans' right to vote.¹⁵ In Alabama for example, the court concluded that unless it could supervise elections, it was unable to force White people from Alabama to allow Black Americans to vote.¹⁶ Adding a different hindrance to Black Americans attempting to exercise their right to vote, an Oklahoma court deemed that state constitutional provisions permitting "grandfather clauses" for passing literacy tests as a voting requirement were unconstitutional.¹⁷ Further, a Texas court made the distinction that so long as a private party, and not the state, bars all but white citizens from voting, it is not a violation of the 14th or 15th Amendments.¹⁸

Black Americans advocating for their right to vote brought to light the fact that racism is intersectional, leaving Black women specifically at the crossroad of their race and gender when facing racism from the larger suffrage movement. A small snippet of this is exemplified in an instance of the human experience: In 1913, on the streets of Washington D.C., Black suffragists sought to join a national suffrage march. Alice Paul, a National Women's Party Leader, like many, took actions seeking to prioritize achieving voting rights for women over those of Black Americans. In doing so, Alice Paul told Ida B. Wells and other Black suffragists seeking to join the march to walk at the back end of the crowd.¹⁹ In response to the rejection Black suffragists received from Alice Paul, Ida B. Wells said "Either I go with you or not at all. . . I am not taking this stand because I personally wish for recognition. I am doing it for the future benefit of my whole race"²⁰

Constitution; and no other ground of authority for its passage being suggested, it must necessarily be declared void, at least so far as its operation in the several States is concerned." Thus, it is outside of the scope of Congressional control to dictate a private entity, in this case a hotel, from denying black people admittance.); Chelsea Parrott-Sheffer, *Fifteenth Amendment*, BRITANNICA (Oct. 4, 2023), <https://www.britannica.com/topic/Fifteenth-Amendment>.

¹⁵ *The Civil Rights Act of 1964: A Long Struggle for Freedom*, *supra* note 7.

¹⁶ *Giles v. Harris*, 189 U.S. 475 (1903).

¹⁷ *Guinn v. United States*, 238 U.S. 347 (1913).

¹⁸ *Grovey v. Townsend*, 295 U.S. 45 (1935).

¹⁹ Lakshmi Ghandi, *5 Black Suffragists Who Fought for the 19th Amendment – And Much More*, HISTORY.COM (Aug. 4, 2020), <https://www.history.com/news/black-suffragists-19th-amendment>; Erin Blakemore, *This Huge Women's March Drowned Out a Presidential Inauguration in 1913*, HISTORY.COM (2018), <https://www.history.com/news/this-huge-womens-march-drowned-out-a-huge-womens-presidential-inauguration-in-1913>.

²⁰ *Id.*

3. WWII and Post War Years 1941-1945

The socioracial impacts of World War II led to the targeting of Japanese Americans and a newfound allowance of Black American military enlistment by way of several Executive Orders. There were three prevalent Executive Orders issued: (1) Executive Order 8802, issued by President Roosevelt, banned racial discrimination in the national defense industry by federal agencies, unions and companies engaged in war-related work;²¹ (2) Executive Order 9980, issued by President Truman, prohibited discrimination in civilian agencies and instituted fair employment practices;²² and (3) Executive Order 9981, also issued by President Truman, abolished racial discrimination in the armed forces.²³

The book, *Taps for a Jim Crow Army*, consisting of letters from World War II, is one of few sources that provide the personal accounts of Black soldiers. The book includes the letter of an unnamed Private:

If there ever were a time that all racial prejudices and hatred should be put aside, now it is at hand, and the country should be unified in every possible respect. The emergency has become so great until Congress passed a Draft Bill to draft men for the first time during peace-time in the history of the country into the armored forces. Both White and Colored men are being called up and everybody is doing his or her bit to cooperate. Negroes like the Whites are quitting their jobs to increase the military strength of this Nation, because we all think that a nation worth being in is worth fighting for. But in view of this so-called unity and National emergency the age-old Monster of Prejudice has raised his head high in the Army.

A Private²⁴

4. Civil Rights Era 1951-1963

These years largely focused on the implementation of protections for Black Americans.²⁵ In 1954, in its landmark decision of *Brown v. Board of Education*, the

²¹ *Executive Order 8802: Prohibition of Discrimination in the Defense Industry (1941)*, NAT'L ARCHIVES, (Feb. 8, 2022) <https://www.archives.gov/milestone-documents/executive-order-8802>.

²² H. Parkins, *Executive Orders 9980 and 9981: Ending Segregation in the Armed Forces and the Federal Workforce*, NAT'L ARCHIVES: PIECES OF HIST. (May 19, 2014), <https://prologue.blogs.archives.gov/2014/05/19/executive-orders-9980-and-9981-ending-segregation-in-the-armed-forces-and-the-federal-workforce/>.

²³ *Id.*

²⁴ TAPS FOR A JIM CROW ARMY LETTERS FROM BLACK SOLDIERS IN WORLD WAR II 1 (Phillip McGuire ed., 1993).

²⁵ *The Civil Rights Act of 1964: A Long Struggle for Freedom*, *supra* note 7.

U.S. Supreme Court held “that public education and segregation of children in public schools solely on the basis of race, even though the physical facilities and other tangible factors were equal, deprived equal educational opportunities to children of the minority group.”²⁶ The following year, the U.S. Supreme Court emphasized that southern schools should comply with the 1954 ruling “with all deliberate speed.”²⁷

Despite the rulings in *Brown v. Board of Education*, schools in the United States continued to take years to desegregate. One example of how the beginning stages of desegregation of schools weighed on the human experience of Black children in America is Ruby Bridges. In 1960, Ruby Bridges was six years old when she became the first Black child to desegregate William Frantz Elementary School, a formerly all-white school in New Orleans.²⁸ Ruby Bridges was escorted to the principal’s office to receive her class assignment. Reflecting on that day, Ruby Bridges stated in a recent interview:

That did not happen because every one of those parents rushed in behind me, went into every classroom, and they pulled out every child. I watched them parade right past me out of the school building. And so, by the time I got there on the second day, the school was totally empty.²⁹

The Civil Rights Act of 1957, the first civil rights legislation since the Reconstruction era, established the Civil Rights Division of the Department of Justice “to uphold the civil and constitutional rights of all persons in the United States, particularly some of the most vulnerable members of our society.”³⁰ This division “established a federal Civil Rights Commission with authority to investigate discriminatory conditions and recommend corrective measures.”³¹ It is

²⁶ *Brown v. Bd. of Educ.*, 347 U.S. 483 (1954); *Brown v. Bd. of Educ.*, 349 U.S. 294, 301 (1955), rev’g 98 F. Supp. 797 (D. Kan.1951); *Londerholm v. Unified Sch. Dist. No. 500*, 430 P.2d 188, 194, 199 Kan. 312 (Kan. 1967).

²⁷ *Id.*

²⁸ Elena Burnett, *After Making History As A Child, Ruby Bridges Shares Her Story With Today’s Kids* (Sept. 26, 2022, 5:00 PM), <https://www.npr.org/2022/09/23/1124748712/after-making-history-as-a-child-ruby-bridges-shares-her-story-with-todays-kids>.

²⁹ *Id.*

³⁰ Civil Rights Division, U.S. DEP’T OF JUST., <https://www.justice.gov/crt> (last visited Oct. 14, 2023).

³¹ *Civil Rights Act of 1957*, NAT’L ARCHIVES: DWIGHT D. EISENHOWER PRESIDENTIAL LIBR., MUSEUM AND BOYHOOD HOME, [https://www.eisenhowerlibrary.gov/research/online-documents/civil-rights-act-1957#:~:text=The%20result%20was%20the%20Civil,with%20the%20right%20to%20vote](https://www.eisenhowerlibrary.gov/research/online-documents/civil-rights-act-1957#:~:text=The%20result%20was%20the%20Civil,with%20the%20right%20to%20vote.). (last visited Oct 14, 2023).

important to note that despite the establishment of such authority, the Civil Rights Act of 1957 was said to lack an efficient enforcement mechanism.³² With the intention of bolstering the Civil Rights Act of 1957, The Civil Rights Act of 1960 was signed into law.³³ The Civil Rights Act of 1960 established:

(1) Federal inspection of local voter registration polls by appointed referees to oversee southern elections and ensure that African Americans were permitted to vote.

(2) Penalties for anyone who obstructed someone's attempt to register to vote or vote.

(3) It extended the life of the Civil Rights Commission which was previously limited to two years. The Commission would oversee voter registration and practices.

(4) Prosecution for interfering with court orders regarding school desegregation. As with 1957, the Civil Rights Act of 1960 has a limited impact due to a failure of enforcement.³⁴

5. Civil Rights Act of 1964 Forward

Moving forward, not only were additional protections provided to Black Americans, they were also accompanied by an enforcement mechanism.³⁵ The Civil Rights Act of 1964 prohibited discrimination based on race.³⁶ The U.S. Department of Labor points out that “[t]he Act prohibited discrimination in public accommodations and federally funded programs. It also strengthened the enforcement of voting rights and the desegregation of schools.”³⁷ Executive Order 11246, issued in 1965 by President Johnson, allowed federal agencies to enforce the Act.³⁸ In terms of higher education, *Regents of University of California v. Bakke* (1978), determined that college admission standards giving preferential consideration to minority applicants are constitutional.³⁹ However, the United

³² *The Civil Rights Act of 1964: A Long Struggle for Freedom*, supra note 7.

³³ *Civil Rights Act of 1960*, AFR. AM. CIV. RTS. MOVEMENT, <http://www.african-american-civil-rights.org/civil-rights-act-of-1960/> (last visited Oct. 28, 2023).

³⁴ *Id.*

³⁵ *Id.*

³⁶ Civil Rights Act of 1964, 42 U.S.C. § 1971 et seq.

³⁷ *Legal Highlight: The Civil Rights Act of 1964*, DEP'T OF LAB., <https://www.dol.gov/agencies/oasam/civil-rights-center/statutes/civil-rights-act-of-1964> (last visited Nov. 20, 2023).

³⁸ 30 F.R. 12319 (1965).

³⁹ *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

States Supreme Court upheld a Michigan referendum banning affirmative action in admissions at publicly funded state colleges in 2014.⁴⁰ In 2023, *Students for Fair Admissions v. Harvard* effectively eliminated the use of affirmative action in college admissions, holding that it would be a violation of the Civil Rights Act of 1964.⁴¹

To date, there has been a clear push and pull judicially and legislatively surrounding race and the treatment of racial minorities. Justice Sonya Sotomayor of the United States Supreme Court said, “Race matters. Race matters ... because of persistent racial inequality in society - inequality that cannot be ignored.”⁴² The United States has implemented policies and practices that stem from a racial worldview, intent on assigning some groups a lower status, according to the American Anthropological Association.⁴³ In the United States, that group has historically been Black Americans. Americans are shaped by their racial identities, as they dictate others’ perceptions and biases towards an individual, as well as the ways in which an individual identifies themselves.⁴⁴ According to an online study conducted by Pew Research Center, “[a] large majority of Black Americans say that being Black is extremely or very important to how they think of themselves.”⁴⁵ In the United States, ethnic and racial identities are an important part of not only how one sees oneself, but how one is perceived by others.⁴⁶

This significance placed on the acknowledgment and understanding of being Black in the United States has created a cultural idea of wokeism, as outlined in Figure 1. There cannot be a discussion of the word “woke,” and what it means in the United States, without acknowledging its political weaponization from both a conservative and liberal viewpoint. Victor Davis Hanson, a U.S. military historian, compares “wokeism” to Jacobinism.⁴⁷ Here, “‘Jacobinism’ refer[s] to the bloodiest,

⁴⁰ *Schuette v. Coal. to Def. Affirmative Action*, 572 U.S. 291 (2014).

⁴¹ *Students for Fair Admissions v. Harv.*, 600 U.S. 181 (2023).

⁴² *Race and Racial Identity*, NAT’L MUSEUM OF AFR. AM. HIST. & CULTURE, <https://nmaahc.si.edu/learn/talking-about-race/topics/race-and-racial-identity> (last visited Oct. 14, 2023).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Charles E. Cobb Jr., *The Complexities of Race and Identity*, PEW CHARITABLE TRUSTS (Sept. 20, 2022), <https://www.pewtrusts.org/en/trust/archive/fall-2022/race-and-identity>.

⁴⁶ *Ethnic and Racial Identity Development*, ACT FOR YOUTH, <https://actforyouth.net/adolescence/ethnic-racial-identity.cfm> (last visited Oct. 14, 2023).

⁴⁷ Victor Davis Hanson, *Wokeism Is a Cruel and Dangerous Cult*, AM. GREATNESS (Jan. 23, 2022), <https://amgreatness.com/2022/01/23/wokeism-is-a-cruel-and-dangerous-cult/>.

most radical period of the French Revolution, known as the ‘Reign of Terror.’”⁴⁸

Recent Timeline of “Woke” in Public Dialogue

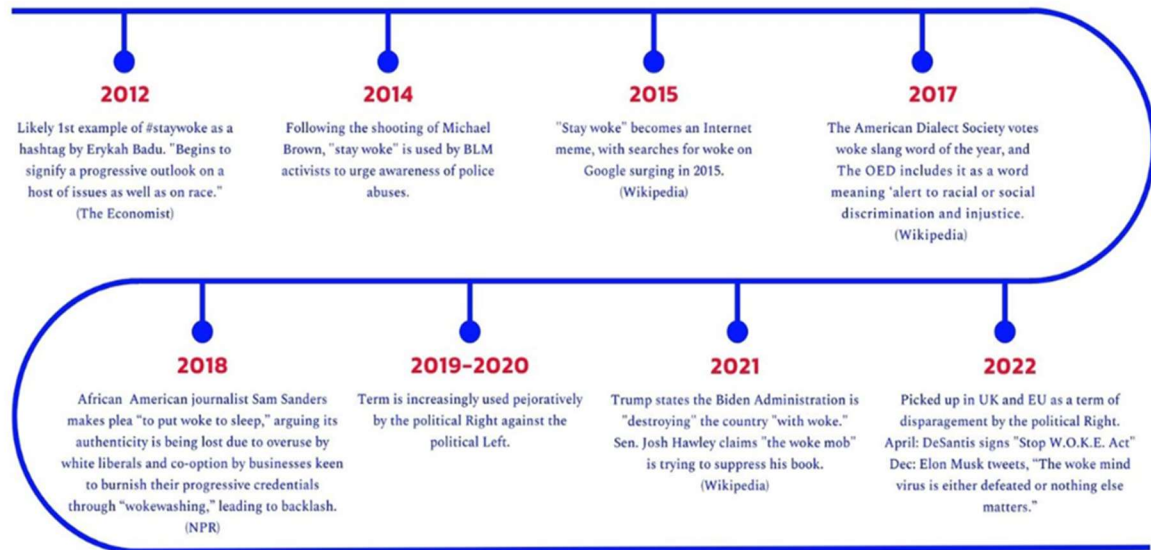


Figure 1. Recent Timeline of “Woke” in Public Dialogue ⁴⁹

Even prior to events outlined in Figure 1, “wokeism” is rooted in African American Vernacular English.⁵⁰ Ishena Robinsons’ article “*How Woke Went from ‘Black’ to ‘Bad’*” outlines the Black lineage of the word “woke.”⁵¹ Further, Michael Harriot elaborates on these events and identifies an “insidious takeover and flipping of Black vernacular to anti-Black pejorative.”⁵² Both ideas are reflected in how “woke” has been used in public dialogue; this can specifically pertain to the aforementioned conservative weaponization of the term. “Woke” is one of many linguistic examples plucked from Black culture, molded to fit a “progressive” white dialect, while consequently weaponizing the term when it is utilized to describe progressive actions supporting people of color. Ultimately, “woke” is a useful descriptor for the state of conversations around race in the United States, in that it

⁴⁸ Suhlle Ahn, “*Wokeism*”: *The Tug-of-War Over the Term*, TIDAL EQUAL., <https://www.tidalequality.com/blog/what-is-wokeism> (last visited Oct. 14, 2023).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Ishena Robinson, *How Woke Went From “Black” to “Bad”*, LEGAL DEF. FUND (Aug. 26, 2022), <https://www.naacpldf.org/woke-black-bad/>.

⁵² Ahn, *supra* note 47.

has been used as an identifier of progressive ideas encouraging conversation.

B. France

1. Colonial Empire Early 1500's – 1977

During this time, there was a global emphasis on trade.⁵³ The global South, specifically Louisiana, the Caribbean and Guiana, was the slave plantation economy.⁵⁴ Throughout history, France was met with significant opposition from the British. However, France eventually found success in their expansion into Africa in the later nineteenth century, establishing numerous colonies in the continent.⁵⁵ In the late eighteenth century, France played a significant role in the slave trade as the third largest trader.⁵⁶ Between 1881 and 1997, France increased their control in Africa, obtaining control of Tunisia, Madagascar, Gambia, the Ivory Coast, Morocco, and consolidated their colonies south of the Sahara as French Equatorial Africa.⁵⁷ However, France saw loss of their control when many countries began breaking these ties from 1955-1977.⁵⁸ In 1955, Morocco obtained independence. In 1958, Guinea broke ties with France and became their own Republic.⁵⁹ In 1960, numerous French colonies in Africa gained independence: Chad, Gabon, Senegal, Togo, etc.⁶⁰ In 1977, the French territories of Afars and Issas gained independence as Djibouti.⁶¹

2. WWII Vichy France 1940-1944

Vichy France was “formally [a] French State, (July 1940–September 1944) . . . under the regime of Marshal Philippe Pétain, following Nazi Germany's defeat of France to the Allied liberation in World War II.⁶² Over the course of four years, there was a large presence of a collaborationist French regime, “Vichy”, that

⁵³ *French Empire Timeline*, COLONIAL ARCHITECTURE PROJECT, https://www.colonialarchitectureproject.org/index?%2Fpage%2Ffrench_empire_timeline (last visited Oct. 15, 2023).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *French Slave Trade*, SLAVERY & REMEMBRANCE, <https://slaveryandremembrance.org/articles/article/?id=A0097> (last visited Oct. 15, 2023).

⁵⁷ *French Empire Timeline*, *supra* note 52.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Vichy France*, ENCYCLOPEDIA BRITANNICA, <https://www.britannica.com/event/Vichy-France> (Sept. 29, 2023).

seemed to demonstrate good will to Germany.⁶³ Books, such as “*L’Etat contre les Juifs*” (“*The State Against the Jews*”) show the extent to which Vichy France collaborated with Nazi Germany.⁶⁴ The research carried out by historian, Laurent Joly, and filmmaker, David Korn-Brzoza, uses previously unseen documents to show the willingness of French police and top officials to collaborate in the rounding up of tens of thousands of Jews. While this period of time does not directly involve the racial minorities at the center of the general subject matter, it is significant in the impact the events made on the current constitutional view of race, or lack thereof. Robert O. Paxton reflected on this period, echoing fear analogous to that behind the States discussion of race today:

At bottom, however, lay a more subtle intellectual culprit: fear of social disorder as the highest evil. Some of France’s best skill and talent went into a formidable effort to keep the French state afloat under increasingly questionable circumstances. Who would keep order, they asked, if the state lost authority? By saving the state, however, they were losing the nation. Those who cling to the social order above all may do so by self-interest or merely by inertia. In either case, they know more clearly what they are against than what they are for. So blinded, they perform jobs that may be admirable in themselves but are tintured with evil by the overall effects of the system...⁶⁵

3. The Addition of Race 1946

In 1946, the word “race” was added to the French Constitution.⁶⁶ This addition was done as a “powerful rebuke of the racist ideology propagated by the Nazis and the collaborationist French regime.”⁶⁷ Despite political campaigns for its removal, “race” remained in the Constitution when it was updated in 1958.⁶⁸

4. The Removal of Race 2013-2018

⁶³ *Depth of French Police Collaboration with Nazis Revealed*, FRANCE24 (Sept. 19, 2018, 4:33 PM), <https://www.france24.com/en/20180919-depth-french-police-collaboration-with-nazis-revealed>.

⁶⁴ LAURENT JOLY, *L’ETAT CONTRE LES JUIFS: VICHY, LES NAZIS ET LA PERSÉCUTION ANTISÉMITES* [THE STATE AGAINST THE JEWS: VICHY, THE NAZIS AND ANTI-SEMITE PERSECUTION] (2020).

⁶⁵ ROBERT O. PAXTON, *VICHY FRANCE: OLD GUARD AND NEW ORDER*, 1940, 382-83 (1982).

⁶⁶ 1946 CONST. pml. (Fr.).

⁶⁷ Aamna Mohdin, *France replaced the word “race” with “sex” in its constitution*, QUARTZ (June 28, 2018), <https://qz.com/1316951/french-mps-removed-the-word-race-from-the-countrys-constitution#:~:text=The%20word%20%E2%80%9Crace%E2%80%9D%20was%20first,been%20campaigning%20to%20remove%20it>.

⁶⁸ 1958 CONST. pml. (Fr.).

The word “race” was removed from French legislation in 2013.⁶⁹ President François Hollande made this move as a first step toward changing the Constitution, a promise his successor, President Emmanuel Macron, vowed to carry through.⁷⁰ On Thursday, July 12, 2018, Members of Parliament voted to remove the word “race” from the first founding article of the Fifth Republic.⁷¹ The outcome of the vote was to replace “race” with “sex.”⁷² If these amendments are adopted, the Constitution will read: “France is an indivisible, secular, democratic and social Republic. It ensures equality before the law for all citizens, without distinction of sex, origin, or religion.”⁷³ In opposition to the vote, Lionel Tardy, MP with UMP party, said “[y]ou can not change reality by simply changing the words . . . you're wasting a lot of time and energy on illusions.”⁷⁴

5. Modern Day France

History conceptualized a colorblind approach to race. A colorblind approach “means that it targets virtually no policies directly at racial or ethnic groups. Instead, it uses geographic or class criteria to address issues of social inequalities.”⁷⁵ The idea and discussion of race was eliminated not only from the Constitution, but also from social jargon. French scholar Mame-Fatou Niang points out that there is no French word for “blackness.”⁷⁶ This has resulted in a France that is “both ‘anti-racial,’ in that the French reject the use of racial terms, and ‘non-racial,’ in that there is a denial of the reality of race.”⁷⁷

“Wokeism” has made its way into France and garnered some social interest, as pointed out by Jean Beaman in the Georgetown Journal of International Affairs. Debates regarding race in response to “wokeism,” have “included accusations of importing Anglo-American or US conceptions of race and racism to the French context, as evident in a recent interview with President Emmanuel Macron in the

⁶⁹ *Assembly removes word “race” from French constitution*, CONNEXION (July 13, 2018), <https://www.connexionfrance.com/article/French-news/france-assembly-votes-to-remove-race-French-constitution>.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² Mohdin, *supra* note 66.

⁷³ *Assembly removes word ‘race’ from French constitution*, *supra* note 68.

⁷⁴ *No Such Thing as ‘Race’, Say French Lawmakers*, FRANCE24 (May 17, 2013), <https://www.france24.com/en/20130517-no-such-thing-as-race-french-lawmakers-france-racism-hollande>.

⁷⁵ Erik Bleich, *Race Policy in France*, BROOKINGS (May 1, 2001), <https://www.brookings.edu/articles/race-policy-in-france/>.

⁷⁶ Jean Beaman, *Race: A Never-Ending Taboo in France*, GEO. J. OF INT’L AFF. (Apr. 1, 2021), <https://gjia.georgetown.edu/2021/04/01/race-a-never-ending-taboo-in-france/>.

⁷⁷ *Id.*

New York Times and movement by his administration to investigate French universities for importing American theories.”⁷⁸ Beaman rightly identifies that “the French often characterize the United States, with its emphasis on multiculturalism and diversity, as an example of the dangers that can occur when race and ethnicity are officially measured and marked in society.”⁷⁹

C. Similarities in Relation to the Differences

Beaman, writing about race as a taboo in France, points out “[t]he differences between race and racism in France versus the United States relates to each society’s different history of colonialism, and legacies thereof — not one more severe than the other — but rather how each society invokes this history in its national ethos or narrative.”⁸⁰ While these brief histories identify contrasting actions taken by France and the United States, both succeed in identifying similar, somewhat patriotic, social ideologies that shape modern society. Both countries developed ideologies rooted in guilt and avoidance. For instance, Beaman argues that “while the United States has a long history of slavery and legalized racial discrimination, such a history is rarely invoked to make sense of present-day dynamics of racism and racial inequality.”⁸¹ This is evident in the judicial response to racist speech in the United States. Comparative politics author, Karen L. Bird, rightly points out that “American courts have generally interpreted the First Amendment as protecting the rights of groups like the Ku Klux Klan and neo-Nazis to hold rallies in which they advocate racial hatred and violence.”⁸² Similarly, the colorblind approach taken in France can be explained in part, as Erik Bleich suggests, “by the memory of France’s Vichy history and by the fears among the mainstream political class of a revival of far-right politics as embodied by the National Front.”⁸³

One of the greatest similarities between the two Nation States is the extremely divisive nature of both their internal approaches to race. In the United States, while “wokeism” or progressive ideals in terms of race have made significant strides forward, there are people in strong opposition to the very word “woke” and the ideals behind it.⁸⁴ While this analysis bolsters sources that share a view opposing the colorblind approach in France, or at least how it plays out in the police system,

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Karen L. Bird, *Racist Speech or Free Speech? A Comparison of the Law in France and the United States*, 32 COMP. POL. 399, (2000).

⁸³ Bleich, *supra* note 74.

⁸⁴ Kiara Alfonseca, *What Does “Woke” Mean and Why Are Some Conservatives Using It?*, ABC NEWS (Jan. 20, 2023), <https://abcnews.go.com/Politics/woke-conservatives/story?id=93051138>.

there are people of color in France that find many aspects of the approach to be personally and socially beneficial. The colorblind approach has been viewed as beneficial for reasons such as alleviating the concern of facing racial bias when applying for professional and academic opportunities because businesses and universities are not permitted to inquire about race. Additionally, if there is no focus on race, people can introduce themselves as French first, which cultivates inclusivity. The conversation, or lack thereof, surrounding race leaves the populace of both countries in a divisive stalemate where progress in one aspect is viewed as a hinderance in others.

III. CHILDHOOD

“There Can be No Keener Revelation of a Society’s Soul Than the Way in Which it Treats its Children.”

-Nelson Mandala

A. At Home

In France and the United States, parents of Black and Brown children feel the need to prepare them for potential police interactions. As part of a historical distrust of police in the United States, “[t]he talk’ has been passed down in many Black families for generations as a way to prepare their children for interactions with police.”⁸⁵ “The talk” is “sage advice about what young Black people should do and, more importantly, not do when stopped by police.”⁸⁶ Some advice shared by Black parents includes: “Always be respectful to the cop. Don’t talk down to him. Do what he says.”⁸⁷ “The talk” also tends to be had as early as elementary school, prior to any significant growth spurts, in anticipation of the prejudice tall Black men often face.⁸⁸ Not necessarily because of “the talk,” and possibly in culmination with a variety of external factors, it is evident that Black and Brown children are growing up with a fear of law enforcement. That fear is exemplified by youths’ response to law enforcement and what they are willing to risk evading law enforcement officers. The youth would rather face the consequences of evading law enforcement than face the likely repercussions that arise during a police interaction with Black and Brown children.

As these talks appear more necessary to parents of Black and Brown children

⁸⁵ Corey Williams & Gary Fields, *Distrust of Police: Black Parents, Children Have “The Talk”*, AP NEWS (2023), <https://apnews.com/article/memphis-detroit-law-enforcement-94d651117990d6b5850dbb4e902020ab>.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

being subject to identity checks, more records of “the talk” occurring in France have become available. Governed by Article 78-2 of the French Code of Criminal Procedure, identity checks are a “request made to a person by a law enforcement agent, a policeman or member of the Gendarmerie, to prove their identity by any means.”⁸⁹ Identity checks have been used as a way to target minorities since 1994, when increased identity checks of “foreigners and foreign-looking nationals” were instructed by Interior Minister Charles Pasqua.⁹⁰ Describing the effect on the youth, Hasnia Djerbie, a parent, made the statement: “In the end, all it takes is a police stop like that, where your son is humiliated, and they make him feel that no, he is not a part of [society]. And that’s terrible for a mother.”⁹¹ There is further evidence pointing to the fact that Black and Brown children, specifically boys, are being targeted by the police in France. In June of 2020, Human Rights Watch released a report of abusive police stops in France reciting personal accounts of people’s encounters with police from when they were as young as ten years old.⁹² Children have spoken out about their own experiences:

Koffi, twelve, said he and his entire class were subjected to a police identity check in front of their middle school in Bobigny, outside Paris, as they were leaving on a field trip to the Louvre. He said three police officers searched all their bags. “They put their hands in my pockets. They spread my legs and touched my genitals,” Koffi said, adding that his teacher objected but the police said they could do whatever they wanted.

Sekou, fourteen, living in the 11th arrondissement of Paris, said he had been stopped at least six times. “We never see white kids getting checked,” he said. “When I’m with my white friends, the police don’t even look at them . . . They say ‘freedom, equality, fraternity,’ but there’s no equality when it comes to this kind of thing.”⁹³

⁸⁹ *Report Concerning the Relationships Between Police and Citizens and Identity Checks*, REPUBLIQUE FRANÇAISE LES DEFENSEUR DES DROITS 1, 6 (May 2014), <https://ipcan.org/wp-content/uploads/2017/06/Report-concerning-the-relationships-between-police-citizens-and-identity-checks-May-2014.pdf>.

⁹⁰ *Identity Checks in France*, MIGRATION NEWS: MIGRATION DIALOGUE (Nov. 1, 1994), <https://migration.ucdavis.edu/mn/more.php?id=472>.

⁹¹ *France: Children Face Abusive, Racist Police Stops*, HUM. RTS. WATCH (June 18, 2020, 12:00 AM), <https://www.hrw.org/news/2020/06/18/france-children-face-abusive-racist-police-stops>.

⁹² *Id.*

⁹³ *Id.*

In France and in the United States, near parallel cases have occurred exemplifying the devastating results of encounters between scared youth and law enforcement officers, see Table 1.

Table 1. Comparative Case Study, Police Interactions with Youth.

In France	In the United States
<p>Ziad Benna, seventeen and Bouna Traore, fifteen, both lived in Clichy-Sous-Bois, France, where it was common knowledge stop and searches were frequent, usually done with a heightened aggression, and to nonwhite citizens.⁹⁴ Bouna and Ziad were playing football and instinctually ran when spotted by the police out of fear of being interrogated.⁹⁵ The two boys fled to a high-voltage electrical power substation and hid in a transformer, where they were killed by an electrocution.⁹⁶ There are accounts and transcripts of radio exchanges of officers at the scene discussing Ziad Benna and Bouna Traore.⁹⁷</p> <p>In these accounts, “Sebastien Gaillemain was heard saying over the police radio: ‘If they enter the site, there’s not much hope they’ll make it alive.’ The officer was not heard, however, attempting to stop the teenagers from entering.”⁹⁸</p>	<p>Israel Isla Mendez, seventeen, was found dead in Franklin, Milwaukee following a police chase.⁹⁹ He was found four days later, not because the police continued a search knowing he had gone into hazardous conditions, but because his mother reported him missing when he did not come home the night of the police chase.¹⁰⁰ Israel ran from his car, fleeing from police into the Franklin Quarry property. Police attempted to follow Israel into the quarry but ultimately called off the chase due to dangerous conditions.¹⁰¹</p>

⁹⁴ Anealla Safdar, *When Bouana Traore’s Death Led to France’s 2005 Riots*, AL JAZEERA (Oct. 27, 2017), <https://www.aljazeera.com/features/2017/10/27/when-bouana-traores-death-led-to-frances-2005-riots>.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ James Ganley & Tanaisa Shaw, *Teen Found Dead in Franklin Quarry 4 Days after Police Chase*, WISN (July 20, 2023), <https://www.wisn.com/article/teen-found-dead-after-pursuit/44594746>.

¹⁰⁰ Madison Goldbeck & Julia Fello, *Teen Involved in Police Chase Found Dead in Franklin Quarry Days Later*, WTMJ-TV MILWAUKEE (July 19, 2023, 10:48 PM), <https://www.tmj4.com/news/local-news/teen-involved-in-police-chase-found-dead-in-franklin-quarry-days-later#:~:text=The%20medical%20examiner%20estimates%20Israel,a%20Franklin%20quarry%20on%20Wednesday>.

¹⁰¹ Ganley & Shaw, *supra* note 98.

B. *In School*

School is supposed to be a haven for children. Both France and the United States federally sought the development of a system that provided children a high standard of equality and safety by way of federal regulations. In the United States, those standards are established as such:

All kids living in the United States have the right to a free public education. And the Constitution requires that all kids be given equal educational opportunity no matter what their race, ethnic background, religion, or sex, or whether they are rich or poor, citizen or non-citizen.¹⁰²

The United States has a longstanding history of implementing school safety policies and programs to be administered by the federal government.¹⁰³ This is ironic, because “[t]he federal government only provides 8.5 percent of the funding for K-12 public education.”¹⁰⁴ This leaves much of the responsibility to state and local governments. Nevertheless, National policymakers have made it clear that the policy of the United States is to promote equal opportunity for all children to access a high-quality education.¹⁰⁵ This begs the question of how limited the federal policy may be. The policy, in practice, would be reliant on access to educational resources.

The French school system has been created with a purpose of enabling students to overcome “inherited disadvantage and poverty through the means of state-based education.”¹⁰⁶ Standards are established by Title I of the Education Code as such:

It recognizes that all children share the capacity to learn and progress. It ensures the inclusive education of all children, without any distinction. It also ensures the social diversity of those enrolled in educational establishments. To guarantee everyone’s success, the school is built with the participation of parents, whatever their social origin. It is enriched and strengthened by dialogue and cooperation

¹⁰² *Ask Sybil Liberty About Your Right to Equality in Education*, ACLU (July 17, 2003), <https://www.aclu.org/documents/your-right-equality-education>.

¹⁰³ Marieke Brock, Ramón Miró & Norma Kriger, *School Safety Policies and Programs Administered by the U.S. Federal Government: 1990–2016*, LIBR. OF CONG. FED. RSCH. DIV. (Aug. 2017), <https://www.ojp.gov/pdffiles1/nij/grants/251517.pdf>.

¹⁰⁴ Dan Lips, *The State of Equal Opportunity in American K-12 Education*, MEDIUM (Nov. 3, 2019), <https://freopp.org/the-state-of-equal-opportunity-in-american-k-12-education-42c78f5b67d2>.

¹⁰⁵ *Id.*

¹⁰⁶ Paola Mattei, *More Research is Needed into Why France’s Education System is Failing the Country’s Growing Multicultural Population*, LSE (May 7, 2012), <https://blogs.lse.ac.uk/europpblog/2012/05/07/france-school/>.

between all stakeholders in the educational community.¹⁰⁷

Unlike in the United States, per the colorblind approach, the rhetoric around inclusion does not include race or ethnicity, instead leaving it at “social.” Grounded in the principles of “universalism,” “uniformity,” and “equality of opportunity,” the French school system strived to reflect that.¹⁰⁸

There is a reality in France that “social background is more closely linked to success at school than in many other countries.”¹⁰⁹ Some have determined the current reality of the education system is a testament to French republicanism being placed under pressure by a growing immigrant population.¹¹⁰ Some are acting as if the very presence of immigrants is to blame for the failure to establish the system. The education system is its own paradox. The journal *Après-Demain* rightly points out that “schooling is free; curricula and examinations are set nationally; the teaching body is skilled, standardized, and highly qualified; the system is centralized; and private teaching under state contract is subject to the same regulation as public teaching.”¹¹¹ With the successful implementation of such standards, the French school system should have the capacity to provide all students with a certain quality of education. Regardless, *Après-Demain* notes that “this is far from the case, and France is the country of the reproduction of social and educational inequalities.”¹¹²

Despite federal standards and regulations, both American and French education systems disparately disadvantage Black and Brown children. The systems have grown more similar in recent years as the United States experiences a political shift that has resulted in a crackdown on critical race theory and the elimination of affirmative action. Janel George, writing for the American Bar Association, describes when “President Trump issued an executive order excluding from federal contracts any diversity and inclusion training interpreted as containing ‘Divisive Concepts,’ ‘Race or Sex Stereotyping,’ and ‘Race or Sex Scapegoating.’”¹¹³

¹⁰⁷ French Code of Education, Articles L.111-1 et seq. (resulting from the law n. 2005-102 of 11 February 2005, the law n.°2005-380 of 23 April 2005 and the law n. 2006-396 of 31 March 2006).

¹⁰⁸ Mattei, *supra* note 105.

¹⁰⁹ *Equity in Education: Breaking Down Barriers to Social Mobility*, OECD 1, 2 (2018), <https://www.oecd.org/pisa/Equity-in-Education-country-note-France.pdf>.

¹¹⁰ Mattei, *supra* note 105.

¹¹¹ François Dubet, *Equality of opportunity at school: The French paradox*, in *APRÈS-DEMAIN* 14–16 (Hayley Wood trans., Mark Mellor & Faye East eds., 2016).

¹¹² *Id.*

¹¹³ Janel George, *A Lesson on Critical Race Theory*, ABA HUM. RTS. MAG., (Jan. 11, 2021), at https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/civil-rights-reimagining-policing/a-lesson-on-critical-race-theory.

“Critical Race Theory” (hereinafter known as "CRT"), falls into the category of “divisive.” CRT is:

an academic and legal framework that denotes that systemic racism is part of American society — from education and housing to employment and healthcare. Critical Race Theory recognizes that racism is more than the result of individual bias and prejudice. It is essentially an academic response to the erroneous notion that American society and institutions are ‘colorblind’.¹¹⁴

While the 2020 Executive Order was reversed under the Biden administration, there are lasting impacts on the American school system. Books have been challenged and banned at record highs in the last two years.¹¹⁵ There is an ongoing theme of diversity in these books. Of the 2,571 targeted books, many were by or about Black people, Indigenous people, and people of color.¹¹⁶ Beyond books, entire classes have been banned citing their themes of diversity, including African American Studies in Florida high schools.¹¹⁷ The drastic action taken to change the curriculum was a direct initiative of Florida's Stop W.O.K.E (Wrongness against Our Kids and Employees) Act.¹¹⁸ The Act has, as of now, been blocked in a decision by the Eleventh Circuit for unlawful censorship.¹¹⁹

These initiatives from Florida, that have inspired the actions of several other states, align with France’s response to “wokeism.”¹²⁰ The other significant change to the American education system was the reversal of affirmative action.¹²¹ Affirmative action has been defined by Cornell Law School’s Legal Information

¹¹⁴ *Critical Race Theory: Frequently Asked Questions*, LEGAL DEF. FUND, <https://www.naacpldf.org/critical-race-theory-faq/> (last visited Sept. 16, 2023).

¹¹⁵ Kasey Meehan & Jonathan Friedman, *Banned in the USA: State Laws Supercharge Book Suppression in Schools*, PEN AM., <https://pen.org/report/banned-in-the-usa-state-laws-supercharge-book-suppression-in-schools/> (last visited Feb. 29, 2024).

¹¹⁶ *Banned & Challenged Classics*, BANNED & CHALLENGED BOOKS: WEBSITE OF ALA OFF. INTELL. FREEDOM, <https://www.ala.org/advocacy/bbooks/frequentlychallengedbooks/classics> (last visited Oct. 17, 2023).

¹¹⁷ Abené Clayton, Ron DeSantis bans African American studies class from Florida high schools, THE GUARDIAN (Jan. 19, 2023, 8:09 PM), <https://www.theguardian.com/us-news/2023/jan/19/ron-desantis-bans-african-american-studies-florida-schools>.

¹¹⁸ Stop Wrongs Against Our Kids and Employees Act, H.B. 7, 2022 Leg., Reg. Sess. (Fla. 2022).

¹¹⁹ *Pernell v. Lamb*, 84 F.4th 1339 (11th Cir. 2023).

¹²⁰ Leila Fadel & Rokhaya Diallo, “Woke culture” has made its way into the French presidential election, NPR (Apr. 12, 2022, 5:14 AM).

¹²¹ Mark Sherman, *Divided Supreme Court Outlaws Affirmative Action in College Admissions, Says Race Can’t be Used*, AP NEWS (June 29, 2023, 10:10 AM), <https://apnews.com/article/supreme-court-affirmative-action-college-race-f83d6318017ec9b9029b12ee2256e744>.

Institute as “a set of procedures designed to; eliminate unlawful discrimination among applicants, remedy the results of such prior discrimination, and prevent such discrimination in the future.”¹²² Affirmative action has been previously applicable when applying to education programs or professional employment.¹²³ However, a divided Supreme Court decision to strike down affirmative action in college admissions ultimately declared that race cannot be a factor in decisions for college admissions.¹²⁴ The decision forces institutions to look for new ways to achieve diverse student bodies.¹²⁵ The narrowing applicability of affirmative action has drawn the United States and France closer in terms of both K-12 public education as well as higher education.

1. Academia’s Connection to Systemic Racism

Events experienced by Black and Brown students throughout their academic journey are pivotal. Not only do these events impact future academic and professional opportunities, but statistically, they also directly correlate with the likelihood of imprisonment, police interaction, or future potential entanglement with the criminal justice system.¹²⁶

School to Prison Pipeline Theory. In the United States, the school to prison pipeline theory provides an explanation for this pattern. The "school to prison pipeline" has been explained by the American Civil Liberties Union as “the policies and practices that push our nation’s schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile and criminal justice systems.”¹²⁷ Statistics have shown that “students from marginalized groups are [at] the greatest risk of being drawn into the school-to-prison pipeline.”¹²⁸

The starting point of this metaphorical pipeline is public schools that lack adequate resources. These resources include personnel, such as teachers, guidance counselors, special education services, and also classroom supplies, such as textbooks.¹²⁹ However, many of these schools are still allocating portions of their budget to have a police presence in the institution. The American Civil Liberties

¹²² *Affirmative Action*, LEGAL INFO. INST. https://www.law.cornell.edu/wex/affirmative_action_

¹²³ *Id.*

¹²⁴ *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141 (2023).

¹²⁵ Sherman, *supra* note 119.

¹²⁶ *Who is Most Affected by the School to Prison Pipeline?* AM. SCHOOL OF ED. (Feb. 24, 2021), <https://soeonline.american.edu/blog/school-to-prison-pipeline/>.

¹²⁷ *What is the School-to-Prison Pipeline?*, AM. CIV. LIBERTIES UNION (June 6, 2008), <https://www.aclu.org/documents/what-school-prison-pipeline>.

¹²⁸ *Who is Most Affected by the School to Prison Pipeline?*, *supra* note 125.

¹²⁹ *What is the School-to-Prison Pipeline?*, *supra* note 126.

Union has organized the following data:

- 1.7 million students are in schools with police but without any counselors.
- 3 million students are in schools with police but without nurses.
- 6 million students are in schools with police but without school psychologists.
- 10 million students are in schools with police but without social workers.
- 14 million students are in schools with police but without counselors, nurses, psychologists, or social workers.¹³⁰

Disciplinary policies, such as the zero-tolerance policy, adhere to these institutions and the incentives they are facing to push out low-performing students.¹³¹ Zero-tolerance policies have drastically increased expulsion and suspension, primarily for students of color.¹³² Excessively harsh disciplinary policies push students further out of the classroom and down the metaphorical pipeline.

Enforcement of these policies goes beyond the school; schools will occasionally give students a referral to law enforcement or subject students to school-related arrests. Black students are 2.2 times more likely to receive a referral to law enforcement and are arrested at a rate three times that of white students, and in some states, eight times that of white students.¹³³ Black students are statistically more likely to be funneled into the criminal justice system through school. Becoming involved in the juvenile justice system is associated with risk factors that will continuously affect an individual throughout his life. These risks include anti-social behavior, hyperactivity, and substance misuse.¹³⁴ It is highly likely that these behaviors will impact not only the rest of a student's experience in school, but also his future interactions with the criminal justice system. The school to prison

¹³⁰ U.S. Dep't of Educ. Off. For Civil Rights, 2013-2014 Civil Rights Data Collection: A First Look (2016), <https://www2.ed.gov/about/offices/list/ocr/docs/2013-14-first-look.pdf>; Amir Whitaker et al., Cops and no counselors - American civil liberties union Cops and No Counselors, https://www.aclu.org/sites/default/files/field_document/030419-acluschooldisciplinereport.pdf?ref=pleaforthe5th.com (last visited Oct. 29, 2023).

¹³¹ *What is the School-to-Prison Pipeline?*, *supra* note 126.

¹³² *Id.*

¹³³ Amir Whitaker et al., *supra* note 129.

¹³⁴ *Who is Most Affected by the School to Prison Pipeline?*, *supra* note 124.

pipeline theory reflects the prioritization of incarceration over education in the United States.¹³⁵

School to Terror Pipeline Theory. In France, the school to terror pipeline explores the idea that pedagogy, curriculum, policies, and culture within schools contributes to the radicalization of young people; specifically, young people of color.¹³⁶ This concept speaks to a deepening and modernized mistrust and alienation between Franco-French students and Muslim-French students, likewise between Western nation states, such as France and the United States, and their Muslim immigrant communities. Counter violent extremist theorists discuss factors leading to radicalization, which resemble causes of minors' judicial involvement in the school to prison pipeline. One factor would be a lack of economic opportunity.¹³⁷ These factors seem to place an emphasis on an individual's search for comfort, following a background that lacked access to opportunity.

The school to terror pipeline may begin with the environment in which immigrant students are educated, which appears to be an oppressive system of structural violence.¹³⁸ This has been attributed to a lack of federal funding, educational policies, and the methodology used by France, as well as the United States, where students are placed on "tracks" based on their academic performance.¹³⁹ Not only were students separated by these "tracks," but blatant segregation of students within schools is not uncommon.¹⁴⁰ Cheryl Lynn Duckworth attributes one journalist's research to segregation in the French School System:

[O]ne journalist described two seemingly sister schools, one populated with mainly North African immigrant students which focuses on vocational education and has a reputation for violence. (Recently someone threw a Molotov cocktail into the administrative offices.) The other school offers the standard curriculum needed for real economic integration and advancement yet this school is populated by primarily non-immigrant students. Worryingly, the students are prevented from mixing, one presumes out of a fear that conflict or violence may ensue (Kramer, 2012). What could be a

¹³⁵ *What is the School-to-Prison Pipeline?*, *supra* note 125.

¹³⁶ Cheryl Lynn Duckworth, *Is There a School to Prison Pipeline? The Case of France*, 11 J. OF CONTEMP. ISSUES IN EDUC. 86 (2016).

¹³⁷ *Id.*

¹³⁸ *Id.* at 88.

¹³⁹ *Id.* at 86.

¹⁴⁰ Georges Felouzis, et al., *School Segregation in France: The Role of Public Policies and Stakeholder Strategies*, in UNDERSTANDING SCHOOL SEGREGATION 29, 31 (2019).

teachable moment is missed due to fear.¹⁴¹

It appears in France, just as in the United States, the oppression of Black and Brown students has been prioritized over their education. The repercussions of this appear to be the funneling of students of color into the prison system, “[w]ith stark similarities to the oppression of African Americans in the U.S., the vast majority of France’s prison population is made up of Maghrebis.”¹⁴² This French perspective, the school to terror pipeline, while it does not necessarily differ from the American school to prison pipeline theory at its core or in practice, it does differ in its focus. Both pipeline theories consider a school system leading to their Black and Brown students’ involvement in the legal system. However, where the school to prison pipeline places an emphasis on the role of the American education system, the school to terror pipeline gives larger focus to the criminalization of the student.

¹⁴¹ Duckworth, *supra* note 134, at 86.

¹⁴² Duckworth, *supra* note 134, at 88.

IV. ADULTHOOD

"Many Abused Children Cling to the Hope that Growing Up Will Bring Escape and Freedom."

– Judith Lewis Herman

Racial inequity, in terms of police brutality against Black and Brown people, continues into adulthood. There are countless victims of improper policing in both France and the United States, as displayed in figures 1 and 2 below.

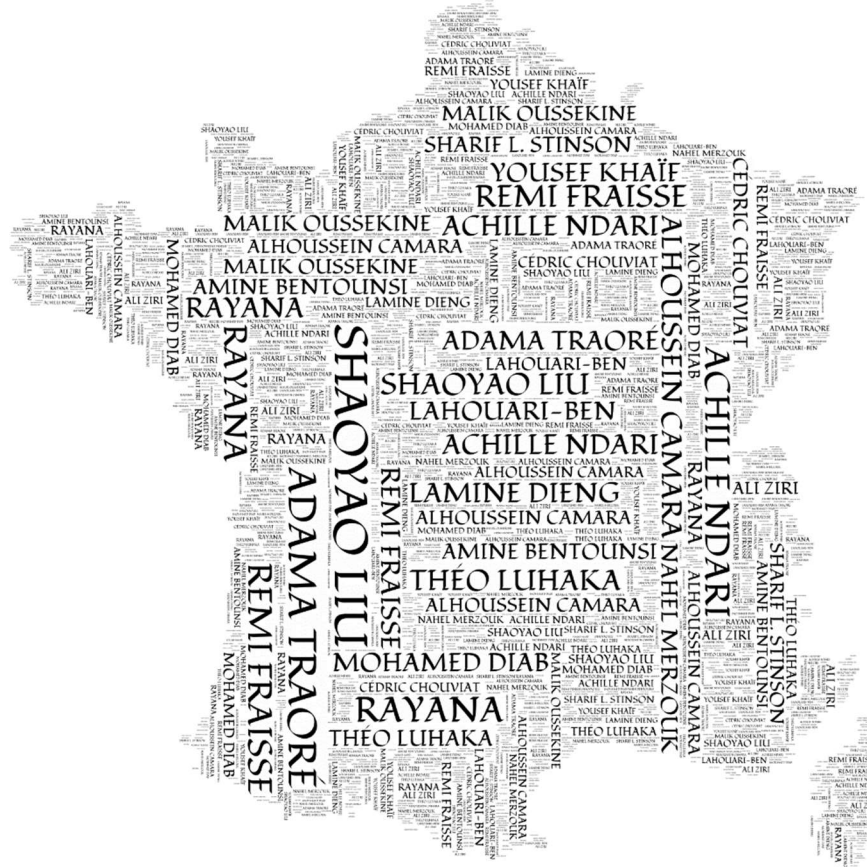


Figure 1: Say Their Name, France (composed by the author using wordificator).¹⁴³

¹⁴³ Yasemin Inceoglu, *The Murder of Nahel Merzouk, Police Violence and the Media in France*, THE WIRE (July 14, 2023), <https://thewire.in/world/france-murder-nahel-merzouk-police-violence-media>; Myriam Francois, *Adama Traore: How George Floyd's Death Energized French Protests*, BBC (May 19, 2021), <https://www.bbc.com/news/world-us-canada-57176500>; Paul Kirby, *Paris Woman Condemns Police for Friend's Fatal Shooting*, BBC (June 8, 2022), <https://www.bbc.com/news/world-europe-61731631>; Iman Amrani & Angelique Chrisafis, *Young Man's Death in Custody Has Become One of France's Most High-Profile Cases of Alleged Police*

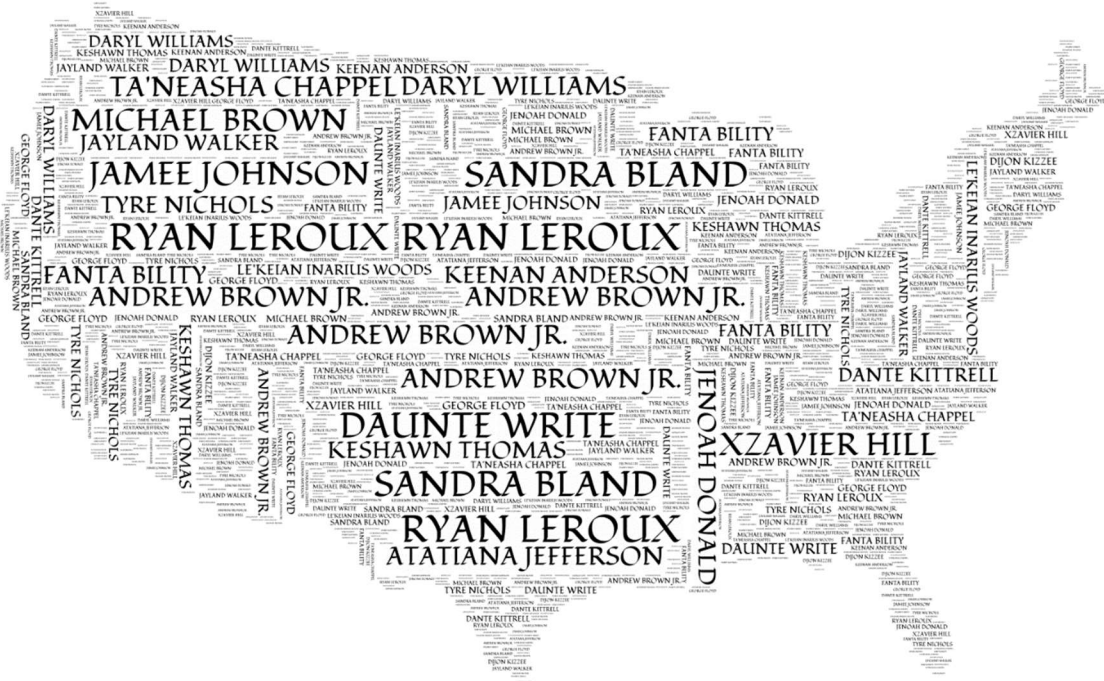


Figure 2: Say Their Name, United States (composed by the author using wordificator) ¹⁴⁴

Brutality, THE GUARDIAN (Feb. 17, 2017 4:06 EST), <https://www.theguardian.com/world/2017/feb/17/adama-traore-death-in-police-custody-casts-long-shadow-over-french-society>; Belkis Kilckaya, *Can a Person Die During a Traffic Identity Check? Death and Protests in France*, POLITICS TODAY (July 31, 2023), <https://politicstoday.org/french-muslims-nahel-death-france-protest/>; Rokhaya Diallo, *Police Brutality Isn't Just an American Problem. It's France's Too*, WASH. POST (2023), <https://www.washingtonpost.com/opinions/2023/07/13/france-police-brutality-victims-names/>; Oliver Pieper, *France: A Chronicle of Police Violence*, DW (2023), www.dw.com/en/france-a-chronicle-of-police-violence/a-66090309; Thibault Camus, *French Police Accused of Systemic Discrimination in Landmark Case*, NBC (2023), <https://www.nbcnews.com/news/world/france-police-systemic-discrimination-racism-case-landmark-hearing-rcna118196>; Kim Wilsher, *Two French Police Linked to Violent Arrest of Black Man May Only Get Reprimands*, THE GUARDIAN (Jan. 2021 9:11 EST), <https://www.theguardian.com/world/2021/jan/15/two-french-police-linked-to-violent-arrest-of-black-man-may-get-reprimands>; Ruby Mellen, *How the Killing of a Teen Fits France's History of Police Brutality*, WASH. POST (June 30, 2023, 6:32 PM), <https://www.washingtonpost.com/world/2023/06/30/police-brutality-history-france/>; *Justice for Tania*, <https://www.justiceforatiana.com/> (last visited Oct. 29, 2023); *"They Talk to Us Like We're Dogs" Abusive Police Stops in France*, Human Rights Watch (2020), https://www.hrw.org/sites/default/files/media_2020/06/france0620_web_1.pdf.

¹⁴⁴ Jacksonville Sheriff's Office Sued in Shooting Death of Man with Ties to Gainesville, GAINESVILLE SUN (Mar. 6, 2021, 9:58 AM),

<https://www.gainesville.com/story/news/2021/03/06/gainesville-family-sues-jacksonville-sheriffs-office-over-sons-shooting-death/4600486001/>; Tessa Duvall, “*Can you Help Me, Please?*” *Ta’neasha Chappell Begged for Medical Aid Before Her Jail Death*, COURIER J. (Jan. 21, 2022, 8:49 AM), <https://www.courier-journal.com/story/news/crime/2022/01/21/taneasha-chappell-louisville-woman-begged-for-help-before-jail-death/6579985001/>; Aleesia Hatcher, *Le’Keian Woods’ Mother Pressing for Justice as Son Questions How Officers Seen in Viral Arrest Video Are Still Working*, NEWS4JAX (Oct. 15, 2023, 6:02 PM), <https://www.news4jax.com/news/local/2023/10/15/lekeian-woods-mother-pressing-for-justice-as-son-questions-how-officers-seen-in-viral-arrest-video-are-still-working/>; Cheyenne Corin, *DOJ Files Statement of Interest in Lawsuit Over Police Shooting of Ryan LeRoux*, DC NEWS (Oct. 20, 2022, 11:00 PM), <https://www.dcnnewsnow.com/news/local-news/maryland/doj-files-statement-of-interest-in-lawsuit-over-police-shooting-of-ryan-leroux/>; Stella Chan & Elizabeth Wolfe, *Keenan Anderson, Cousin of Black Lives Matter Co-founder, Dies from Cardiac Arrest after Being Tased by Los Angeles Police*, CNN (Jan. 14, 2023), <https://www.cnn.com/2023/01/13/us/keenan-anderson-black-lives-matter-cousin-police-death/index.html>; Steve Helling, *Family of Andrew Brown Jr. Files Federal Lawsuit Months After N.C. Black Man Was Killed by Police*, PEOPLE (July 14, 2021), <https://people.com/crime/andrew-brown-jr-family-files-federal-lawsuit-police-killing/>; Christina Zdanowicz & Jaide Timm-Garcia, *Tyre Nichols Was a Son and Father Who Enjoyed Skateboarding, Photography and Sunsets, His Family Says*, CNN (Feb. 1, 2023, 6:07 PM), <https://www.cnn.com/2023/01/25/us/tyre-nichols-memphis-profile/index.html>; *Say Their Name*, Stanford Library, <https://exhibits.stanford.edu/saytheirnames/feature/michael-brown> (last visited Nov. 20, 2023); Khaleda Rahman, *Who Was Darryl Williams? Bodycam Footage Emerges Showing Deadly Arrest*, NEWSWEEK (Feb. 13, 2023, 4:36 AM), <https://www.newsweek.com/darryl-williams-bodycam-footage-showing-deadly-arrest-1780733>; Evan Hill et al., *How George Floyd was Killed in Police Custody*, N.Y. TIMES (2020), <https://www.nytimes.com/2020/05/31/us/george-floyd-investigation.html>; Jamilah Lemieux, *What Happened to Sandra Bland?* EBONY (2022), <https://www.ebony.com/what-happened-to-sandra-bland-505/>; Daunte Wright, *Slain by Police, Known as Jokester, Doting Dad*, MPR NEWS (2021), <https://www.mprnews.org/story/2021/04/15/daunte-wright-slain-by-police-known-as-jokester-doting-dad> (last visited Oct. 29, 2023); Eileen Grench, *Video Shows Cops Badger Drunk Black Man Before Killing Him*, THE DAILY BEAST (2022), <https://www.thedailybeast.com/keshawn-thomas-albuquerque-man-gunned-down-after-cops-escalated-the-situation-experts-say>; *Justice for Xzavier Hill*, Justice For Xzavier Hill, <https://www.justiceforxzavier.org/> (last visited Oct 29, 2023); Annie Kate, *Crisis Response: Dante’s Story*, ABC57 (July 28, 2023, 6:49 PM), <https://abc57.com/news/crisis-response-dantes-story>; Clark County Prosecuting Attorney’s Office, *Jenoah Donald Shooting*, OREGON LIVE (Apr. 7, 2021), <https://www.oregonlive.com/galleries/X4EUOZWVVE6FNK45IRVDQPKFI/>; Fabiola Cineas, *What We Know About the Deadly Police Shooting of Jayland Walker*, VOX (July 7, 2022, 2:20 PM), <https://www.vox.com/2022/7/7/23197430/jayland-walker-police-shooting-akron-ohio-footage>; Leila Miller, *Dijon Kizzee Was ‘Trying to Find his Way’ before Being Killed by L.A. Deputies, Relatives Say*, L.A. TIMES (Sept. 4, 2020), <https://www.latimes.com/california/story/2020-09-04/dijon-kizzee-was-trying-to-find-his-way-relatives-say>; Zenebou Sylla, *3 Pennsylvania Officers Sentenced to Probation in the Fatal Shooting of 8-year-old Fanta Bility*, CNN (May 5, 2023 6:27 PM), <https://www.cnn.com/2023/05/05/us/fanta-bility-death-officers-sentencing/index.html>; *Justice for Tania*, <https://www.justiceforatiana.com/> (last visited Oct. 29, 2023).

V. DATA

“The Strongest Arguments Prove Nothing So Long as the Conclusions Are Not Verified by Experience.”

– Rodger Bacon

The United States has collected data showing that a disproportionate number of imprisoned individuals are people of color; predominantly, Black and Brown neighborhoods are more heavily policed. Today, 204.3 million people in the United States identify as white, making it the largest racial or ethnic group in the United States.¹⁴⁵ In listening to citizens of the United States, “[m]ajorities of both black and white Americans say black people are treated less fairly than whites in dealing with the police and by the criminal justice system as a whole.”¹⁴⁶ The American people’s opinions align with the available data. In France, collection of such data is prohibited under the colorblind approach. However, as seen in the United States, it is likely that the opinion provided by the people based on their personal experiences will be an accurate depiction of the unavailable quantified reality.

A. *The Human Experience*

1. Words of Significance

Key players in the international sphere have pointed to issues of racism and mistreatment in France. The U.N. Committee on the Elimination of Racial Discrimination (CERD) adopted a statement expressing concern about racial profiling and excessive police force in France.¹⁴⁷ The statement urged France to promptly investigate the circumstances surrounding the death of Nahel Merzouk and adopt legislation that would prohibit racial profiling and regulate police use of lethal force to prevent similar situations.¹⁴⁸ The statement further urges France to “respect the principles of legality, necessity, proportionality and nondiscrimination

¹⁴⁵ Nichoals Jones, et al., *2020 Census Illuminates Racial and Ethnic Composition of the Country*, CENSUS.GOV (Aug. 12, 2022), <https://www.census.gov/library/stories/2021/08/improved-race-ethnicity-measures-reveal-united-states-population-much-more-multiracial.html>.

¹⁴⁶ Drew DeSilver, et al., *10 things we know about race and policing in the U.S.*, PEW RES. CTR. (June 3, 2020), <https://www.pewresearch.org/short-reads/2020/06/03/10-things-we-know-about-race-and-policing-in-the-u-s/>.

¹⁴⁷ U.N., Hum. Rts. Off. High Comm'r, *Statement on France by the UN Committee on the Elimination of Racial Discrimination* (July 7, 2023), <https://www.ohchr.org/en/press-releases/2023/07/statement-france-un-committee-elimination-racial-discrimination>.

¹⁴⁸ U.N., Comm. on Elimination of Racial Discrimination, *Statement on the Prevention of Racial Discrimination, Including Early Warning and Urgent Action Procedures* (2023), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCERD%2FSWA%2F9833&Lang=en.

while countering mass protests and demonstrations.”¹⁴⁹ Another key player in the conversation surrounding racism in France is Élisabeth Borne, the Prime Minister of France. This past year, Borne has worked toward creating an even greater acknowledgment of race than that prior to the word’s elimination from the Constitution.¹⁵⁰ This involved the Prime Minister’s launch of the National Plan Combating Racism, Antisemitism and Discrimination Linked to Origin 2023-2026.¹⁵¹

2. Black Lives Matter: Adama Traore, George Floyd, and Many More

French citizens have long joined Americans in anti-racist mobilization. The deaths of Black and Brown citizens at the hands of police that have occurred in the United States echoes the deaths of Black and Brown French citizens. The present anti-racist demonstrations are one way that activists are mobilizing across nation state lines an illustration of the ways in which anti-blackness, racism, and the movements against them are not isolated.¹⁵²

George Floyd, at forty-six years old, was murdered the evening of May 25, 2020. George Floyd made a purchase at a Minneapolis convenience store where the clerk, suspecting the twenty-dollar bill George Floyd paid with was counterfeit, called the police.¹⁵³ George Floyd initially cooperated with police, but resisted getting into the police car saying he was claustrophobic.¹⁵⁴ After pulling George Floyd from the car, Officer Derek Chauvin pinned George Floyd to the ground with his knee on the back of George Floyd’s neck.¹⁵⁵ Derek Chauvin pinned George Floyd like this for nine minutes and twenty-nine seconds.¹⁵⁶ During this period George Floyd repeated the words “I can’t breathe” more than twenty times.¹⁵⁷ These infamous words later spanned nations and ignited a movement.¹⁵⁸ As a result of

¹⁴⁹ *Id.*

¹⁵⁰ Almaz Teffera, *France’s Anti-Racism Action Plan Ignores Institutional Racism*, HUM. RTS. WATCH (Feb. 6, 2023, 3:38 PM), <https://www.hrw.org/news/2023/02/06/frances-anti-racism-action-plan-ignores-institutional-racism>.

¹⁵¹ *Id.*

¹⁵² Beaman, *supra* note 1.

¹⁵³ *George Floyd is Killed by a Police Officer, Igniting Historic Protests*, HISTORY.COM (May 24, 2021), <https://www.history.com/this-day-in-history/george-floyd-killed-by-police-officer>.

¹⁵⁴ *Id.*

¹⁵⁵ Meredith Deliso, *Timeline: The Impact of George Floyd’s Death in Minneapolis and Beyond*, ABC NEWS (Apr. 21, 2021, 3:35 PM), <https://abcnews.go.com/US/timeline-impact-george-floyds-death-minneapolis/story?id=70999322>.

¹⁵⁶ *George Floyd is Killed by a Police Officer, Igniting Historic Protests*, *supra* note 152.

¹⁵⁷ *George Floyd: What Happened in the Final Moments of His Life*, BBC NEWS (July 16, 2020), <https://www.bbc.com/news/world-us-canada-52861726>.

¹⁵⁸ *Id.*

being pinned and unable to breathe for so long, George Floyd lost consciousness.¹⁵⁹ BBC News described the result of the encounter: “Mr. Chauvin removed his knee from Mr. Floyd’s neck. Motionless, Mr. Floyd was rolled on to a gurney and taken to the Hennepin County Medical Center in an ambulance. He was pronounced dead about an hour later.”¹⁶⁰

George Floyd’s autopsy results were revealed on June 1, 2020.¹⁶¹ The Hennepin County Medical Examiner found the death had the following combination of causes:

[C]ardiopulmonary arrest complicating law enforcement subdual, restraint, and neck compression and that his system showed ‘fentanyl intoxication; recent methamphetamine use.’ The ME called the manner of death ‘homicide,’ but goes on in the report to state that this ‘is not a legal determination of culpability or intent.’¹⁶²

Additionally, George Floyd’s legal team provided an independent autopsy which concluded that “his death was a homicide caused by asphyxia due to neck and back compression that led to a lack of blood flow to the brain.”¹⁶³

The death of George Floyd was recorded and shared by bystanders, which ignited what was “possibly the largest protest movement in U.S. history and a nationwide reckoning on race and policing.”¹⁶⁴ Demonstrations spanned across the country and abroad with protesters calling for police reform.¹⁶⁵ As part of this movement “[s]everal thousand demonstrators in Paris ignored a protest ban – issued due to the coronavirus pandemic – and assembled within sight of the US embassy, kept back by imposing barriers and riot police.”¹⁶⁶

On a Le Média program on June 15, 2020, . . . ‘En Finir avec les Violences Policières’ [Ending Police Violence] activist Almamy Kanouté, a child of Malian immigrants, explained, ‘The conditions that killed, or assassinated, George Floyd are the same that killed

¹⁵⁹ *George Floyd is Killed by a Police Officer, Igniting Historic Protests*, *supra* note 152.

¹⁶⁰ *George Floyd: What happened in the Final Moments of His Life*, *supra* note 155.

¹⁶¹ Deliso, *supra* note 154.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *George Floyd is Killed by a Police Officer, Igniting Historic Protests*, *supra* note 152.

¹⁶⁵ Deliso, *supra* note 154.

¹⁶⁶ John Leicester & Frank Jordans, *Protests support Floyd, Black Lives Matter on 4 Continents*, NBC5 DALLAS-FORT WORTH (June 6, 2020), <https://www.nbcdfw.com/news/national-international/black-lives-matter-protests-in-australia-asia-and-europe/2383937/#:~:text=In%20Paris%2C%20several%20thousand%20demonstrators,14%2C%20the%20French%20national%20day>.

Adama Traore, Lamine Dieng, all the others. The list is so long, sorry, I cannot name everyone. . . French police and American police are one in the same.¹⁶⁷

Adama Traore died four years before George Floyd, in July of 2016, in a town north of Paris, France after he was chased and immobilized by police attempting to question him and his brother.¹⁶⁸ Adama Traore had multiple autopsies done and it was never determined whether the cause of death was him being restrained by officers or an underlying health problem.¹⁶⁹ However, Adama Traore's mother makes it known that "Adama carried the weight of three officers on his body."¹⁷⁰ As in the case of George Floyd, Adama Traore's two autopsies contradict one another. The medical assessment requested by his family determined that he likely died of positional asphyxia induced by the restraint methods used by police.¹⁷¹ Adversely, a judge mandated medical report attribute his death to "pre-existing health conditions".¹⁷²

3. Legislative Action

Beyond grassroots mobilization, human rights organizations are taking legislative actions to combat the systemic racism and inequity plaguing France. On September 15, 2023, a coalition of organizations joined forces seeking a solution for the pervasive issue of mass-fining, particularly affecting socioeconomically disadvantaged and racially marginalized groups. These groups include: (RE)Claim, a new French-based organization fighting to end systemic discrimination; Maison Communautaire pour un Développement Solidaire, a nongovernmental organization combating discrimination and promoting improved community relations in France; Justice Collective, a Berlin-based organization publicly educating, researching, and advocating on topics related to the criminal legal system; and Hungarian Helsinki Committee, an independent human rights watchdog based in Hungary.¹⁷³ The organizations submit a joint account of the

¹⁶⁷ Beaman, *supra* note 1.

¹⁶⁸ Victor Mallet & David Keohane, *How France Was Touched by the Death of George Floyd*, FINANCIAL TIMES (2020), <https://www.ft.com/content/20c21bef-9763-4507-9281-7c6ffa65f33f>.

¹⁶⁹ *Id.*

¹⁷⁰ *Id.*

¹⁷¹ Eva Tapiero & Antonella Francini, *New Medical Report May Shed Light on Adama Traoré's Death in Police Custody*, CNN (Feb. 8, 2021), <https://www.cnn.com/2021/02/08/europe/adama-traore-medical-report-new-intl/index.htm>.

¹⁷² *Id.*

¹⁷³ (RE)Claim, (MCDS) Maison Communautaire pour un Développement Solidaire, Justice Collective (Germany) & Hungarian Helsinki Committee (Hungary), *for the joint report of the special Rapporteur on the right to adequate housing and the Special Rapporteur on extreme poverty and human rights on the Decriminalization of Homelessness and Extreme Poverty* (Sept.

criminalization of poverty and homelessness in France, Germany, and Hungary.¹⁷⁴ This report highlights the criminalization by way of fines imposed to discriminate against impoverished persons from highly racialized groups.¹⁷⁵ Justice Collective highlights three common themes in each participating countries submission: (1) how people from racial minority and immigrant groups are disproportionately impacted by mass fining; (2) how the criminalization of an individual's poverty takes place through a variety of charges, both criminal and non-criminal; and (3) how there has been a trend of fast-tracking proceedings and implementing other procedural shortcuts, allowing for quick sentencing and mass criminalization.¹⁷⁶

As reported by Justice Initiative, on September 29, 2023, “France’s State Council, the country’s highest administrative court, heard a legal challenge to systematic police tactics that unfairly target young people of color.”¹⁷⁷ This challenge was brought by six French international legal rights groups. The six petitioners include the Maison Communautaire pour un Développement Solidaire (MCDS), Association Pazapas, Réseau Egalité, Antidiscrimination, Justice Interdisciplinaire (REAJI), Amnesty International France, Human Rights Watch en Français and the Open Society Justice Initiative.¹⁷⁸ Petitioners are represented by Antoine Lyon-Caen, a barrister at the Conseil d’Etat and the Supreme Court of Cassation and a partner at Lyon-Caen & Thiriez.¹⁷⁹ The complaint, originally filed in July of 2021, as pointed out by Maïté De Rue, international expert in human rights, alleges that:

[E]thnic profiling by the French police constitutes systemic discrimination—defined by the UN Committee on Economic, Social, and Cultural Rights as “legal rules, policies, practices or predominant cultural attitudes in the public sector. . . which create

15, 2023),

<https://static1.squarespace.com/static/6124ccb23f114835709cc1d5/t/65080e5083aace0f46369b36/1695026769238/Joint+Submission+15+9+23.pdf>

¹⁷⁴ *Id.* See also *Justice Collective Submits Testimony to UN on the Mass Fining of People from Poor, Racialized Communities Across Europe*, JUSTICE COLLECTIVE (Sept. 17, 2023), <https://www.justice-collective.org/en/justice-collective-blog/un-testimony-poverty-criminalization>.

¹⁷⁵ *Justice Collective submits testimony to UN on the mass fining of people from poor, racialized communities across Europe*, *supra* note 173.

¹⁷⁶ *Id.*

¹⁷⁷ *After a Summer of Unrest, French Police Tactics Face Court Scrutiny*, OPEN SOCIETY JUSTICE INITIATIVE (Sept. 26, 2023), <https://www.justiceinitiative.org/newsroom/after-a-summer-of-unrest-french-police-tactics-face-court-scrutiny>.

¹⁷⁸ *Id.*

¹⁷⁹ *Antoine Lyon-Caen*, LYON-CAEN & THIRIEZ, <https://www.lyoncaen-associes.com/antoine-lyon-caen> (last visited Nov. 20, 2023).

relative disadvantages for some groups, and privileges for other groups”—and details the French state’s inadequate response to date to put an end to it.¹⁸⁰

The class action lawsuit focused on *contrôle au faciès*, which are identity checks targeting youth of African or Arabic origin.¹⁸¹ In France, a class action is considered an innovative procedure, as it allows civil society groups to make a request to the court.¹⁸² Petitioners are asking the Council of State to find that France failed to prevent widespread use of ethnic profiling by the police, and to order authorities to adopt necessary reforms.¹⁸³ Maite De Rue, a litigation officer involved in the class action, made the following statement:

The tragic events of this summer showed France and the world once again that something is profoundly broken in French policing. This vitally important case is a bid to secure the systemic change that so far, the government and the police refuse to acknowledge is so desperately needed.¹⁸⁴

Those who will feel the direct impact of the lawsuit outside of the courtroom are also speaking out. Isaa Coulibaly, head of Pazapas, a local Parisian youth group, made the following statement:

We hope this hearing will bring recognition by the law of the injustice that young people of color in French cities face every day. To be stopped by police in the middle of the street for no reason; to be spread-eagled, to have your ID checked, to be frisked, in front of everyone. And all for nothing. And this happens over and over again. Those that don’t live it, don’t know it. But everyone needs to know that this injustice must end.¹⁸⁵

Beyond this class action lawsuit, the Justice Initiative is a member of another legal team that is currently before the European Court of Human Rights, *Seydi and Others v. France*.¹⁸⁶ This case is “focused on the failure of the French government

¹⁸⁰ Maïté De Rue, LINKEDIN <https://www.linkedin.com/feed/update/urn:li:activity:7112690214745055232/> (last visited Nov. 20, 2023).

¹⁸¹ *After a Summer of Unrest, French Police Tactics Face Court Scrutiny*, *supra* note 174.

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Seydi and Others v. France*, OPEN SOC’Y JUST. INITIATIVE (May 8, 2016).

and legal system to end discriminatory police stops.”¹⁸⁷ The call seeking a determination regarding inappropriate police tactics in France is not a new development. In 2021, the Paris Court of Appeals condemned France’s “gross misconduct” following a discriminatory stop of three students, Ilyas Haddaji, Mamadou Camara, and Zakaria Hadji Mmadi, in a train station following their class trip.¹⁸⁸ Each student was awarded 1,500 euros in damages.¹⁸⁹

4. The Role of Social Media

The rise of social media has played a prevalent role in sharing, educating, and raising awareness around the experiences Black and Brown citizens have with police. Activism, the “doctrine or practice that emphasizes direct vigorous action especially in support of or in opposition to one side of a controversial issue,” is common across social media platforms.¹⁹⁰ For example, following the death of Michael Brown in the United States, activists formed the collective “Ferguson in Paris”.¹⁹¹ The collective primarily utilizes the social media platform Facebook, aiming to show “what is happening in France is happening in the United States, and also around the world.”¹⁹² The group connects “incidents of state violence against Black Americans like Michael Brown with similar incidents in France through social media campaigns and demonstrations in the Paris metropolitan region.”¹⁹³

In response to the reach and accessibility provided by social media, specifically sharing recordings that capture interactions Black and Brown citizens have with police, efforts are taken by the government to halt awareness. President Emmanuel Macron and his administration “proposed [a] bill making it a criminal offense to share images of police officers on social media platforms, amid a growing mobilization against police violence targeting Black and Maghrébin-origin individuals.”¹⁹⁴ Despite constitutional protections that would allow the recording of police in the United States, there is a differing reality in which police take action

¹⁸⁷ *After a Summer of Unrest, French Police Tactics Face Court Scrutiny*, *supra* note 174.

¹⁸⁸ Aurelien Breeden, *Former Students Win Racial Profiling Case Against French State*, N.Y. TIMES (June 9, 2021), <https://www.nytimes.com/2021/06/09/world/europe/france-racial-profiling-police-court.html>.

¹⁸⁹ *Id.*

¹⁹⁰ *Activism*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/activism#:~:text=%3A%20a%20doctrine%20or%20practice%20that,side%20of%20a%20controversial%20issue> (last visited Nov. 11, 2023).

¹⁹¹ *Ferguson in Paris*, FACEBOOK, <https://www.facebook.com/people/Ferguson-in-Paris/100080231906535/> (last visited Oct. 29, 2023).

¹⁹² Beaman, *supra* note 1.

¹⁹³ *Id.*

¹⁹⁴ Beamen, *supra* note 75.

to prevent such activity.¹⁹⁵

5. The Role of the Arts

Art and the freedom of expression have been used throughout history to tell the story of a nation. Dating as far back as the fifteenth and early seventeenth centuries, the French Renaissance, which is associated with the entire pan-European Renaissance, defined artistic and cultural rebirth.¹⁹⁶ Music is one of the most popular art forms in France and the United States, acting as a display and evocation of the human experience. Specifically, rap and hip-hop music emerged as a direct response to rampant economic and political inequality of the post-1960's Civil Rights era and the Black Arts movement of the 1960s and 1970s.¹⁹⁷ The genre has continued to carry messages of racial and class standing representative of the current political tension and frustration that has been caused in minority communities on a global scale. April Peavey, writing for the news outlet *The World*, points out that “[t]oday, France is a place where hip-hop is second only to the US in terms of popularity and influence.”¹⁹⁸ In France, “[d]omestic rap has become the soundtrack to a national identity crisis, viewed by its detractor as a threat to the cultural landscape of a country marked by bitter racial divides.”¹⁹⁹

Alpha Diallo (“Black M”) in France, and Jermaine Lamarr Cole (“J. Cole”), in the United States, have both utilized their status and voice to condemn the treatment of Black and Brown people in their respective countries. Through lyrics, both artists address racial stigmas they have faced. In *Je Suis Chez Moi*, which translates to “*I’m at Home*,” Black M challenges the racist stereotype of the French welfare system, with the lyrics “my parents did not bring me into the world to get financial aid.”²⁰⁰ Likewise, J. Cole’s song, *Neighbors*, opens with the line “I guess the

¹⁹⁵ *Video Shows WPD Sergeant Falsely Telling Citizen to Stop Recording Him Because of State Law*, WECT6 NEWS (Mar. 8, 2017), <https://www.wect.com/story/34695605/video-shows-wpd-sergeant-falsely-telling-citizen-to-stop-recording-him-because-of-state-law/>.

¹⁹⁶ *French Renaissance*, WIKIPEDIA, https://en.wikipedia.org/wiki/French_Renaissance (Nov. 16, 2023, 4:29).

¹⁹⁷ *CrashCourse, Rap and Hip Hop: Crash Course Black American History #47*, YOUTUBE (Sept. 20, 2022), <https://www.youtube.com/watch?v=RHCA5b9TkVg>.

¹⁹⁸ April Peavey, *Planet Hip Hop: How French Rappers Continue to Raise Their Voices for Justice and Identity* THE WORLD (June 29, 2023, 4:15 PM), <https://theworld.org/stories/2023-06-29/planet-hip-hop-how-french-rappers-continue-raise-their-voices-justice-and>.

¹⁹⁹ Michael Oliver, “*You’re Not welcome*”: *Rap’s Racial Divide in France*, THE GUARDIAN (Apr. 22, 2020, 11:02), <https://www.theguardian.com/music/2020/apr/22/rap-music-racial-divide-france>.

²⁰⁰ Armin Langer, *From Its Birth 50 Years Ago, Hip-Hop Has Spread Throughout Europe and Challenged Outdated Ideals of Racial and Ethnic Identity*, THE CONVERSATION (May 30, 2023, 8:23 AM), <https://theconversation.com/from-its-birth-50-years-ago-hip-hop-has-spread-throughout-europe-and-challenged-outdated-ideals-of-racial-and-ethnic-identity-202280>.

neighbors think I'm sellin' dope," asserting the stereotype of drug use commonly placed on the Black community.²⁰¹ Beyond their personal experiences, both artists lend their voices to advocate against a racism that is deep-rooted into society. In fact, the entirety of J. Cole's song, *Neighbors*, represents the lasting effects of systemic racism and de facto segregation, referencing the fate met by Trayvon Martin, a Black teenager who was murdered by a neighborhood watch coordinator.²⁰² Similarly, Black M, in a video rapping about police violence, wears a shirt reading "Justice for Adama: Without justice, you will never have peace."²⁰³

VI. CONCLUSION

"Methods and Conclusions Formed by Half the Race Only, must Necessarily Require Revision as the Other Half of Humanity Rises into Conscious Responsibility."

- Elizabeth Blackwell

Outside of data, humans are experiencing the impacts of racial inequity, racial inequality, and police brutality. In response, humans are acting, whether that be in the streets of Ferguson, Missouri or Paris, France. Even behind computers, it is still humans who are taking a stance on social media platforms. This international response of anti-racist mobilization seen in France and the United States has been a direct result of, and inspired by, the nature of human experience through shared social trauma. In fact, citizens of these separate nations are finding the inspiration to act through their relation to another human's experience. Black and Brown persons in France and the United States begin facing the impacts of institutional racism during childhood, and the evident continuation of struggle throughout adulthood appears in all facets of life. What can now be observed in France, in the United States, and the interconnections of citizens of those countries, is the direct result of a community, despite geographic separation, sharing parallel human experiences. Human experience seeks homeostasis, and in an era where empathy is just on the other side of a smartphone, what we are seeing is people beginning to connect, and by proxy, take unified action.

²⁰¹ Myah Taylor, *Songs of Protest: J. Cole Condemns Systemic Racism on "Neighbors"*, AFTERGLOW (June 8, 2020), <https://www.afterglowatx.com/blog/2020/6/8/songs-of-protest-j-cole-condemns-systemic-racism-on-neighbors>.

²⁰² *Id.*

²⁰³ Langer, *supra* note 197.