**Adding a paragraph in the introduction on:**

**Contemporary Context for Racial Profiling**

**Though racial profiling has been a long-standing practice in many law enforcement agencies. However, contemporary concerns about terrorism and migration, which have prompted prejudice and intolerance towards members of certain racial groups, have led also to an increase in racial profiling by law enforcement officers in pursuit of public safety and security. Complaints about racial profiling are increasingly being brought to courts and human rights mechanisms and there is a growing recognition of new shapes and forms of racial profiling in various multiple settings. This contemporary context for racial profiling, raising new concerns about the interference with fundamental rights of people belonging to certain racial groups, necessitates developing a general recommendation to provide guidance on preventing and combating racial profiling in compliance with the ICERD.**

**Adding this sentence to Section III:**

**racial profiling does constitute one form of racial discrimination.**

**Suggesting a more precise definition for racial profiling:**

**Racial profiling is the use, by law enforcement agents of generalizations or stereotypes related to presumed race, colour, descent, nationality, place of birth, or national or ethnic origin –rather than objective evidence or individual behaviour- as a basis for identifying a particular individual as being, or having been, engaged in a criminal activity, resulting in discriminatory decision-making. . Racial profiling may include the following actions by law enforcement agents: stops, identity checks, personal searches, arrests, raids, border and custom checks, home searches, targeting for surveillance, or immigration decisions. These actions may involve law enforcement agents in police, customs, immigration, and national security or counter-terrorism agencies, and may variously take place in the context of street-policing, anti-terrorism operations, or immigration and border control.[[1]](#footnote-1)**

Suggested changes to the section on the consequences of racial profiling:

**Both practice and research indicate that racial profiling has direct negative effects on the civil, political, economic, social, and cultural rights of the individuals and communities it targets. [[2]](#footnote-2) Racial profiling may contribute to the stigmatization and negative stereotyping of targeted groups, which results in fewer social and economic opportunities for members of those communities and may have negative consequences in their full enjoyment of their rights to education and work (art. 5 of ICERD). In turn, some evidence suggest that racial profiling may lead targeted communities to embracing illegitimate actions and contribute to increased unlawful actions. [[3]](#footnote-3)**

**Racial profiling has been found to be an ineffective policing tool, as it is largely unsuccessful in crime prevention.[[4]](#footnote-4) It might represent a missed opportunity to use empirically validated policing tactics that are known to be effective.[[5]](#footnote-5) Furthermore, it can also be counterproductive as a general law enforcement tool. Specifically, research has suggested that people targeted by law enforcement authorities tend to have less trust in those authorities and, as a result, be less willing to cooperate with police, thereby potentially limiting the effectiveness of the latter.**[[6]](#footnote-6) **This sense of injustice, humiliation and lack of trust in the police and other authorities may result in reduced reporting of crimes.**

**Article 5 of ICERD guarantees the right to equal treatment before courts, tribunals and all other organs administering justice. The consequences of racial profiling for targeted communities has far-reaching consequences at all levels of the administration and functioning of the justice system, particularly on the criminal justice system, jeopardizing Art. 5 of ICERD and resulting in iii) higher numbers and percentage of individuals belonging to targeted communities victims of aggression or other offences, committed by police officers or other State officials; v) higher number and percentage of individuals belonging to targeted communities who are deprived of liberty, including held in prison or preventive detention; and[[7]](#footnote-7).**

**Adding the following paragraph to the section on legislative measures:**

**Anti-profiling legislative provisions should also clearly be reflected in policies and rules of law enforcement officials. Prohibitions against racial profiling should be accompanied by guidance in departmental policies and rules for law enforcement agencies, in how they should make decisions in a non-discriminatory manner.**

**Adding the following paragraph to the section on disaggregated data:**

**In order to adequately address racial profiling, national authorities need to have precise and comprehensive information about how law enforcement agents implement regulations pertaining to racial profiling.**

**Systematic and regular data collection is important in order to improve the monitoring of law enforcement agents ‘activities, detect instances of racial profiling, and defining adequate responses to racial profiling practices where they are observed.**

**Adding the following paragraph to the section on artificial intelligence**

**In order to avoid developing and using algorithmic profiling that entail potential violations of fundamental rights, both the IT experts and officers interpreting the data should have a clear understanding of fundamental rights in order to avoid entering data that reflect existing biases.**

1. See the report of the Secretary General of the United Nations on the implementation of the International Decade for People of African descent, (2018) A/73/354. See the report of Working Group of Experts on People of African Descent on its mission to Panama, (A/HRC/24/52/Add.2, para. 57). Bradford, B., Jackson, J. and Stanko, E. A. (2009), ‘Contact and Confidence: Revisiting the Impact of Public Encounters with the Police’. Policing & Society, 19: 20–46; Miller, J., Davis, R. C., Henderson, N. J., Markovic, J., Ortiz, C. W. and Vera Institute of Justice (2004), Public Opinions of the Police: The Influence of Friends, Family and News Media. Vera Institute of Justice. Tyler, T. R., Fagan, J. and Geller, A. (2014), ‘Street Stops and Police Legitimacy: Teachable Moments in Young Urban Men’s Legal Socialization’. Journal of Empirical Legal Studies, 11,751–85.). [↑](#footnote-ref-1)
2. See the report of Working Group of Experts on People of African Descent on its mission to Panama, (A/HRC/24/52/Add.2, para. 57). [↑](#footnote-ref-2)
3. Open Society Justice Initiative, *Reducing Ethnic Profiling in the European Union: A Handbook of good practices* (New York, Open Society Foundations, 2012). [↑](#footnote-ref-3)
4. Open Society Justice Initiative, *I Can Stop Whoever I Want: Ethnic Profiling in Bulgaria, Hungary and Spain*, New York, OSI, 2006. Tiratelli, M., Quinton, P., and Bradford, B. (2018) ‘Does Stop and Search Deter Crime? Evidence from Ten Years of London-wide Data’, The British Journal of Criminology, 58(5): 1212–1231. Delsol, R. (2015) ‘Effectiveness’, in R. Delsol and M. Shiner (eds.) Stop and Search: The Anatomy of a Police Power, Basingstoke: Palgrave Macmillan. Harcourt, B. E. (2007) Against Prediction: Profiling, Policing, and Punishing in an Actuarial Age, Chicago: University of Chicago Press. [↑](#footnote-ref-4)
5. Weisburd, David, Cody W. Telep, Joshua C. Hinkle, and John E. Eck. "*Is problem‐oriented policing systematic review and meta-analysis."* Justice Quarterly 31, no. 4 (2014): 633-663. [↑](#footnote-ref-5)
6. Tyler, T. R. (2004), ‘Enhancing Police Legitimacy’ *The Annals of the American Academy of Political and Social Science*, 593: 84–99. ; Dai, M. (2007), ‘Procedural Justice During Police-Citizen Encounters’, doctoral dissertation, University of Cincinnati. Wiley, Stephanie Ann, Lee Ann Slocum, and Finn‐Aage Esbensen. "The unintended consequences subsequent delinquency." Criminology 51, no. 4 (2013): 927-966. Scarman, L. (1981), The Brixton Disorders. HMSO. Prasad, R. (2011), ‘Reading the Riots: *“Humiliating” Stop and Search a Key Factor in Anger Towards Police’,* The Guardian, available online at http://www.theguardian.com/uk/2011/dec/06/stop-and-search); Open Society Justice Initiative, R*educing Ethnic Profiling* in the *European Union*. A Handbook of Good Practice, 2012 [↑](#footnote-ref-6)
7. See, General Recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system. [↑](#footnote-ref-7)