“Double disadvantage”

The experiences of Black, Asian and Minority Ethnic women in the criminal justice system

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Agenda, the alliance for women and girls at risk, and Women in Prison (WIP) would like to thank the women who gave their time, experiences and reflections to the three focus groups, and to the prison Governors and staff and WIP staff who made the focus groups possible.

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Introduction

This report captures the voices, experiences and reflections of Black, Asian and Minority Ethnic (BAME) women with experience of the criminal justice system.

It was commissioned to feed into the Lammy Review. Chaired by Rt Hon David Lammy MP, this is an independent review of the treatment of, and outcomes for, BAME individuals in the Criminal Justice System.

This report draws on the findings from three focus groups facilitated by Agenda, the alliance for women and girls at risk, and Women in Prison in September and October 2016. The aim of this work was to better understand the experiences of BAME women within the criminal justice system.

Methodology

In September and October 2016, Agenda and Women in Prison (WIP) spoke to 20 BAME women from a range of ethnicities and backgrounds across three focus groups: one in a community based service in London for women in contact with the criminal justice system and two in women's prisons. Additionally, two women in prison who were unable to take part in a group submitted a written response.

Focus groups were chosen as a way of speaking to a broader number of women and obtaining detailed information about personal and group feelings, perceptions and why women hold certain opinions. Findings from small qualitative samples are not quantifiable or generalisable and the views expressed are the perceptions of those women who took part in the groups.

The sample was non-random as participants for the focus groups were recruited by WIP staff and included members of existing groups which WIP facilitates as well as other women who expressed an interest in being involved. Participants were fully briefed about the purpose and process of the work and had the opportunity to review the questions in advance of attending the group. Each participant completed a consent form prior to participation and participants had the right to withdraw from the focus group at any stage. In one of the prisons, a lock-down, meaning many women had to remain in their cells, resulted in several women who were due to take part in the focus group being unable to do so. Group A comprised 4 women approximate age range 40-50plus of Black or Black British ethnicity[1]. Group B comprised 11 women aged between 26 -54 of Black, Asian and Mixed ethnicities. Group C comprised 5 women aged between 28-59 of Black, Asian and White (European) ethnicities.

The groups discussed experiences of different aspects of the criminal justice system including courts and sentencing, prisons and rehabilitation. They considered perceptions of fairness and equality within the criminal justice system and discussed the impact of women's involvement with the system on their family and wider community.

Transcripts from the focus groups have been anonymised and characteristics that could lead to individuals being identified removed. All data will be held in accordance with the Data Protection Act 1998.

[1] One of the women in this group found supplying personal information difficult and was reluctant to give her age or ethnicity

This report summarises the key points from the discussions across the three groups. It draws out themes and issues raised by the women who took part and includes quotes to ensure that women's voices are heard as directly as possible.

Background: BAME women and the criminal justice system

It is well established that there are fundamental differences between men and women in the criminal justice system. The Corston Report: A review of women with particular vulnerabilities in the criminal justice system[2], established the need for "a distinct, radically different, visibly-led, strategic, proportionate, holistic, women-centred, integrated approach" for women in the criminal justice system, and also highlighted that BAME women were "a minority within a minority" in the system.

Prison population and sentencing

18% of female prisoners are BAME[3], compared to 14% of the general population[4] Within this, some groups of women are particularly overrepresented, most notably Black or Black British[5] women who make up 8.8% of female prisoners, compared to 3.3% of the general population[6].

Both gender and ethnicity have an impact on sentencing decisions and outcomes. For example, women tend on average to serve shorter prison sentences than men because they have committed less serious offences. 26% of all women in prison have no previous convictions, compared to 12% of men.[7] Women are also more likely than men to be remanded in custody and then not receive a custodial sentence. Less than half of women remanded by magistrates' courts and subsequently found guilty receive a prison sentence.[8]

Ministry of Justice analysis shows that black women are about 25% more likely than white women to be sentenced to custody at crown court. Disproportional outcomes are particularly noticeable for certain offences. For every 100 white women sentenced to custody at crown courts for drug offences, for example, 227 black women received custodial sentences.[9]

There remain however some limitations to the available data around BAME women's experiences of the criminal justice system. It is often the case that data is disaggregated by gender or ethnicity but not by both. It can be difficult therefore to get a full picture of how BAME women's experiences of the criminal justice system differ from white women.

Backgrounds of BAME women

Women in prison have often experienced extensive abuse and are likely to have complex mental health, addiction and other needs. 46% of women in prison report having suffered

[2] The Corston Report, 2007 http://www.justice.gov.uk/publications/docs/corston-report-march-2007.pdf
[3] Ministry of Justice statistics, March 2016 https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2015
[4] https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-april-to-june-2016
[5] 371 of the 3826 female prisoners were black or black British (Prison Statistics, 31 March 2016)
[6] Office of National Statistics, 2011: http://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11
[7] Women in Prison http://www.womeninprison.org.uk/research/key-facts.php
[8] Ministry of Justice, Statistics on Women in the CJS, 2013 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf
[9] Ministry of Justice, Black, Asian and Minority Ethnic disproportionality in the Criminal Justice System in England and Wales, 2016 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/568680/bame-disproportionality-in-the-cjs.pdf

domestic violence and 53% report having experienced emotional, physical or sexual abuse during childhood.[10] This is likely to be a significant underestimate.

The Corston Report highlighted the fact that that BAME women were "more likely to be living in a deprived area, more likely to be subject to poverty, have experienced care and been excluded from school. They are also more likely to be remanded in custody than white offenders and their disadvantages continue in the criminal justice system where they are further marginalised. These women face the same barriers in accessing services to help them alter their lives and in resettlement on release from prison as white women but they are further disadvantaged by racial discrimination, stigma, isolation, cultural differences, language barriers and lack of employment skills."

HM Inspectorate of Prisons also noted that BAME women are more likely to experience isolation when in prison leading to increased levels of depression, whilst at the same time they may be less likely to seek help from health care staff.[11]

Family and community impact of custody

For women from some BAME groups, attitudes to offending within families and communities, arising from cultural or religious beliefs, may result in an additional stigma and strain on family relationships. Research by Muslim Hands, for example, highlights exceptional levels of stigma, taboo, rejection and family and community isolation faced by Muslim women in prison and on release.[12]

Women are often the primary or sole carer for children[13], and custodial sentences can have a very negative impact on those children[14]. Overall, it is estimated that more than 17,000 children are separated from their mothers by imprisonment. Only 9% of children whose mothers are in prison are cared for by their fathers in their mothers' absence and only 5% stay in own home.[15]

The family impact of custodial sentencing is particularly acute for black mothers as more than half of black African and black Caribbean families in the UK are headed by a lone parent, compared with less than a quarter of white families and just over a tenth of Asian families.[16]

[10] Women In Prison http://www.womeninprison.org.uk/research/key-facts.php
[11] HM Inspectorate of Prisons, The Mental Health of Prisoners, 2007 https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/07/Mental-Health.pdf
[12] Muslim Hands and HPCA, Muslim Women in Prison, 2014 https://muslimhands.org.uk/_ui/uploads/kqe5a9/MWIP_Report.pdf
[13] Liebling, A. & Maruna, S., The effects of imprisonment Devon: Willan, 2005
[14] Sheehan R and Flynn C, Women prisoners and their children, in What Works with Women Offenders, ed Sheehan R, Mcivor and Trotter C, Willan Publishing, UK, 2007
[15] Prison Reform Trust, 2010 http://www.prisonreformtrust.org.uk/uploads/documents/Women%20in%20Prison%20August%202010.pdf
[16] Prison Reform Trust, 2012 http://www.prisonreformtrust.org.uk/Portals/0/Documents/WomenbriefingAug12small.pdf and HM Chief Inspector of Prisons, Race relations in prisons, 2009

Focus group key findings and analysis

These focus groups highlight how both gender and ethnicity impact on people's experiences of the criminal justice system.

Four key themes emerged across all three focus groups: that women did not feel their voices and stories had been heard in court proceedings and were confused over process; that women felt that prejudices and subconscious ethnic or racial bias can affect jury assumptions and sentencing decisions; that the impact of their sentences on their family is extensive and far-reaching; and language and lack of translators can be a significant barrier throughout a woman's experience of the criminal justice system if they do not speak English fluently. Women in the community group raised these issues, although with less force than the women in the prison groups which perhaps reflects the fact that their experiences of the criminal justice system are not in the forefront of their minds as they are not imprisoned.

In one of the two prison focus groups, concerns about discrimination and racism within the prison was also a strong theme. In the community focus group, the importance of the role of the probation officer was discussed.

Women's voices not heard during court proceedings and confusion over process

All of the women who took part in the prison focus groups felt that there had not been an opportunity for their stories and circumstances to be taken into account during their trial. Many of the women felt that important issues and circumstances had therefore not been considered, such as psychological assessments and their responsibilities to their families and children. Only one of the women who took part in the focus group discussions was aware that she had been given a pre-sentence report.

Many women found the legal process confusing and jargon-loaded. Many raised concerns that there is insufficient access to translators for women who do not speak English fluently. For many women, the feeling that they did not have their stories and circumstances considered during their trial and the fact that they were confused by the process and their options, underpins a sense of injustice and mistrust in the system.

Concerns around bias in jury decisions, amongst judges and in sentencing

Concerns were raised about the workings of trial by jury. None of the women thought it was a fair way of deciding if someone is guilty or not. The women who had been tried by jury raised concerns about the gender, ethnic and age make-up of their juries, and in particular concerns that they were dominated by older, white males. They felt that older men, who were not of their ethnic background, would have less understanding about their lives and pressures and may also be subconsciously biased against them.

The women did not believe that people were treated equally and fairly in sentencing. In two cases the judge said that he wanted to set an example with women's sentences in order to deter people. Some women thought that this was an issue of subconscious bias and racial prejudice. They cited examples of white women on the same charges who they perceived had received lesser sentences. As one woman explained, "in general outside of prison life women are treated lesser than men and I think Black, Asian people are treated lesser than white people so if you are a black or Asian woman... You're already at a disadvantage, a double disadvantage."

Impact on family

Women raised the far-reaching impact that their involvement with the criminal justice system was having on their families, in particular their children and also elderly relatives to whom they had caring responsibilities. This was a significant concern for most of the women across the groups. Women discussed the 'ripple effect' of their imprisonment on their whole family.

It was felt that a woman's caring responsibilities, particularly as a single mother in many cases, should be taken into account with sentencing decisions. This links back to the theme of women feeling that their circumstances were not heard and taken into account in the court proceedings. As more than half of black African and black Caribbean families in the UK are headed by a lone parent, compared with less than a quarter of white families, this is an issue that disproportionately affects Black women and their families.

Many women, across different ethnic groups, spoke about the stigma they faced in their community for being a BAME woman in prison. Many women felt that, in their communities, it was a greater source of shame and stigma for a woman to be in prison than a man.

It was also felt that more could be done to allow women to maintain relationships with their families. Barriers included restrictions on phone usage from lack of credit, access and also lack of privacy; being told not to speak in a foreign language on the phone even when talking to a relative that does not speak English; limited visiting times and additional visiting difficulties created when women are placed in prisons far away from their children.

Language

Language barriers and a shortage of translators for women who do not speak English as a first language were raised as a significant problem throughout the criminal justice system. Women said that this led to confusion during court proceedings and also in prison. They gave examples of receiving court papers they could not read, having to attend medical appointments in prison where they could not understand what they were being told and facing barriers to education and rehabilitative opportunities.

Women also reported that they had been told not to speak other languages when in prison, including being told to stop speaking a foreign language when on the phone to relatives who did not speak English.

Discrimination within prison

In one of the prison groups, the participants reported that they were treated unfairly in the prison system and experienced racism from both staff and other prisoners. In this group, the women felt that BAME women have to work harder in order to get enhancements because of stigma and racial prejudice and that racial stereotyping in that prison was common. For example, one Asian women reported that "you're seen as a quiet Asian girl" and so her complaints of racism had been ignored. In this group, Black women reported that they were stereotyped as 'loud and aggressive' and that mental health issues were more likely to be classed as 'anger management' if you were Black. They said that officers were more likely to disband groups of women talking together if they were Black or Asian than if they were white.

Women in this group also raised concerns about the lack of ethnic diversity amongst prison staff in the prison which they felt led to a lack of cultural understanding. They also said that the few BAME prison officers were viewed with suspicion if they spent time talking to women of their own cultural background and so avoided doing so.

Role of probation officers

In the community group, the role of the probation officer was discussed at length and a strong relationship where the officer understood the woman's circumstances was seen to be an important factor in helping prevent women reoffend and to rebuild their lives

Summary of the discussions on each topic

Legal advice and pleas

Participants were asked to what extent they felt that they had adequate advice from their lawyer about whether or not to plead guilty or not guilty and whether they were aware of the potential sentencing discount for a guilty plea.

The majority of focus group participants felt confused by the legal process and legal 'jargon', and did not feel fully informed before or during their court case:

> "I wasn't familiar with how the courts worked and what was expected I don't think anything was explained."

> "I think especially if you are first arrested and if it is like a serious crime and you're given a duty solicitor they don't really have the time to sit and explain things to you. And it can be overwhelming and then you've got the emotions of being scared and everything else."

Several women said that they put their faith in solicitors and, only later, realised that they perhaps should have done things differently:

> "For me at the time because you've never dealt with solicitors you put your trust in them because you think they are professionals and since, well after that you speak to other solicitors and you think well hang on, they should have done this or they should have done that or you think well why didn't do this, well we don't think that at the time because we're not professionals obviously."

> "My experience was: plead guilty because it would make their job easier… so yeah, that was it, and it wasn't explained fully."

For some women who speak English as their second language, a lack of translators can exacerbate this confusion:

> "I work in education with a lot of girls where English is their secondary language because they are from another country and I found that their legal representatives they don't explain anything to them whilst they are going through the court process and they live in a state of confusion."

> "Sometimes the interpreter is the same and doesn't explain anything and there is a difference between solicitor and interpreter and that's why there is too much confusion".

The majority of women did not know that pleading guilty would reduce their sentence by a third and most only learnt about this when in prison: only a few said that they were aware of this before their trial.

Remand

Participants were asked whether they were remanded in custody before their trial, and if so, whether the reasons for this decision were clearly explained.

Less than half of women remanded by magistrates' courts and subsequently found guilty receive a prison sentence.[17] The women who had been remanded into custody found the process confusing and said that they did not have the process or reasons clearly explained to them: "I had a breakdown so I didn't really know the difference of being in the police station or being in prison – I actually thought at the time I was in a hospital. So nothing was really explained properly no."

Women also raised concerns that when being held in police cells they had not had access to a shower, sometimes for several days:

> "I got arrested and then I was held for five days in the police cells and I didn't know my rights so I didn't get any exercise I didn't get any showers."
> "I was held for three days."
> "No shower, left in cells and then remanded."
> "Same, didn't know, even to this day I didn't know you were allowed exercise or shower."

Jury Verdicts

Participants were asked if they felt that trial by jury was a fair way of deciding a case and whether all people are treated equally by juries.

Serious and unanimous concerns were raised about the workings of trial by jury. None of the women thought it was a fair way of deciding if someone is guilty or not. The women who had been tried by jury raised concerns about the gender, ethnic and age make-up of their juries and in particular concerns that they were dominated by older, white males. Indeed, some said that they had all-male juries. The women felt that older men, who were not of their ethnic background, would have less understanding about their lives and may be subconsciously biased against them.

> "Most of the jury, not most, all of them were not of my ethnic background, all of them were white and they were all of old age, none of them were from my age group or one of them of my ethnic minority.....I think juries make up their mind from when they see you they have something in their thoughts already from when they clap eyes on you."

> "Mine was all white with one Asian man and when I spoke to my solicitor I said I thought it was supposed to be a different mix of cultures and background and my advice from my solicitor was that if I challenge it, it would come across as that I was racist, he said it would be another mark on your character so just don't say anything."

> "I had a pretty old jury and I was thinking well I'm young and I'm black, hmm...what are my chances?"

[17] Ministry of Justice, Statistics on Women in the CJS, 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380090/women-cjs-2013.pdf

The set-up of the court room was raised, with women saying that it “makes you set up to fail” and is intimidating. These feelings may be exacerbated for vulnerable women who have experienced sexual and physical abuse and trauma.

> “..it's set up to be against you because you know when you are in the box, you've got the police behind you, you've got the jury are facing you, you've got the public gallery, the police behind you and I know if I was saying something giving evidence and the police didn't like they were tutting behind me, it is intimidating, they are looking at you reacting to what the police are doing the whole thing is set up.”

Judges and Sentencing

Participants were asked if they were aware of what sentence was recommended in their pre-sentence report and if they feel that people are likely to be treated equally when they are being given a sentence.

All of the women who took part in the prison focus groups felt that they had not been given an opportunity for their circumstances to be taken into account in their trial. Many of the women felt that important factors had therefore not been considered, such as their mental health and responsibilities for children and other family members and some alluded to having experienced abuse and violence. Only one of the women who took part in the focus group discussions was aware that she had been given a pre-sentence report.

> “I think that given most of us didn't have a pre-sentence report how can it be fair? Because you haven't had the chance to put forward everything you need to before sentencing.”

> “My solicitor asked three times and the Barrister said I don’t want one [a pre-sentence report]. That would have made a difference. A lot of difference you know what I mean, they would have known my background and where I’ve come from and my circumstances and you know how ill I was at the time. He wasn’t interested at all.”

> “I was really, really messed up at the time but they didn’t know that, like I hardly knew it, they didn’t know that so why would they care… I should have had a psychiatric report, which they didn’t bother with, and they should have… other stuff, yeah other stuff.”

> “I was obviously having a breakdown hence why I committed my crime it's not an excuse but I can just say that was a big role in what happened. The Judge had seen my doctor's reports from outside, knew that it wasn't my first breakdown I'd had a couple of breakdowns before that. When it came to sentencing he turned round and said, I'll never forget these words he said, I don't care about you having this mental breakdown or not having these mental problems, but I'm sentencing you to whatever he gave me. I think that was really unfair because if I wasn't ill then – it wasn't me – do you know what I mean, I wasn't well, I wasn't in my right frame of mind and it wasn't in my personality I wasn't me at all.”

> “Children, special circumstances, you should get mitigation if you’ve got kids and things like that my Judge says he’s not doing it because he sentenced me straight away as I got found guilty.”

> “If you got guilty like I did nobody heard my side at all nothing not one word, the things that were said to me as the other side were speaking most of it was lies and I couldn’t

voice my opinion and say hang on a minute that's not even true and everybody there believed it and the Judge."

Participants did not feel that people are treated equally when sentenced and many felt that their ethnicity and gender had affected their sentence. A number of women described comments made by judges which they felt were dismissive of their circumstances and some felt that the judges had been prejudiced towards them.

One woman described how she received a 42 year sentence for possession and endangering lives with firearms as part of a joint enterprise prosecution. The judge had told her that he wanted to make an example of her and she believed that this decision was heavily influenced by the fact that she was tried in a white, rural area. She cited a white woman who she met in prison who had received a sentence of 20 months for the same crime:

> "I received 42 years, a girl came in she came from a different jail to here she was in [another prison] and she came here and she got 20 months, a white girl, she got 20 months. To tell you the truth in my case it is excessively high, the judge said himself it is excessively high as a sentence passing but he is doing it to deter… The judge used me as an example to deter. But then why use me why not use gang members. I'm not a gang, I'm a single woman with two children, trying to take care of my kids and just got drawn into something."

Another woman described how she had been given a high sentence compared to others for a similar crime to "set an example" despite the fact that she had a child:

> "Yes they [the judge] said I understand you have a child, she still gave me the higher sentence. I see similar cases as mine they get 6 months, a year for sham marriage, I get 1 year and 9 months…. She said to set an example."

One woman described how she felt her jury had been encouraged to find her guilty because she was a foreign national and she would be deported if given a sentence of over 12 months. Another said that she believed this to be commonplace:

> "I've seen millions of foreign nationals getting slammed. We've seen girls commit the same offence – this British girl we know, was a repeat offender and she got a walk out from court – another got 18 months and she is a foreign national. We are witnessing it with our own eyes."

These experiences suggest two possible issues either sentences are unfair or sentences are fair but the reasoning behind them is not properly understood. Either way this lack of trust in the system is a problem.

Participants described how they believed that the combination of being BAME and a woman can affect sentencing decisions:

> "I just think in general outside of prison life women are treated lesser than men and I think Black, Asian people are treated lesser than white people so if you are a black or Asian woman... You're already at a disadvantage, a double disadvantage."

> "It seems that a white male would get less than what a woman would get…."

> "I think it's an all-rounder and it's a subject a lot of people don't want to go down and answer because once you bring colour into it, it's like everyone's back … goes up but

it is a fact. It happens – sometimes your colour, your gender, your belief…it's like your outward appearance is looked at and then you're judged."

Two women in the groups had been convicted on 'joint enterprise' charges and felt that they had been treated unfairly.

> "Yeah what could have or may have happened and the judge said to me there is clearly a high end and low end of this crime you were clearly at the low end and [your other half?] he was clearly at the high end. So he sentenced him to 42 years and then he sentenced me to 42 years. Even though he said will you were just the driver, and I wasn't even there. It's all because my car was involved and I got dragged into a joint enterprise. All because he got 40-odd years I got 40-odd years because it was a joint enterprise you then have to get what he got even though the judge has stated even in the summing up there is clearly a high end and low end of the crime."

> "I had no DNA anything back, no fingerprints, anything back, wrong place, wrong time slammed in on a joint enterprise."

Prison

Participants in the prison focus groups were asked if they felt that they had been treated fairly since being in prison; if they felt that staff treated prisoners the same and if decisions about privilege levels and / or breaches of prison rules are dealt with fairly.

There was a consensus in the two prison groups that people are not always treated fairly within prison, although the reasons for this differed between the two groups.

In one prison group it was felt that people are rewarded for being liked and working hard, although 'enhancements' were not given out fairly and some people had to work harder than others and have other people speak out on their behalf to earn theirs. They were not sure if this was due to ethnicity, or just general inconsistencies:

> "I don't think people are treated fairly and that's because they are human and humans aren't infallible and there is nepotism."

One of the participants from this prison, who had been in four other prisons, stated that she felt the complaints procedure was taken seriously, although had witnessed problems in other prisons:

> "In this prison they seem to care slightly more which is good. In other prisons I've witnessed literally ethnic groups being ignored – the whole group – here they promote decency and equality. They try harder here."

In the other prison group, all participants reported experiencing racism from both staff and other prisoners. Those participants who had been in other prisons reported that they felt that the issue of racism was greater in this prison than in others:

> "I've never heard so much racism until I came to jail."

> "I think there is more racism in this jail then any other jail I've been in."

> "I think [there is racism] from staff and prisoners. I think in this jail, because normally I'm in jails down south but in every jail when it's got the HMP flag flying from the roof –

> they have policies across the board, and if prisoners are being racist they should have zero tolerance but I find in this jail it doesn't happen."
>
> "There is a lady on my wing, two actually that have used the Black C word, to a prison officer she said 'you black so and so' she's out of room waltzing around, she even walked past me today and shouted out, I didn't answer. It is so wrong. It's like it's alright but it's not, it's not alright for them to use these words or I've heard one woman arguing saying you black something go read your black book, your black bible."

Serious concerns were raised over the complaints procedures in one prison with complaints being ignored or not taken seriously. Racial stereotyping was also reported with one Asian women reporting that "you're seen as a quiet Asian girl" and so complaints of experiencing racism had been ignored:

> "Can I just give an example, something that happened recently, on our wing there is a lady. She is a white lady she had a problem with a few of us Asian people – she used the P word, she assaulted somebody, all the rest of it. You report it to staff, 'oh, she's got mental health problems'. She is still on the wing didn't get any kind of punishment as far as I am aware. You put a DIRF in, which is a Discrimination Incident Reporting Form – I haven't had any response to that and you're told just ignore it, just get on with it, just bypass it sort of thing. I think because you're seen as a quiet Asian girl on the wing you won't do anything, you won't say anything, you won't retaliate and that's not OK. And if it was the other way round I'm sure I would be punished without a doubt. I would get punished if I said something racist to them…. After I put that DIRF in and nothing happened, you just end up accepting it and it becomes normal but it's not normal and it's not OK and I really do believe if it had been the other way round if I had been racist to someone, if I had taunted somebody I would have faced the consequences and I would have been punished and it's not OK just to say oh they've got mental health problems or just because they know that I'm not going to kick off back it's ok to leave the situation so it bubbles, bubbles and they leave it to create these situations."

Another woman described how a similar incident of racism had been dealt with decisively in another prison, but agreed that was not the case in their current prison:

> "I remember when I was in [another prison] before I came to [this prison], I've been called Paki, autistic and she got 42 days in segregation she wasn't allowed out ever. And after that she realised what she had done, I don't see that happening here."

Women reported that officers were more likely to disband groups of women talking together if they were black or Asian. Additionally, that Black women felt were stereotyped as 'loud and aggressive' and that mental health issues were more likely to be classed as 'anger management' if you were Black:

> "I think they [the officers] should have more cultural awareness training because at the end of the day it's 2016 and they are still going on with the same old 'if black people are loud they are aggressive' if we're huddling together we're in gangs – most of us here are all trusted we're all enhanced prisoners, these two are…workers, I work in stores and I was talking to them one day, just outside here, and an officer saw us three black people and couldn't wait to disband that but when you see white girls (interjection: there could be five of them), talking about medication and where they're going to meet up to trade and the officers walks past them."

> "I find here if you are black and you've got mental health issues you are going to segregation [general agreement] because you are a danger. But if you are white or you've got mental health issues you are on the wing – or you are in [in-reach mental health support service] and it's ok so when they kick off and have their little mood swings, she's got issues, it's OK…but a black person with mental health issues you go to segregation."
>
> "For a white person it's mental health and for a black person it's classed as anger management issues."

Women also reported having to work harder to get enhancements because of racial prejudice:

> "We've been battling with it for a while. We do a very trusted job in this prison…..Our head of work, yesterday she came up to us and said I've been getting complaints from this, this and that. I mean they have to go so far. There is nothing to complain about so they lie, they say we were standing by healthcare, we weren't standing by healthcare we were walking – it's alright for two white girls to walk from recycling… it's alright for everybody else but for us it doesn't look right, it doesn't look *right,* it doesn't look good."
>
> "I found white girls in [another prison] managed to get their ROTLs before ethnic minority girls in there".

Women raised concerns about the lack of ethnic diversity amongst prison staff in the prison which they felt led to a lack of cultural understanding. They also said that BAME prison officers were viewed with suspicion if they spent time talking to women of their cultural background:

> "In [this prison] if you look at the representation of officers of our culture it's not there, it's not there at all. I can count on one hand and I don't fill it… so you have officers that have no understanding of your culture or your needs or anything like that and then I believe they don't socialise or interact with people so they don't feel – this is the impression I get – they don't feel like we have a right to have any position in society. One we're prisoners, so that's against us, and then we're black, how dare you even be a trusted prisoner. It's as if it grieves them to have that and anything you do that's good they want to take it away from you I feel there is no point me having a trusted role in this jail because it's used against me rather than for me. There is no rehabilitation there for me, I feel I should be a wing cleaner and be in a position that is 'suited' to me."
>
> "Can I go back to that question about how do the prison staff treat all people? If you do have an Officer from an ethnic background here that can relate to you and everything else they have to be so careful how they interact with you because it can be seen as favouritism and that they're the ones that are racist against white people. I've heard them comments."
>
> "I've had a conversation where the officer has been like oh we've been here 5 minutes now we have to move because if anyone sees us talking for too long they'll be like, oh why they talking to you is it because you are black."

Rehabilitation

Participants in the two prison focus groups were asked if they felt that there were adequate rehabilitative opportunities for people in prison, and if they thought that all prisoners have equal access to rehabilitative opportunities.

In one of the prisons, participants felt that there were adequate rehabilitative opportunities, although recognised that these were hard to access for women who do not speak English as their first language.

> "The information for the posters do you see it in any other language than English, looking at the posters on the wall here, no. Are there any translators here, no, you are a member of staff – which is brilliant that you can speak a second language but there aren't many multi-linguists here. We've approach safer custody to say this is a problem. We need residential multi-linguists to help girls that are struggling with the language – something that is on the cards but no funding."

The participants explained that the lack of translators meant that some women were unable to understand court papers or medical notes given to them:

> "I see people getting paper from court and they don't even understand that…..and they don't have nobody to explain because sometimes it's not a friend or someone in prison that speaks the same language."

> "For medical also so for today and they give me this [hand over scraps of paper with medical conditions and procedures written on it – discussion about not knowing what it is and need to ask another prisoner/or have no one to ask] and I have to go for a test outside of the hospital and I cannot understand it."

In the other prison group, participants reported that there were not adequate rehabilitative opportunities:

> "There is none in here… There is no resettlement wing there is nothing there is no – if you didn't know the word rehabilitation you would be like, what? Because there is none, there is nothing here."

Probation and resettlement

Participants from the community group were asked about their experience of probation – whether they had a good working relationship with their probation officer, if they felt listened to and if they felt that probation officers treat everyone the same.

The importance of the women's relationship with their probation officer was clear and, when that was working well, the women said that they felt supported and able to turn their lives around:

> "Yeah, I think I got a good one… she bring me from the bottom to the top so it's okay."
> "Same person. I was lucky."
> "If [probation officer's name: X] was around a long time ago, I would stop shoplift, probably I would stop smoking ... knowing X, I go to rehab…knowing X, I don't steal."

> "[My probation officer] just wasn't bothered. She was just like, "Oh you're fine, you don't need help" but I did, I needed counselling and I didn't get that and then at the previous time when I said I was doing sewing and then I moved, I found them. They weren't

really assigned anyone. There was one lady in the room and she was really kind but the others, they were quite judgmental and you felt quite ashamed because you were there."

Impact on family

Participants were asked about the impact of their involvement in the criminal justice system on their family. They were also asked about how they were treated by members of their community during their contact with the criminal justice system and after prison.

In response to these questions, women highlighted first and foremost the extensive impact their imprisonment had on their children. Many of the women were single parents and so their children were living with extended family members. As more than half of black African and black Caribbean families in the UK are headed by a lone parent, compared with less than a quarter of white families and just over a tenth of Asian families, this is an issue that disproportionately affects Black women and their families.

> "Obviously it's a ripple effect isn't it? We've been sentenced but they've [our children] been sentenced with us. It is a struggle. I'm a single parent I've got a son but he was 100% dependent on me."

> "It's shocking to see how many mums are in prison for nothing."

> "Very difficult. My daughter is 12 years old and she is in school. My mum has to go to work so she is often alone and I am not even entitled for a tag because of the deportation letter… They don't care about us, we have a child we want to keep relationship ties and nobody cares."

> "It's been hard on kids because my kids are big now my daughter is 15 and my son is 19 and it's definitely impacted on us. I'm a single mum so they've only got me but they are living with their nan now so it is hard for them. My mum took it hard."

The women spoke about the lack of family time, additional visiting difficulties created when they are placed in prisons far away from their children, lack of phone credit, phone availability and privacy in order to maintain relationships:

> "It was really difficult for my mum and boy to come and travel, they try their best to come and travel, bless them, and they try their best to come and see me every two weeks if possible. But it's like mothers elsewhere they need to be in their hometown near their children. They usually are the sole cares, I was the sole carers of my little boy and it's just wrong I think."

> "I don't really see my family because this is not my area – [another prison] is my allocated prison so I see my kids three months apart I don't really have visits so my family ties are quite minimum... Try to keep the ties with my family on phone calls but how much credit can you put on, how much money."

> "And the amount of children's day and family days is ridiculous here as well considering how many lifers there are here with children and there is what about 14 spaces and you're all fighting to get them. It's ridiculous that someone misses out."

> "We've had three or four days on lockdown and we're like I need to speak to my kids or my kids are waiting by the phone, wondering where how you are, because when you phone they are like Mum, I phoned the jail, I ain't heard from you and the officer

says all we can tell you is that your mums alright and he says yeah but my mum's not phoning I haven't heard from my mum for two days. He thinks something has happened, he worries."

"Yeah when I was in [another prison] they did an amazing thing they had phones in the cells that made a massive difference to my son's life. I read him bedtime stories every week and he loved it. That's what I mean this jail is so dated compared to other jails [other prison] is miles ahead."

"And the privacy you would have as well because here you have two phones and 40-odd women. On our wing they are not in cubicles you can hear everything."

Several of the participants raised the difficulties they and others had in keeping in contact with relatives who are abroad because of expensive phone credit. It was reported that foreign nationals receive £1.70 a month in phone credit but British nationals who have family abroad do not receive this.

One woman described how she was told that she had to speak English on the phone, even though she was speaking to someone who could only speak Urdu:

"I was speaking to someone and I couldn't speak any other language to this person other than Urdu so I was speaking in Urdu and an officer came to the phone and shouted, 'speak in English'. And at the time the person was really, really ill as well so I had to put the phone down and explain to the officer that that person can't speak English and the officer said I need to put in an application to security."

Another woman reported that she was sometimes told not to speak her own language in prison:

"Saying about our own language sometime we speak our own language in prison and a lot of people say, can you speak English please."

Many women spoke about the stigma they faced in their community for being a BAME woman in prison. Many women felt that, in their communities, it was a greater source of shame and stigma for a woman to be in prison than a man.

"It really effects the whole of your family, not just my life but their life as well and how people are going to perceive them and judge us for the rest of our lives. Because in the Asian community, a woman, oh no, a woman doesn't go to prison. Maybe men, they say prisons are made for men and not for women. For me the first woman from my whole relatives has gone to prison, that is such a big thing and I can't even think what my parents are going through.

"It's like that in the black community as well especially the older generation as well it's the same."

"And my parents are really quite old as well so they suffer every single day of their lives, my sisters, and with me being Asian the community, the way they look at my family and what they put my family through. My family at times don't even tell me. They know it will make me upset and make me think."

One participant had experiences of being ostracised by her church, another said that she felt that her son's school looked down on her. However, some said they felt supported by their community and church.

Additional comments

Participants were invited to make any additional comments on the treatment of BAME women in the criminal justice system.

Women raised societal stereotyping and prejudices that create an environment that can encourage young BAME women to get involved in criminality:

> "You say you all get the same starting blocks in life but you don't because the stuff that I heard growing up as a child, it's like, "Oh, you'll never amount to anything. You're everything that is bad," then you start to believe that, so you think bad, you act bad, and therefore it's a self-fulfilling prophecy, so you are bad, and then when you see you end up in the system, you think, well that's what they said so that's what happened."

The participants gave constructive recommendations on changes that could be made to improve the system for BAME women including cultural awareness and sensitivity training for prison officers; more funding for legal aid to ensure good representation; better access to interpreters throughout the system; more educational opportunities in prison and funding to support women who have been through the system to mentor women at risk:

> "Through my own personal experiences, I don't think everyone's treated the same. I think as much as we have to educate ourselves, the police need to be educated as well, be more sensitive."

> "An injection of funding again back into the criminal justice system. This starts with legal aid there needs to be more money given back to that pot so they can have more enthusiasm when they represent us. There needs to be more in prison to pay for education and courses and there needs to be interpreters in prison to help foreign nationals."

> "I think it would help if the government…it all boils down to money…to plough some money into things like this where those of us have been through the criminal justice system are there as mentors because we've gone through it. We've tried to help others to come out of it as well."

Conclusion

This report highlights how both gender and ethnicity impact on BAME women's experiences of the criminal justice system. A clear set of themes emerged from the focus groups which highlight how BAME women commonly feel they are treated differently within the system, particularly in sentencing, jury verdicts and within some prisons.

For many women, the feeling that they did not have their stories and circumstances considered during their trial and the fact that they were confused by the process and their options underpins a sense of injustice and mistrust in the system.

The impact on women's families and communities was also profound. Women talked of the 'ripple effect' on their whole family, and in particular their children, and the shame and stigma felt in their communities of being a woman involved with the criminal justice system.

It is imperative that steps are taken to ensure fairness and perceived fairness in the criminal justice system and so that racism or unconscious bias are not features of any part of the system. To achieve this, Agenda and Women in Prison make the following recommendations.

Recommendations

1. The Lammy review should have a clear focus on the distinct experiences of BAME women across the criminal justice system. It should consider the impact on both them and their families, including their role as mothers and carers. This needs to be accompanied by better data on how BAME women are remanded, sentenced and their experiences of the criminal justice system. Statistics on the different parts of the criminal justice system should be disaggregated by gender and ethnicity to understand these differences.

2. As with all women in prison, the vast majority of BAME women have committed non-violent crimes and most do not need to be in prison. There should be a much greater use of community based sentencing and support for women. Full consideration should be given to BAME women's circumstances in sentencing decisions. BAME women's stories should be taken into account and pre-sentence reports should be more widely used and should detail women's experiences of abusive relationships, mental health issues and caring responsibilities. Women should be provided with a copy of their pre-sentence report. Sentencing guidelines should promote gender-sensitive sentencing and be clear about the need to consider the impact on a woman's family and children and any caring responsibilities she may have.

3. The use of remand against BAME women needs to be reviewed to ensure it is not being overused. Where women are remanded, steps must be taken to ensure responsibilities to children or other relatives can be addressed. Magistrates and judges should clearly explain to women and their legal representatives why they are being remanded. When women are detained in police custody they should be treated with dignity, such as having access to showers.

4. The law on joint enterprise should be reviewed and consideration given to how joint enterprise impacts on women, including the influence of coercive relationships in their involvement in crimes.

5. Juries should be sufficiently mixed in terms of gender, age and ethnicity. This is both to ensure sound decision making and so that defendants perceive justice is being done.

6. Clear, accessible information should be made available to women when they are remanded into custody and throughout court proceedings to help them understand and take part in the process. This information should be available in different languages.

7. Racism in prisons is completely unacceptable and must be stamped out. All complaints and allegations of racism must be taken seriously and dealt with through the appropriate channels. Clear processes must be in place and strictly adhered to so that prisoners are able to make complaints against other prisoners or prison officers and be assured these will be acted upon. This should include complaints or copies of complaints being submitted to an individual or body outside the management structures of the prison. All such complaints should be monitored across the system. If racist incidents and allegations are widespread in particular prisons, mechanisms should be in place to review the culture and operation of a prison.

8. Greater efforts should be made to recruit staff in prisons and probation who reflect the gender and ethnicity of those with whom they work. Staff across the criminal justice system, including in probation and prisons, should receive cultural and gender awareness training and there should be an emphasis on reflective practice in order to better understand the realities of BAME women's lives and the impact of unconscious bias.

9. Maintaining contact with children and families is hugely important for BAME women in prison who are particularly likely to be single parents or have familial caring responsibilities. Steps should be taken to enable family relationships to be maintained and for women to be able to see their children. This is important both for women and their children. Measures such as phones in cells, increased capacity for family visits, and trying to ensure women are held as close to their children as possible are important and must be rolled out. Women who have close family members abroad should be given sufficient phone credit to be able to contact them. During familial phone calls, women should not be prevented from speaking in a different language in order to communicate with relatives.

10. Culturally and religiously sensitive support should be available to meet the emotional and practical needs of BAME women, including in preparing for resettlement and understanding the barriers a woman may face in reintegrating into her community. The particular needs and experiences of foreign national women should be addressed and information and advice must be available to help women understand and challenge decisions over their right to remain in this country. This is particularly important for women who have caring responsibilities to children or other relatives.

11. It is imperative that women understand what is happening to them throughout the criminal justice system including in court proceedings and in the prison system. Impartial interpreters with sufficient cultural and personal sensitivity should be available at crucial points including where key information is being given, such as at medical appointments. English classes should be available in prisons to those who need them.

Appendix: Focus group questions

Focus Group questions in Prison

The Courts & Sentencing

1. **Legal advice and pleas**

    a) To what extent do you feel that your lawyer explained everything to you before and during your court case? Did you understand what was going on and what your options were?
    b) Did anyone tell you that if you pleaded guilty you would get a third off your sentence? If not, when did you find out this was the case?

2. **Remand**

We are interested in whether you think remand – people being taken into custody while they wait for their trial to take place – is fair, or not.

    a) What sort of things do you think influence decisions regarding whether or not to remand someone into custody?
    b) If you were remanded in custody before your trial, were the reasons for this decision clearly explained, and do you think this was a fair decision?

3. **Sentencing**

    a) Are you aware of what sentence was recommended in your pre-sentence report and did you think it was fair? Why/why not?
    b) Do you feel your circumstances or story was heard in court? If not, what do you feel was left out?
    c) If you were tried by a jury do you think that was a fair way of deciding your case? To what extent do you feel that all people are treated equally by juries?
    d) Do you feel that the sentence you were given was fair? Why/why not?
    e) Do you feel that all people are likely to be treated equally when they are being given a sentence? Why/why not?

Prisons & Rehabilitation

4. **Prison**

    a) Do you feel that prison staff treat all people the same in prison? Why/why not?
    b) Do you feel that decisions about reward and punishment in prison is dealt with fairly? Why/why not?
    c) Are you aware of the complaints procedure in prison? Do you think all complaints are treated the same?

5. **Rehabilitation**

    a) To what extent do you feel that there are adequate support and rehabilitative opportunities for people in prison?
    b) Do you feel that all prisoners have equal access to rehabilitative opportunities? Why/why not?

On release & in the community

6. **Resettlement**

    a) If you have been released from prison before, do you think there is adequate support and access to resettlement needs such as housing, employment, addiction, mental health?
    b) What is your experience of probation do you have a good working relationship with your probation officer. Do you feel that you are listened to? Do you feel that probation staff treat all people the same?
    c) If you have been on post-custodial licence before, do you think breaches of licence conditions are dealt with fairly?

7. **Impact on family**

    a) What has been the impact of your involvement in the criminal justice system on your family? For example on your children; your relationship with your partner or other relatives? Has it impacted on your ability to care for children or other family members?
    b) How do you feel you were treated by members of your community (neighbours, the church, children's school) during your contact with the criminal justice system and after prison?

8. **Concluding questions**

    a) Overall, do you think that you have been treated fairly by the criminal justice system?
    b) Are there any parts of the criminal justice system, such as those discussed above, which you think are particularly fair or unfair?
    c) Is there anything else you would like to discuss in relation to the fairness of the criminal justice system, or anything you would like to return to which was discussed above?

Focus Group questions in the community

The Courts & Sentencing

1. **Legal advice and pleas**

    a) To what extent do you feel that your lawyer explained everything to you before and during your court case? Did you understand what was going on and what your options were?

    Prompt: Did anyone tell you that if you pleaded guilty you would get a third off your sentence? If not, when did you find out this was the case?

2. **Remand (if relevant)**

We are interested in whether you think remand – people being taken into custody while they wait for their trial to take place – is fair, or not.

a) What sort of things do you think influence decisions regarding whether or not to remand someone into custody?
b) If you were remanded in custody before your trial, were the reasons for this decision clearly explained, and do you think this was a fair decision?

3. Sentencing

a) Are you aware of what sentence was recommended in your pre-sentence report and did you think it was fair? Why/why not?
b) Do you feel your circumstances or story was heard in court? If not, what do you feel was left out?
c) If you were tried by a jury do you think that was a fair way of deciding your case? To what extent do you feel that all people are treated equally by juries?
d) Do you feel that the sentence you were given was fair? Why/why not?
e) Do you feel that all people are likely to be treated equally when they are being given a sentence? Why/why not?

In the community

4. Rehabilitation

a) To what extent do you feel that there are adequate support and rehabilitative opportunities for people in prison or in the community?
b) Do you feel that everyone has equal access to rehabilitative opportunities? Why/why not?

5. Resettlement

a) What is your experience of probation do you have a good working relationship with your probation officer? Do you feel that you are listened to? Do you feel that probation staff treat all people the same?

6. Impact on family

a) What has been the impact of your involvement in the criminal justice system on your family? For example on your children; your relationship with your partner or other relatives? Has it impacted on your ability to care for children or other family members?
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Agenda, the alliance for women and girls at risk, *brings together over 70 voluntary sector organisations. We campaign and carry out research. We work with policy makers, commissioners, service providers and voluntary organisations and we share learning and best practice across sectors. We aim to influence and shape systems and service delivery. We ensure that women with complex needs and the projects that work with them are at the heart of all our work. We believe in enabling women who are marginalised and excluded from public debates to have a voice.*

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Women in Prison is a national charity that was founded in 1983 by Chris Tchaikovsky after she was imprisoned in HMP Holloway. WIP provides gender-specialist support to women *affected by the criminal justice system and campaign to reduce the women's prison population. WIP offers advice and support services across the women's prison estate in England and continues engagement into the community. WIP runs three Women's Centres that operates holistically providing support across multiple areas including domestic violence, mental health, homelessness, employment and emotional wellbeing.*

www.womeninprison.org.uk/