

Joint Committee on Human Rights

Inquiry into black people, racism and human rights.

Submission response from the Prisoner Learning Alliance (PLA)

The PLA is a network of organisations and individuals with expertise in prison education. We use our collective voice to advocate for improvements in prison education and to hold the government to account. We have over 170 members across the sector including education providers, professional bodies and voluntary sector organisations. The Prisoners' Education Trust provide our secretariat.

We welcome the opportunity to respond to this inquiry.

Black people are massively over represented in our criminal justice system, and this means that there is the potential for their human rights to be breached in the following ways:

- Right to liberty – there is a clear association between race and the likelihood of criminal sentence and black communities experience disproportionate levels of stop and search.
- Right to freedom from torture and inhumane and degrading treatment – During the pandemic and lockdown, in prison there have been numerous examples of degrading treatment as have been outlined in HMIP reports.
- Rights to access voting – although the ECHR ruled in 2005 that there should not be a blanket ban on all sentenced prisoners voting no subsequent government has amended the legislation.
- Right to family life – as the Committee has stated, the human rights of children of prisoners have been breached by the ban on prison visits and the lack of video contact during lockdown.

The discrimination and disproportionality in our criminal justice system cannot be seen in isolation from the health, social care, and education systems. This submission focuses on education, as this is our area of work. There is evidence that structural inequalities often have a negative impact on children's educational experiences and outcomes. This in turn renders people vulnerable to a life of precarity and powerlessness – and potentially to experiences of criminalisation.

Children from certain minoritised backgrounds are more likely to face permanent exclusion from school than others. Black Caribbean boys face a 0.44% rate of exclusion compared to 0.15% for White British boys, with Mixed White Black Caribbean boys having a rate of 0.42%. Black people are significantly over-represented in prison and we can clearly see the link between previous educational disadvantage and involvement in the criminal justice system. However, black people are more likely to be criminalised and to end up in custody whether they have experienced educational (and other forms of) disadvantage or not.

The Lammy Review presented a wealth of evidence demonstrating institutional discrimination against Black, Asian and Minority Ethnic (BAME) people by different sections of the criminal justice system, from over-policing of BAME communities, including the disproportionate use of stop and search, particularly of Black people, to disparities in sentencing in the courts - whereby, for instance, BAME defendants are more likely to receive prison sentences for drug offences than white defendants. Black men are 26% more likely than white men to be remanded in custody. They are also nearly 60% more likely to plead not guilty.

Over 27% of the prison population is from an ethnic minority (compared to 13% of the general population).¹ Conversely, then, white people make up 87% of the general population while making up only 73% of the prison population. The disproportionality among children and young adults in prison is even higher. Over half of children in custody are from BAME backgrounds. The population of white children in custody has been steadily decreasing over the last five years, while the BAME population has remained almost constant.² In 2015, it was estimated that BAME young adults aged 18-24 represented 19% of the general population, while they represented 33% of the prison population.³

Black prisoners' experiences of education in custody

Dame Sally Coates' review of prison education discusses the learning needs of BAME prisoners⁴. She makes the points that the gap in attainment between BAME and white pupils in schools has been closing and that despite poverty and, for some, an unfamiliar language, ethnic minority pupils do well in general.

The data on attainment in prison education is too scanty to tell us about the progress different groups are making. The latest data we have is from 2017/18 and while this breaks down the number of learners with their ethnic background and attainment level, it is not detailed enough to tell us previous levels of education, or for us to assess rates of progression, or if there is an awarding gap, as there is in universities.

There is no evidence that participation in prison education is lower for black people. In fact, black people are slightly over-represented amongst the learner cohort and participation by BAME learners as a proportion of the prison learner cohort increases as the level of learning goes up⁵. However, figures around participation in education in prison should be treated with a note of caution – attendance at education is not always voluntary for prisoners and education at functional skills classes in particular is often mandatory,

There is some evidence that prisoners from minoritised backgrounds have higher levels of prior qualification than white counterparts. The MoJ's Surveying Prisoner Crime Reduction (SPCR) research⁶ found that 64% of prisoners from BAME backgrounds had a qualification compared to 51% of non-BAME backgrounds. Higher participation, particularly at higher levels, in prison education may therefore reflect that more BAME prisoners arrive in prison with the motivation and prior attainment to pursue education.

¹ Sturge, G. 2019. UK prison population statistics. London: House of Commons (p. 11).

² Youth Custody Service. 2020. Youth custody report – March 2020.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/883432/youth-custody-report-march-2020.xlsx

³ Kneen, H. 2017. An exploratory estimate of the economic cost of Black, Asian and Minority Ethnic net overrepresentation in the Criminal Justice System. London: Ministry of Justice.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642551/david-lammy-economic-paper-short-summary.pdf (p. 9)

⁴ Unlocking Potential: A review of education in prison, Dame Sally Coates, MoJ May 2016, p32f.

⁵ Offender Learners – All Age Demographic Summary of FE and Skills Participation (2010/11 to 2014/15) – Learner Volumes – December 2015 SFR update

⁶ Hopkins (2012) The pre-custody employment, training and education status of newly selected prisoners. Results from the Surveying Prisoner Crime Reduction (SPCR) longitudinal study of prisoners, MoJ

This highlights the data gap. Currently, information held by government departments is not shared systematically. The Ministry of Justice is unable to access the National Pupil Database, which gives information (at least for more recent cohorts of young people) on school attainment. MoJ data and National Pupil Database information could also potentially be linked to data on participation and attainment through educational courses undertaken in prison, National Police Computer data on reoffending after release, and DWP/HMRC data on employment post release.

Detailed analysis would help us to understand the nature and extent of disadvantage and discrimination and how human rights can be impacted.

The PLA would therefore recommend that MoJ analysts be able to access information to explore black people's experiences of prison education and, in particular, the following areas:

- impact of school exclusion: it is known that pupils who have been excluded from school are disproportionately represented in the prison population (42% of prisoners report having been permanently excluded from school⁷);
- prior attainment on leaving school: how does the school attainment of black prisoners compare with the school attainment of other groups of prisoners?
- prison education attainment and progression for different ethnic groups;
- comparisons of employment outcomes and earnings levels for former prisoners;
- reoffending outcomes for people involved in education during their prison sentence (broken down by ethnicity).

There is also an absence of figures on economic disadvantage. The only figure which specifically points to this factor in the SPCR data is particularly revealing: while people from BAME backgrounds were more likely to have qualifications than white people in prison, they reported a lower average income in their last job compared to white respondents (£230 per week compared with £250). This points to the institutional racism in the labour market, part of the structural inequality that minority ethnic people experience in everyday British society.

In addition, there is no central data available on the proportion of those in the criminal justice system, of any ethnic background, who have English as an additional language⁸. However, with 700 requests for interpreters from the courts every day⁹, it seems likely that language is a barrier for many to successfully navigate the criminal justice system.

Conclusion and Recommendations

If prisons are to avoid duplicating the discrimination and disadvantage in the community, there needs to be a cultural shift within prisons and their education departments. We believe that there should be a culture of high expectations for all learners. The latest HMIP annual report highlights that 54% of BAME male prisoners (of 1814 surveyed) found it easy to access a place in education in the prison they are living in, which is significantly worse than the figure for white prisoners (4031 surveyed), which is 58%. BAME prisoners also report receiving less support from staff – 48% said staff encouraged them to do education against the comparator for white prisoners of 54%.

⁷ Williams, Papadopoulou & Booth (2012) Prisoners' childhood and family backgrounds

⁸ A Prison within a Prison, Centre of Education in the Criminal Justice System, Institute of Education. 2015 (<https://www.bell-foundation.org.uk/assets/Documents/APrisonwithinPrison.pdf?1423048388>)

⁹ The Ministry of Justice's language services contract. National Audit Office. 2012

The PLA believes that HMPPS and PEF education providers should implement recruitment strategies that enable the recruitment of more diverse staff teams and review working practices and cultures to ensure they provide a working environment which is supportive of minority ethnic staff. They could also involve community and voluntary groups, (particularly those led by minority ethnic communities), in education and other activities wherever possible.

All staff carrying out teaching, education screenings, assessments and marking should receive training around bias and racial equity. The use of (prisoner) peer mentors to support education and other activities should be fully developed, with training and paid opportunities to train as mentors and classrooms assistants. Ideally, prison education departments would review their curriculums in consultation with learners to ensure they are inclusive and relevant.