

PROBATION, THE NEED FOR ANTI-OPPRESSIVE PRACTICE AFTER REUNIFICATION: AN EXAMINATION OF HISTORY AND POLICY.

Abstract

The probation service is at a crossroad in its history with the two sectors, the National Probation Service and the privatised Community Rehabilitation Companies being reunited. This is a good time to examine discrimination both within the criminal justice system, including probation, and in society to improve the service and experience for staff and service users. The article provides the reader with a detailed literature review on discrimination in criminal justice, its history, policy and practice over time. It starts with the beginning of anti-racist practice ideas and continues up to the present time, with the latest report from Her Majesty's Inspectorate of Probation (2021) thematic inspection. This report, like its two predecessors, in 2000 and 2004, details how people of colour, both probation professionals and clients have reported being disadvantaged. There is evidence to show that this is beyond personal reflection. Targets in subsequent action plans should include addressing disproportionality, outcomes of probation supervision, breach and recall, improving life chances for ethnic minorities and developing a race equality strategy for people on probation, drawing on the evidence base. This can only take place if practitioners hold anti-oppressive practice at the centre of professional practice, with the need to build and develop trusting relationships with their clients.

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Introduction

The probation service is at another crossroad in its history, with the two sectors, the National Probation Service, and the privatised Community Rehabilitation Companies (CRCs) becoming reunified. Probation functions as part of the criminal justice system and faces the same tensions as the wider society. Politicians of both major parties have added to the sometimes-confused development of the agency, thereby changing its ethos, management, structure, and priorities.

Differences in how the two organisations supervised offenders has been noted in Inspectorate of Probation reports; Tidmarsh (2020) in a qualitative study of a CRC found that staff lacked time to work with offenders and establish relationships. The late Paul Senior, who was very influential in probation, in his Bill McWilliams Memorial Lecture (2016) made the point that the end of probation had been feared many times before. He drew on concepts like 'reflective practice' and a 'constructively critical culture' to make sense of his work. It would be positive to think that his sense of optimism and determination would be there encouraging us to find the "straws in the wind" he mentioned to ensure that the "institution of probation" continues in a recognisable and meaningful form.

It is hoped that this article, which discusses discrimination both within the CJS and in society, will encourage debate in this important area. The intention is to provide the reader with a detailed literature review of the history, policy and practice over time. Her Majesty's Inspectorate of Probation (2021) thematic inspection brings up to date their findings from two earlier reports on racial equality (2000 and 2004), that had revealed a failure in probation leadership, and subsequently, still poorer quality of work with ethnic minority clients. Ethnic minority staff in 2004 reported having a sense of disadvantage. The reader may wonder why this remains the case today. One possibility is that the probation service has been on many trajectories over time, dropping anti-

oppressive practice down the list of its priorities.

Racism has a long history in Britain. The Colonial Model has become an essential determinant in understanding the brutal role that colonialism has played in influencing the lives of “racial and ethnic groups in the criminal justice system across nations.” (Owusu-Bempah and Gabbidon, 2021, 3) This is in addition to highlighting the social and psychological problems arising from colonial and post-colonial society with its oppression. It reinforces the concepts of superiority and inferiority. Probation staff need to understand the pervasive nature of inequality and discrimination and this article will examine the broader perspective of living in a society that is not equal in its opportunity. The House of Commons and House of Lords Joint Committee on Human Rights (2020) in the aftermath of the killing of George Floyd in the US and the Black Lives Matter protests in the UK commissioned a poll “which found that over three quarters of Black people in the UK do not believe their human rights are equally protected compared to white people.” (2020, 3)

Afua Hirsch (2021) articulated the slow progress of change when she commented that in the aftermath of the killing of George Floyd, 2020 was the year that a “wise old man” had said, that progress had moved on from -10 to zero.

Getting to nothing has been a lot of work. Until this year, even attempting a conversation about anti-blackness, structural racism – or god forbid – whiteness was often liable to provoke the most extreme hostile and defensive reactions. (Hirsch, 2021)

Bhui (2009) commented that there were few academic texts on race and criminal justice and that there had been little written on the debates and concerns that had emerged. There is now a growth of literature in this area, including critical race theory (Glynn, 2014, Delgado, and Stefancic, 2005), and the impact of colonialism and migration (Craig, 2019, Owusu-Bempah and Gabbidon, 2021). These give valuable insights for practitioners.

Working with offenders and the start of anti-racist practice

Probation grew from a missionary zeal to reclaim the fallen (McWilliams, 1983). Other stages have also been catalogued and it is not the intention of this paper to give a history of the service (see for example, Bochel 1976, Page 1992, Goodman 2013) leading to the current concentration on risk. In the early 1970s there were very few books about practice in probation: Monger (1972) had a focus on ‘casework’, Foren and Bailey (1968) described the probation officer as the ‘social worker of the courts’. The process of change has been described by McNeill (2019), drawing on work by Robinson, McNeill and Maruna (2013), as one where probation development evolved through a series of phases. They identified four: managerial, punitive, rehabilitative (including the notion of responsabilisation) and reparative (to include unpaid work). As changes to National Standards eroded the autonomy of practitioners, court sentences had to include a punitive dimension, rehabilitation was based on risk assessment and the management of the offender. On to this thread needs to be added the process of addressing discrimination.

Kemshall (2003) noted that risk tools had replaced clinical judgement. Her conclusion contains a warning on how risk could impact on the management of diversity in a post-Fordist, postmodern world, where social relations are fragmented, economic activity and consumerism are linked and crime control is seen as a homogenous measure, leading to a justice system unable to recognise and deal with difference. For staff, it would mean that addressing discrimination was not as important as ensuring that assessments were completed to deadline, and insufficient attention was given to the intersectional complexity that affected some peoples’ lives. This is evidenced, later in the article, in a section on inequality.

Discriminatory practice did not just affect offenders but also impacted on staff of colour. Vanstone (2006) chronicled the development of critical movements within probation, with the formation of the Association of Black Probation Officers (ABPO) in 1982 and a group for Asian officers a few years afterwards. These groups represented forces for change and advocated for Black staff and students. They had an impact on the National Association of Probation Officers (NAPO) in its attitude, policy and actions on race over the long-term. ABPO challenged a working party of the National Executive Committee (NEC) of NAPO who produced a self-critical report in 1985. Three years later a report by the Assistant General Secretary:

exposed overt racism by White officers against Black officers, in 1987 the Probation Practice Committee produced its Manifesto Action: Developing an Anti-Racist Probation Practice’, the

Probation Training Committee produced its report on the 'Training Recruitment, Selection and Employment of Black Staff; and the Association set up a conference to examine race, class and gender. (Vanstone, 2006, p12)

NAPO remained very active in promoting anti-discriminatory practice. Its *Good Practice Guide* (1995) commented that at the time it was planning its professional conference in July 1994 "there has been an attempt to remove anti-discriminatory practice (ADP) from official documents." ADP was centre stage in the guide. The Carter Report (2003), which profoundly changed the management of probation said nothing on the subject.

Race, probation and practice

Having grown up in Hackney and then starting work in a probation office there in the mid 70's, it was apparent that all was not well. Young African-Caribbean offenders were going to prison having been found guilty of sus – loitering with intent to commit a crime, on the evidence of two police officers. With a colleague, we started a group for young African-Caribbean men who felt isolated and under attack. I can recall the shock of visiting Rochester Borstal for the first time, it had a population that was nearly totally Black, and not representative of the population in any way. There was no ethnicity data being kept at this time, as will be discussed.

To set this in its historical context, in 1981 the Commission for Racial Equality (CRE) and the West Midlands County Probation and After-Care Service, jointly published the first report on probation and racial equality. It cited a CRE report from the previous year which found that the majority of probation Black clients were juveniles and young people. The Chair of the CRE, in the foreword, commented that many had difficulty in finding employment compared to their White peers but also there was "the anger they feel as a response to the prejudice and discrimination they experience during their formative years." (1981, 6).

The recommendation in the CRE 1981 report, that the Home Office should undertake a study of the effects of sentencing practices and procedures on ethnic minorities, especially young Black people, had to wait until 2007, when the House of Commons, Home Affairs Committee produced their report *Young Black people in the Criminal Justice System*. If the opening paragraph signalled that addressing the inequality and need for a proactive approach to supervising BAME offenders has been known about for a very long time, this does not imply that there were no attempts to work in an anti-discriminatory way with offenders, but they are not well catalogued.

Social Enquiry Reports to the courts were written in a way that focused on the personal history of the individual, rather than the reasons for offending. This had the unfortunate effect of reinforcing stereotypes especially on ethnic minority offenders, particularly in areas where young people came to England to join families who had answered the call to come to the motherland who needed them. The overuse of the sus law by the police, indicated otherwise. Demuth (1978) in a strong critique of the Vagrancy Act 1824 found that it was used predominantly in metropolitan areas. In the cases she examined, tampering with car door handles was used with defendants from a variety of backgrounds, but loitering with intent to steal from handbags was used as a reason, predominantly with Black defendants, to arrest them under this law. As stop and search is seen now in its disproportionate use with BAME individuals, sus was very contentious and resulted in many young Black males being sent to prison.

A report on probation practice with BME offenders was published in 1981, when Carrington and Denney in an article entitled 'Young Rastafarians and the Probation Service', commented that social work educators had paid little attention to 'social work with racial minorities'. They carried out a survey of 30 probation officers, 15 Rastafarian offenders and examined 15 social enquiry reports. They discovered that all the officers "found Rastafarians to be a problematic group." The offenders were characterised as 'true Rasta', 'untrue Rasta' (subversive Marxist type) or 'bandwagon Rasta' (outward appearance without the cognisance of the Rasta world view). Offenders were pathologised as having identity crises, having problems in adjusting to western culture, authority problems or lack of socialisation. Few of the reports mentioned offenders' beliefs and complaints included 'lack of punctuality, uncooperative and sometimes aggressive behaviour'. The report commented that non-racist practice had to recognise and accept Britain as a multicultural society and traditional practice had to be examined for their appropriateness for ethnic minorities. The reports appeared to write off Rasta offenders, three recommended Borstal, one custody, four wrote off supervision as an option and only three recommended supervision/continued supervision. Clearly the probation officers had mostly not been of help to the Rasta offenders.

Whitehouse (1983) looked at social enquiry reports and came out with the pessimistic conclusion that Rastafarian offenders were better off going to court without a report. The language of the reports was pejorative, including 'illegitimate', 'abandoned' women etc. It painted a picture of the men especially as being irresponsible and feckless. The following year Pinder (1984) found further differences in probation reports on White and Black defendants. White defendants were typically assessed in terms of their psychopathology and Black defendants in terms of their attitudes to authority. Denney looked at 50 social enquiry reports written in 1987 by 13 White probation officers on 25 Black and 25 White offenders. He commented that: family problems were more likely to be identified as being significant for White offenders. Anti-authoritarianism emerged as an all-Black phenomenon in this research. (1992,46-7) Shallice and Gordon (1990) found in the social enquiry reports they analysed that there was no difference in the recommendations between Black and White offenders, however White offenders had more previous convictions, hence Black offenders were being recommended for the same disposals at an earlier point in their offending and would be likely to move 'up tariff' quicker.

Later evidence on pre-sentence reports (PSRs) written on White and Black offenders was not conclusive. Morgan (2006) cited a number of studies, with some finding that Black defendants were more likely to have had a PSR prepared, some the same rate and others less. Studies were inconsistent in their findings whether personal details within the PSR influenced sentencers in different ways, but there was one area of significant difference in relation to sentencing proposals. In particular, it was more likely that Black and Asian defendants in PSRs lacked a sentencing proposal, and this lack of recommendation could lead to custody. The most well-known study in this area was by Roger Hood (1992) in the West Midlands. Overrepresentation of custodial sentences was partially accounted for by a propensity to plead not guilty, but White defendants were much more likely to have probation recommended, even when it was recommended, Black defendants were more likely to be sentenced to a suspended sentence or community service. Cole and McLean (2020) commented that studies on PSRs on BAME defendants "tend to be thinner, and of lower quality", with "limited or inadequate understanding of BAME offending" (2020, 677). They were concerned also with the decline in the use of PSRs in favour of oral reports, which makes it more difficult to engage with the impact of race on offending.

Unrest and the subsequent impact on probation

The Scarman report, written in the aftermath of the Brixton riots, blamed the cause of the disturbances on the mindset of young Black males, rather than the heavy police tactics of what was known as 'Operation Swamp' when the special patrol group completed 943 stops, just over half on African-Caribbean people:

Would it be correct to conclude that young Black people are wholly alienated from British society as a result of the deprivations they suffer? But it would be surprising if they did not feel a sense of frustration and deprivation. And living much of their lives on the streets, they are brought into contact with the police who appear to them as visible symbols of the authority of a society which has failed to bring them its benefits or do them justice. (1981, 2.23)

Criticism of Scarman focused on an over-reliance at the personal or psychological level, rather than institutional. This pathologised individuals and families leading them to be seen as less worthy than White people. (Thompson, 1997). In 1982 Pinder wrote about observations he had made at an unorthodox reporting centre run by a probation officer in Chapeltown, Leeds for young Black service users. The officer was frequently caught 'off-guard' by the young people in their conversations but there were serious conversations. The important point made in the article was that concerns by the Black youth about 'unemployment, homelessness, racist violence (and counter violence), official racism' in discourse terms were 'backgrounded' in court reports, but for the people themselves it was constantly in the 'foreground'. Official discourses did not do this fact justice. At a broader level, criminologists were cataloguing how panics about law and order, the linking of crime to race and ethnicity, became synonymous with a crisis in state authority (Webster, 2007).

Cole (2019) added that a 'crucial deficiency' was an over emphasis placed on youths of an African-Caribbean background, despite the fact that British South Asian youths also took place in the inner-city riots. A colleague and I wrote a paper on race experiences in Britain as many of our students had limited knowledge of post-war immigration into Britain, discrimination, and the riots of 1981 (Goodman and Ruggiero, 2008). The Cattle Report (2001) into riots in what became known as the 'Northern City Riots', acknowledged the impact of 'deprivation and youth disillusionment' and talked about lack of mixing and living parallel lives. It did not discuss whether this was involuntary and the consequence of racism. Cole and Wardak (2006) examined the findings of a 2004 study of the extent of social exclusion experienced by Black and Asian offenders on probation and found negative

experiences of education and economic exclusion, with two-thirds of the subjects unemployed and almost 70% dependent on state benefits. Criminal justice agencies, other than the police, were perceived to be fair. They concluded that until "Black and Asian people are fully included into the economic social, cultural and political institutions...they are likely to question the legitimacy of the official institutions." (Cole and Wardak, 2006, 95)

The statistics on BAME individuals

The first figures for the ethnic origins of prisoners were given in a Home Office Statistical Bulletin (17/86) dated 18 June 1986. In the introduction/summary it commented that explanatory variables like "social class, education, employment status, social deprivation or disadvantage" could not be considered for lack of data (HO, 1986, 2) The figures given were that about 8% of the male prison population and 12% of the female population was of West Indian or African descent, compared to the 1-2% that were present in the general population of England and Wales. They comprised 10% of the male remand population, 7% adult and 8.5% young male sentenced population. They were more concentrated in closed establishments (compared to open) and received longer sentences. In a commendably open statement, the report commented that: "generally Whites had substantially more previous convictions than had the ethnic minorities." (HO, 1986,11) The evidence for the report was started to be collected in June 1984, a few years after the Brixton riots. The report detailed that between 1 July 1984 to 30 March 1985, the proportion of sentenced receptions for males aged under 21 known to be from the ethnic minorities was 25% in London, 9% on other metropolitan areas and 9% in other areas, and for those aged 21 and over, it was 18%, 7% and 6% respectively. (ibid, 13)

The Home Office publishes information under section 95 of the Criminal Justice Act 1991 designed to inform workers in the criminal justice system to avoid discrimination "on the ground of race or sex or any other improper ground." The publication on race, *Statistics on Race and the Criminal Justice System: a Ministry of Justice Publication under Section 95 of the Criminal Justice Act 1991*, was last updated in 2018. This tells us that a greater number of children in prison were from minority ethnic groups (40% of prisoners under 18), Black prisoners served the greatest proportion of their original sentence in custody (70% in 2018, compared to 63% White and 61% Asian prisoners). White offenders have had a consistently lower average custodial sentence length for indictable offences than all other ethnic groups. In terms of probation supervision, numbers have remained stable with the proportions remaining 83% White, 7% Black, 3% mixed ethnicity and 1% Chinese or 'other' ethnicity. The greatest disparity was in the use of stop and search, arrests, custodial sentencing and in the prison populations. London figures are much more tilted towards Black people with the proportion of stop and searches involving Black suspects increasing from 30% to 37% over the past five years, now the same numbers as White suspects. Two thirds of children arrested in London were from minority ethnic groups, compared to 21% of children in England and Wales. These figures are presented in some detail to highlight the realities of how the criminal justice system is constituted.

The impact of the murder of Stephen Lawrence, and the aftermath, on probation

Following the murder of Stephen Lawrence and the bungled police enquiry, the Macpherson report was an attempt to understand what had gone wrong. The inability of the police to identify culprits was said to be the result of "institutional racism." This was then defined as:

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people. (1999, 6.34)

There is clearly a difference between the reports of Scarman and Macpherson, with the former sharing the responsibility for change equally between the police and the Black community, whilst Macpherson put the onus purely on the police, who held the "power, resources and legal accountability (O'Byrne, 2000). Cultural issues are at the heart of this latter powerful report. Her Majesty's Inspectorate of Probation completed two reports on race, *Towards Race Equality 2000 and Towards Race Equality 2004*, The first report stated that Macpherson had raised expectations by ethnic minority staff in the probation service that there would be changes. It was worrying that the Inspectorate Report (2000) found that "29% of minority ethnic staff rated the quality of supervision from their line manager as unsatisfactory or poor" (p19) which is a very high percentage. The Report stated that 60% of pre-sentence reports on White offenders and 63% on Asian offenders were considered satisfactory or good, compared to only 49% African/African-Caribbean offenders, with a focus on welfare rather

than offence related problems for this group. Just as worrying was that equal opportunities had been translated into "treating everyone alike" (p22). On one level the latter point acknowledged that ethnic difference existed, but when it came to report writing, notions about the risk of reoffending were to be decontextualised from the life pressures and disadvantage suffered by minority ethnic individuals, so that this should not be a sympathetic consideration when it came to sentencing. Instead linking this to notions of risk perversely raises the risk of reoffending and increases the risk of custody. In terms of the state of the art of awareness in probation areas, this sentence was very depressing to read:

It was disappointing that despite the promise of the work undertaken in the 1980s and early 1990s, so little had been achieved. In many services, understanding of equal opportunities had not progressed beyond the level of "treating everyone alike". (2000, 27)

The two reports asked BAME staff about how the service treated them. Only 29% answered the first time and 18% the second time. Many felt isolated at work, reported a high level of racism, not just from offenders, but also from colleagues and other services. There was a lack of confidence in managers' willingness to challenge racism, together with a feeling that they lacked access to networks available to White peers. They also felt excluded from the promotion process. The report recommended a separate complaints system to tackle racism. Four years later the only improvement was a drop in the level of racism from offenders. The separate complaints procedure was not implemented.

The Justice Committee, in a report on the work of the probation service, expressed their concern with the supervisory priorities of the service highlighted a move away from a person-centred approach, towards spending time on electronic assessments:

We accept that probation officers have to do a certain amount of work which does not involve dealing directly with offenders. However, it seems to us staggering that up to three-quarters of officers' time might be spent on work which does not involve direct engagement with offenders. No-one would suggest that it would be acceptable for teachers (who also have to do preparatory work and maintain paperwork) to spend three-quarters of their time not teaching. The value which really effective probation officers can add comes primarily from direct contact with offenders. While we do not want to impose a top-down, one-size-fits-all standard, it is imperative that NOMS and individual trusts take steps to increase the proportion of their time that probation staff spend with offenders. (Justice Committee, House of Commons, 2011)

It commented on the evidence from the Chief Executive of the then Surrey and Sussex Probation Trust that some probation officers had needed training to be able to exercise judgement as they had been trained in a rule-based approach. In terms of difference and diversity, there was an acknowledgement that directing resources towards offenders presenting the highest levels of risk had disadvantaged women offenders. The comments on working with diversity are concerning:

The people supervised by the probation service do not make up a homogenous group and have varied and complex needs. Interventions, for example, accredited programmes, have been developed to meet the needs of the majority: young, White men. (2011)

Gavrielides and Blake (2013) writing on race and probation were concerned for the BME community. The 2011 census showed that 29% of the population in London was from a BME background. Out of the 41,091 offenders managed by the then London Probation Trust, 20,723 came from the BME community. Again, discriminatory practice impacts on more than the service users, it also affects staff. Cole and McLean (2020), drawing on data published by the Association of Black Probation Officers, stated that Transforming Rehabilitation resulted in a large number of Black staff leaving the probation service.

Black Lives Matter, positive change and the future of criminal justice

One major change from earlier disturbances, is the ability of members of the public to record interactions with the police on mobile phones. Danny Shaw, the then Home Affairs correspondent in the BBC cited figures released by the Home Affairs Committee to suggest that the Met had increased its use of handcuffs fourfold between April and May 2017 and the same period in 2020, from 5,559 to 25,251. (8 July 2020). One of these cases happened to be the British sprinter Bianca Williams and her partner. Their three-month old baby was also in the

car and not surprisingly Ms Williams was very upset, this increased when they were both handcuffed. The police have now apologised and have referred themselves to the Independent Office for Police Conduct. This raised the question of why they were targeted. What it raises is the concern of Black people that they are being singled out in a discriminatory way. It may well have a knock-on effect on how other criminal justice agencies are perceived.

Reid (2020), the BASW England professional officer and a social worker, was very critical of the weak response of social work leaders in the aftermath of the killing of George Floyd. His article challenged the use of terms, such as BAME, as missing “so much nuance and subtlety, and can be seized upon by those who wish to deny racism as a white problem.” Tadam (2013) stressed the importance of cultural competence as a useful concept in this respect. By this is meant stepping outside of ones’ own culture and cultural knowledge to work with clients from different backgrounds. The history of social work practice highlights the painful steps that practitioners have taken to understand and work with minorities. From post second world war assumptions that minorities needed to assimilate, that White culture was somehow more civilised, that Black families were dysfunctional, that a colour-blind approach could be applied, to multiculturalism, tolerance to anti-racist work, focusing on institutional and structural racism. In this respect the latest HMIP Academic Insights paper is helpful, it makes it clear that the practitioner has to be skilled to engage with offenders who have experienced trauma and adverse childhood experiences (ACEs) (Moore, 2020). Social class should not be ignored, when considering ACEs, as lower social-economic groups are more likely to have ACEs and for these to be more severe (McCartan, 2020).

Glynn (2014), drawing on his nearly three decades of experience of working with black men in the community and in prison, advocated drawing on Critical Race Theory (CRT). Utilising the framework of Delgado and Stefancic (2005) it says that racism is not exceptional but ordinary, which can make it hard to recognise. It is the product of social thought, without biological or genetic reality, and highlights how the dominant society racialises different groups, in different ways, at different times. CRT has two separate paradigms, ‘Majoritarian stories’ told by white privileged people and ‘counter stories’ told by subordinated black people. Offender managers have the knowledge, values and skills to listen to their BAME service users and to work with them to change.

The need to adopt a holistic approach, demands that the practitioner is trained to understand the world that the offender is part of: race, class, childhood experiences and other factors need to be understood and respected. Flynn (2010) noted that 70% of residents in the most deprived areas of London came from ethnic minorities. Areas of high crime correlate with residential areas where large numbers of offenders live. He interviewed a number of offenders released from prison and concluded that it was a responsibility of the state to make good the effects of inequality and social exclusion. Single-factor explanations for offending, which he regarded as occurring too frequently, did not address causation sufficiently. This over-representation of deprivation in ‘education, employment and housing’ coupled with institutional racism in the criminal justice system (CJS), was sufficient for Walmsley and Stephens (2006) to consider if this was a factor in the over-representation BME communities in the CJS. In 1999 the Probation Unit (which became the National Probation Directorate) commissioned the Research, Development and Statistics (RDS), HO Research Directorate to investigate the criminogenic needs of BME offenders. Results had to be treated with great caution, with methodological problems that limited the ability to generalise findings. Anecdotal evidence indicated that the ‘special interventions for BME offenders’ might have raised sentencers awareness and influenced sentencer behaviour (Walmsley and Stephens (2006).

Inequality

The latest Equality and Human Rights Commission (EHRC) report (2018) reveals that there is still a long way to go to counter inequality in England in terms of education, health, work and living standards:

Certain ethnic minority groups (Pakistani, Bangladeshi and Black African, in particular) were more likely to live in poverty. Among these groups, half of children were living in poverty, as were half of White Irish, Chinese and other ethnicity children. (2018,5)

Ethnic minorities were more likely to live in overcrowded accommodation than White households, and Black households were less likely to report that they were satisfied with their housing than White households (2018, 5)

Notable differences in attainment are evident when both sex and ethnicity are examined. For example, only 55.3% of Black boys, but 64.2% of Black girls, achieved grades 9–4. The overall figure for all White children was 63.9% and for all Black children 59.8% (2018,12)

By sex and ethnicity, school exclusion rates were highest for Gypsy/Roma boys (120.4 per 1,000) and Traveller of Irish heritage boys (115.0 per 1,000), followed by Gypsy/Roma girls (54.8 per 1,000) and Black boys (52.7 per 1,000). Overall, in 2015/16 21.1 of all children per 1,000 were excluded; 37 of Black children per 1,000 were excluded. (2018, 13)

Changing the lives of offenders on supervision

Farrall (2002) obtained the views of 199 offenders and their supervisors and concluded that the elements that had been most helpful to probationers had not come from their supervisors but from themselves. This included gaining employment, repairing relationships, or starting new ones, moving home etc. In terms of human capital (individual knowledge and skills) and social capital (making possible the gaining of status and personal acclaim etc) these are attributes harder to acquire legitimately in poor, high crime areas, thus further disadvantaging BAME individuals. Farrall et al. (2007) highlighted the importance of continuity in the relationship between offender managers and offenders and setting in place support networks in the community. There is evidence that BME prisoners have a different experience than White prisoners (HM Inspectorate of Prisons, October 2020). This report was based on 73 interviews with BME prisoners. There was reference to the diversity of the prisoners and lack of diversity within the staff. Further comments concerned the lack of understanding of their cultural backgrounds and individual differences. The poorer experiences of BME prisoners, in a number of important areas, led to the key finding that there was less of a rehabilitative culture for BME prisoners. This is disappointing, given that Shingler and Pope (2018) conducted an earlier rapid evidence assessment, which found that treatment:

that is delivered by culturally aware and sensitive staff; and delivered by staff from similar ethnic backgrounds to their clients is preferred and is more likely to reduce the chances that potential BAME participants will experience any fear or resistance associated with feeling isolated or misunderstood. (2018, 2)

The process from the commission of an offence, through detection, arrest and sentencing is one where BAME individuals are more likely to be 'filtered in', from the experience of stop and search, the use of cautions, the availability and use of non-custodial alternatives, the use of breach proceedings, the possibility of being granted parole etc. Individuals are at risk of being stereotyped and Black women risk the intersectionality of race, class and gender creating bias against them. For all these reasons practitioners need to challenge their assumptions and make sure that they are well informed about BAME culture and community (Farrow, Kelly and Wilkinson, 2007). The evidence on differential sentencing outcomes for White and BAME offenders is complex but important. Raynor and Lewis (2006) interviewed 483 male minority ethnic offenders and compared the findings with comparative samples of white offenders, using the CRIME-PICS II questionnaire. On average minority ethnic offenders received the same community sentences as White offenders with higher criminogenic need. This could be the result of sentencing and/or the pre-sentence reports.

Concern was expressed about the effectiveness of cognitive-behaviour programmes (four were designed) for BAME offenders many years ago, especially how Home Office Pathfinder programmes were altered to fit different populations (Durrance and Williams, 2003). There are no longer any programmes running and in a very critical update (Williams and Durrance, 2019) painted a depressing rationale for why not and what is now needed. The Lammy Review (2017) highlighted the disproportionate use of custody, particularly for BAME youth but also considered issues of bias, unconscious bias, and how "improvements" to probation had squeezed out small NGOs who had previously offered specialist provision to BAME offenders. An innovative project in the old London Probation Trust had offered support and training to small BAME NGOs and had successfully upskilled them to join together so that 'the whole was greater than the sum of the parts' (Choak, Joseph and Goodman, 2012). The importance of this was that these groups were part of the community, were understood and accepted by the BAME community and worked in partnership with statutory agencies.

Gang membership in Manchester and London was identified by the police as predominantly BAME, 89% and 80% respectively, leading to a high level of stop and search and a high level of surveillance (Williams and Durrance, 2019). They further pointed out that a risk assessment tool, the Offender Group Reconviction Score

(OGRS) used variables such as age at first contact with police and age at first conviction, which are not independent of police behaviour. This led them to warn that:

Procedural unfairness and feelings of hopelessness may undermine attempts to build productive working relationships between criminal justice practitioners and BAME people subject to probation (Williams and Durrance, 2019, 382).

Concern about race is not a new phenomenon, politicians may use coded language, the failure of multiculturalism, excessive immigration, lack of integration etc. Occasionally it becomes highly emotive, for example the speech by Enoch Powell in 1968 with the prediction of Rivers of Blood (Hirsch, 2018). More recently, the historian David Starkey employed language that led to him apologising when he said "that slavery was not genocide as "so many damn Blacks" had survived. (BBC, 6 July 2020).

The concept of being White is complicated and the subject of race is too complex to be seen as a binary divide. The work of Diangelo (2018) has been criticised for taking Whiteness as a homogeneous concept thus denying the diversity within this group. Thus, Eastern European migrants would not be differentiated from other White people, despite the oppression they suffer when working in other countries. It is too simplistic to assume that Whites subordinate only non-White groups when it occurs also within White groups as well. Analysis has to consider class, and in Bejan's (2020) very strong, and well-argued criticism of Diangelo, she takes issue with using skin colour 'as a marker'. It should be remembered that Lammy (2017) was concerned with the treatment of Gypsy, Roma and Traveller defendants. This was also recognised both in the Government response to Lammy (2017) and the Ministry of Justice updated review (2020). This acknowledged the continuing overrepresentation of ethnic minorities in the Criminal Justice system and the need to tackle mistrust. Whilst this is encouraging and is to be welcomed, Grierson, the Home Affairs Correspondent in the Guardian, reported that:

Nearly nine out of 10 children held in custody on remand in London are from a black, Asian or minority ethnic background. In England and Wales, the figures show the percentage of BAME children on remand in the same period had risen from 54% to 57%, while 33% were black. BAME people account for 15.5% of the population in England, according to 2016 figures. (21.12.2020)

The HMIP report (2021) on *Race equality in probation*, considered the changes in probation practice since their last thematic inspection on race equality (2004). The timing is very appropriate as the service embarks on its next change and challenges. It comments that seventeen years on there are still major disparities in how the criminal justice system treats ethnic minorities. The split into the NPS and CRCs in 2014 had hindered the ability to gather data on how BAME individuals were supervised by these organisations. The HMIP inspection looked at the work of both NPS and CRCs in five local probation delivery units, four with a large proportion of ethnic minority service users and the fifth with an old established black community. It was a remote inspection, due to Covid restrictions, but there was a large cohort of 100 cases, 84 probation staff who were responsible for these cases interviewed; 51 pre-sentence reports were analysed, senior managers human resources business partners, divisional equality and diversity leads were interviewed. Focus groups were conducted with 56 POs and PSOs and 41 middle managers.

An independent organisation was contracted to interview 81 service users, with 43 identified by probation and 38 through this organisation's contacts in the local communities. Many service users were described as having experienced "racism, discrimination and disadvantage in their lives", but many did not feel that probation staff understood these experiences. This lack of understanding extended to culture, religion and/or heritage. The report commented that the NPS and the CRCs commission few services for ethnic minority service users, and "links with ethnic minority community organisations are poor. There is limited understanding, research and application of the best approaches for working with ethnic minority service users and this is concerning." (2021, 9). Data on race and disproportionality at a local level was not being drawn on, which was seen as worrying as it meant that managers could not be held to account for achieving equality of outcomes. Poor engagement with ethnic minority service users could lead to breach proceedings and there was a clear need to improve the analysis of service users' diversity factors in OASys assessments. Pre-release work also needed to be improved for ethnic minority service users.

For staff, the report recommended that managers needed training on how to address issues of racism and discrimination. This included how racially motivated offenders had their cases allocated. There was a question

of how safe ethnic minority staff felt about raising issues of racial discrimination. Stories raised by ethnic minority staff were described as “painful to hear”, with staff feeling that they had not been heard or else labelled as ‘trouble-makers’.

The challenges ahead

This article has set out the history and scale of the issue of anti-oppressive practice and probation. But what can be done to challenge this? In the aftermath of the 2021 HMIP report *Race equality in probation*, an action plan was published in May 2021 by HMPPS. Action plans are to be published and progress monitored. Targets include addressing disproportionality, outcomes of probation supervision, breach and recall, improving life chances for ethnic minorities, and developing a race equality strategy for people on probation drawing on the evidence base. If these targets had been in place years ago, we would have seen a very different service now. The action plan would enable smaller community organisations who work within ethnic minority communities to be funded. The split into two separate supervisory organisations reduced the funding for these groups, an unexpected consequence. There will be a new Probation Equalities Monitoring Tool piloted to identify disproportionality in outcomes/groups in regions and actions required to change this. These moves are welcome but in themselves not sufficient without addressing the need to increase the skills of staff around anti-oppressive practice. This paper has highlighted the importance of understanding the need for good practice, for this to be shared, and the need to listen to people of colour: offenders and offender managers, about their experiences. To make the service more sensitive to the needs and aspirations of people of colour, whether professional or client, a listening exercise is first needed, backed by resources and a commitment to ensure that people are encouraged and supported to realise their potential. The system has developed with the notion of ‘normal’ being equated with being a white middle class male, as evidenced by the lack of diversity focused programmes for offenders. It is time to be more inclusive so that ex-probation offenders from an ethnic minority can aim high and be assisted to achieve their goals.

Thinking about the role of practitioners, for anti-oppressive practice to take place, practitioners need to be able to build and develop trusting relationships with their clients. This requires the skill to be reflexive in their work. Knowledge of discrimination and oppression, in all of its multiple forms, is essential (Bernard and Campbell, 2014). This might not be comfortable for the practitioner, who might prefer to avoid discussing race for fear of using incorrect terms or upsetting someone from a BAME background. Indeed, the term race is a social construct which carries a large number of assumptions. Racism is not just about physical appearance but may refer to religion, culture and language. Many attitudes have become inculcated into the dominant culture and the individual may not be aware of the assumptions they carry within their beliefs and attitudes (Lander, 2010).

The new probation service must work towards having anti-oppressive practice at the centre of professional practice. The reunification of the service provides a timely opportunity to overhaul the training, priorities and structure to enable this to happen. This is vital because of the experiences of staff and the experiences and over-representation of people of colour in the criminal justice system.

For Thompson the organisational culture should promote and encourage the benefits of working in this way. There are positive elements that have to be in place, including: commitment to a set of values, a knowledge base continuously developing through research and practice, high standards and actions and decisions based on informed assessment, not by following routines and regulations (hitting the target but missing the point) (Thompson, 2018). The evidence does not support the notion that separate provision on its own reduces the reoffending rate for BAME individuals. It is more effective when used to complement proven treatment approaches. This ensures that offenders’ personal details are not ignored but are seen as highly relevant (Cole and McLean, 2020).

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