

WORST-CASE

SCENARIO

**HOW RACISM IN THE
CRIMINAL JUSTICE SYSTEM
HARMS WOMEN'S CHANCES
OF FINDING WORK
SUMMER 2021**



WORKING CHANCE
Unlocking women's potential

ABOUT WORKING CHANCE

Working Chance is the UK's only employment charity solely for women with convictions. We offer employability and job search support. As a charity, we recognise that the women who access our services face intersecting discrimination based on both their identities and the additional disadvantage of a criminal record. We advocate for changes to policy and practice that will dismantle the intersectional disadvantages they may encounter when seeking work.

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1. INTRODUCTION

This research explores how gender and racial inequality in the criminal justice system creates poorer employment outcomes for racially minoritised women. Racially minoritised women are subject to structural disadvantage in our society, facing multiple layers of discrimination due to both their gender and race. With regards to criminal justice, this discrimination contributes to an increased chance of receiving a conviction. These women are then subject to gender and race discrimination throughout their experience in the criminal justice system and afterwards, as they seek employment, revealing the gendered and racialised long-term consequences of conviction.

The combination of discrimination on the basis of gender, race and conviction creates a ‘worst-case scenario’, a phrase taken from the voices of women with lived experience included in this report.



DEFINITIONS

- **Racism** is understood to mean racial prejudice perpetrated by an authority against a minoritised group.
- We refer to **racially minoritised women**, meaning women from racial or ethnic backgrounds who have been systemically granted less power, representation and access to resources in society compared to other groups, as a result of social constructs of those racial and ethnic identities.
- **We avoid using the term Black, Asian and minority ethnic (‘BAME’)** where possible, preferring to refer directly to the groups we’re talking about if we can. ‘BAME’ is an imperfect term that is often used to describe and combine diverse groups of people, and can obscure differences between these groups. However, as it is the standard term in government-collected statistics, we will use the term when referring to those datasets.

While there are numerous reports highlighting the overlap between racial inequality and the criminal justice system,¹ scrutiny of how this overlap goes on to impede access to employment for women is more limited. This research sets out to bring light to this latent issue.

1 See: Prison Reform Trust (2017) Counted Out: Black, Asian and minority ethnic women in the criminal justice system <http://www.prisonreformtrust.org.uk/Publications/vw/1/ItemID/574>; Women in Prison and Agenda (2017) Double disadvantage: The experiences of Black, Asian and Minority Ethnic women in the criminal justice system <https://weareagenda.org/wp-content/uploads/2017/03/Double-disadvantage-FINAL.pdf>; Prison Reform Trust and Zahid Mubarek Trust (2017) Tackling Discrimination in Prison: still not a fair response <http://www.prisonreformtrust.org.uk/Publications/vw/1/ItemID/572>; Unlock (2019) Double discrimination? The impact of criminal records on people from black, Asian and minority ethnic backgrounds <https://www.unlock.org.uk/new-report-double-discrimination/>; Maslaha (2020) Time to end the silence: The experience of Muslims in the prison system <https://www.maslaha.org/Project/Time-to-End-the-Silence>.

Working Chance is the sector-leading expert when it comes to supporting women with convictions into employment. Of the women we support, 62% come from a racially minoritised group, with 35% Black, 13% Asian, and 14% mixed race. Through our experience supporting these women, we have seen a clear correlation between their gender, race and chances of securing meaningful and sustainable employment.

FOR WOMEN, THE
CONSEQUENCES OF
CRIMINAL CONVICTIONS
FAR OUTLAST THE END
OF A SENTENCE



The women we support often want access to a career, not ‘just a job’. They might be looking for volunteering or apprenticeship opportunities, work experience, the chance to put their qualifications to use, or career progression. Beyond the obvious benefits to the woman, her family and society at large, employment is also proven to prevent reoffending,² making equitable access to the job market a priority for the criminal justice sector.

Unfortunately, for women, the consequences of criminal convictions far outlast the end of a sentence. Employment is a huge part of this; women with criminal records are more likely to face barriers to employment than men.³ These barriers are far more acute when women come from racially minoritised groups, because of the multiple forms of discrimination they face.

For the purposes of this report, we define racism as racial prejudice perpetrated by an authority, directly or indirectly, against a minoritised group. ‘Authority’ could refer to the criminal justice system, the police, or prospective employers, as power is granted through social structures. Because racism is structurally embedded in the criminal justice system, it goes much further than personal treatment of individuals; racial inequality is wide-reaching and systemic, having a very real impact on the lives of racially minoritised people.

This report is concerned with how structural racial inequality in criminal justice is carried forward into employment, creating a ‘worst-case scenario’ where women already discriminated against due to their gender and race must seek out work with the added burden of a criminal record. Racial inequality in the criminal justice system is compounded by discriminatory recruitment practices thereafter, making the barriers to employment almost insurmountable for some women.

2. METHODOLOGY

In drafting this report, we have drawn from government statistics wherever possible, as well as government reports and reviews such as the Lammy Review (2017) that identify disparate treatment of people in contact with the criminal justice system on the basis of ethnicity. We carried out desk research, as well as drawing on our 11 years of experience as a women-specific organisation supporting women with

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- 2 Ministry of Justice (2013) Analysis of the impact of employment on re-offending following release from custody, using Propensity Score Matching https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/217412/impact-employment-reoffending.pdf
 - 3 Unlock (2021) “Angels or witches”: The impact of criminal records on women <https://www.unlock.org.uk/wp-content/uploads/The-impact-of-criminal-records-on-women.pdf>

convictions. We have endeavoured to look at the consequences of conviction holistically, from the courtroom to the long-term collateral consequences of conviction, especially as they relate to employment.

The information set out in this report has been limited by the availability of data, particularly intersectional data. While data is often disaggregated by gender, and in some cases by ethnicity, overlapping data is rare. So we have drawn attention to areas where more data is needed, while recommending that the Ministry of Justice collects and publishes data that gives us the full picture of criminal justice outcomes for racially minoritised women.

3. FACTS AND FIGURES

Our criminal justice system entrenches inequality and is often discriminatory towards marginalised groups. While this government's Commission on Race and Ethnic Disparities claimed in March 2021 to find no evidence of institutional or systemic racism in the UK,⁴ a large body of research and statistics speaks to the contrary, showing that the criminal justice system operates in a discriminatory manner towards Black people and other racially minoritised groups as a result of the prejudice embedded in its normal practice within society.⁵

While we can usually find evidence to describe the situation of women or the situation of racially minoritised people separately, it is difficult to find data that takes intersectional identities into account. By 'intersectionality', we mean an understanding of how different aspects of a person's social and political identities (eg. gender, race, and other protected characteristics) combine to create unique modes of discrimination.

When we do have breakdowns of the data by ethnicity, often disparate groups of people are combined in a way that obscures the true picture. For instance, the category 'Chinese and Other' is used by the Ministry of Justice and prevents us from scrutinising the differences between outcomes for quite different groups. Another problem is that the available statistics focus on the harsher end of the criminal justice spectrum, ie. the prison population. For instance, information is not published on the ethnicity of women who are on community orders. A lack of reliable data obscures important questions about intersectional experience and undermines our capacity to hold authorities to account.

What we do know is that racially minoritised women are undeniably over-represented in the criminal justice system. It is important to note that Black women almost always suffer more punitive measures and worse treatment than women from other ethnic groups. In this briefing we have not detailed figures that show racist practice in policing, such as stop and search, because it is well-documented elsewhere.⁶

4 Commission on Race and Ethnic Disparities (2021) Commission on Race and Ethnic Disparities: The Report <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities>

5 David Lammy (2017) The Lammy Review: An independent review into the treatment of, and outcomes for Black, Asian and Minority Ethnic individuals in the criminal justice system <https://www.gov.uk/government/publications/lammy-review-final-report>

6 See Jennifer Brown (2021) Police powers: stop and search <https://commonslibrary.parliament.uk/research-briefings/sn03878>



OVERALL

- If our prison population reflected the ethnic make-up of England and Wales, we would have over 9,000 fewer people in prison.⁷
 - The economic cost of BAME over-representation in our prison system is estimated to be £234m a year.⁸
 - 18% of the women's prison population are from a minority ethnic group,⁹ compared to 14% of the general population.
 - Black women make up 8.9% of the prison population, but 3% of the general population.¹⁰
 - Gypsy and Traveller women make up only 0.1% of the general population, but 6% of the prison population.¹¹
 - The proportion of Muslim women in prison has risen from 5% in March 2014 to 7% in March 2021.¹²
- 



REPRESENTATION IN THE COURTS

Individuals from minorities, including women and those with Black, Asian and ethnic minority (BAME) backgrounds, are under-represented in the workforce of the criminal justice system:

- Despite evidence that people from BAME communities consider the prison system an attractive employer.¹³
- Just 8% of judges and 12% of tribunal judges are from a BAME background.
- There are no Black Court of Appeal judges.
- Only 32% of judges are women.¹⁴
- This leads to a lack of cultural understanding of racially minoritised defendants.
- There is no official data available on the number of racially minoritised women working in the criminal justice system.

7 Prison Reform Trust (2021) Bromley Briefings Prison Factfile Winter 2021 <http://www.prisonreformtrust.org.uk/publications/factfile>

8 Ibid.

9 Table DC2101EW, Office for National Statistics (2012) 2011 Census; Table 1.4, Ministry of Justice (2016) Population bulletin: 31 March 2017

10 Ibid.

11 The Traveller Movement (2021) Gypsy, Roma and Traveller Women in Prison https://travellermovement.org.uk/phocadownload/TTM%20GRT%20Women%20in%20Prison%20Report_final.pdf

12 Table 1.5, Ministry of Justice (2021) Offender management statistics quarterly: 31 March 2021, <https://www.gov.uk/government/statistics/offender-management-statistics-quarterly-october-to-december-2020>; see also: Prison Reform Trust (2017) Counted Out: Black, Asian and minority ethnic women in the criminal justice system

13 The Lammy Review

14 Ministry of Justice (2020) Diversity of the judiciary statistics <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2020-statistics>



JURIES

- Many racially minoritised women with convictions report that the jury that tried them was made up entirely of white people.¹⁵
- Despite this, jury verdicts remain the only part of the criminal justice system without apparent racial bias, where the defendants' race does not seem to influence verdicts.¹⁶
- Magistrates' courts are more likely than jury trials to convict Black, Asian, mixed race, Chinese and other ethnic minority women.¹⁷



DOMESTIC VIOLENCE

- Almost two thirds of women in prison have experienced domestic violence.¹⁸
- In the year 2018-2019, the rate of domestic abuse was higher among BAME communities compared to white peers. Mixed race victims made up the highest group at 12.9% of the victim population, followed by Black victims at 7.1%, white victims at 5.6%, and people of Asian backgrounds at 3.8%.¹⁹
- Only 37% of Black and minority ethnic women who experience violence make a formal report to the police.²⁰
- Of 1.3 million domestic abuse-related incidents in the year ending March 2019, 42% were not subsequently recorded as a crime.²¹
- Experience of domestic violence can act as a barrier to appealing a sentence.²²
- Pre-sentence reports, which can improve sentencing outcomes where domestic violence or cultural factors are relevant, are not being carried out comprehensively in many cases, especially oral reports.²³

15 Agenda and Women in Prison (2017) "Double disadvantage": The experiences of Black, Asian and Minority Ethnic women in the criminal justice system <https://www.womeninprison.org.uk/news/double-disdvantage>

16 The Lammy Review

17 Ibid.

18 Table 4.3, Ministry of Justice (2018) Supporting data tables: Female offender strategy <https://www.gov.uk/government/publications/female-offender-strategy>

19 Table 7b, Office for National Statistics (2019); see KSS CRC (2020) Domestic Abuse in Black, Asian and Minority Ethnic Groups <https://www.kssrc.co.uk/2020/10/29/domestic-abuse-in-black-asian-and-minority-ethnic-groups/>

20 Sisters for Change (2017) Unequal regard, unequal protection: Public authority responses to violence against BME women in England <https://www.sistersforchange.org.uk/2017/11/20/unequal-regard-unequal-protection>

21 Victims Commissioner (2020) The role and rights of victims of crime in adversarial criminal justice systems: Recommendations for reform in England & Wales <https://victimscommissioner.org.uk/published-reviews/rights-of-victims-of-crime-report>

22 Naima Sakande (2020) Righting wrongs: What are the barriers faced by women seeking to overturn unsafe convictions or unfair sentences in the Court of Appeal (Criminal Division)? <https://www.thegriffinsociety.org/righting-wrongs-what-are-barriers-faced-women-seeking-overturn-unsafe-convictions-or-unfair>

23 HM Inspectorate of Probation (2020) The quality of pre-sentence information and advice provided to courts <https://www.justiceinspectors.gov.uk/hmiprobation/research/research-analysis-bulletins>

- This is in contravention of the government's Female Offender Strategy.²⁴
- Government budget cuts have reduced the availability of specialist support services for racially minoritised women affected by domestic violence.²⁵



SENTENCING

- Racially minoritised people receive longer average custodial sentences than white people. The average custodial sentence length is 11 months for white women, but 14 months for Black women, 16 months for other ethnicities including Chinese, and 18 months for Asian women.²⁶
- This means that their criminal records are likely to last longer.
- Most Gypsy, Roma and Traveller women receive short sentences for non-violent offences, which are ineffective at providing rehabilitative support and risk pulling women into the 'revolving door' of criminalisation.²⁷
- Black women are 25% more likely than white women to be sentenced to custody in the Crown Court.²⁸



COVID-19

- In response to the pandemic, prison regimes have been severely restricted, with visits, education, employment and offender behaviour programmes suspended.
- Covid-19 and the consequences of lockdown have disproportionately affected BAME communities due to pre-existing structural inequality.²⁹
- People in prison are at even greater risk than those in the community.³⁰
- Yet the Ministry of Justice is not collecting data on the ethnicity of those infected in prison.

24 Ministry of Justice (2018) Female Offender Strategy <https://www.gov.uk/government/publications/female-offender-strategy>

25 Imkaan (2016) Capital losses: The state of the BME ending violence against women and girls sector in London

26 Ministry of Justice (2018) Average length of custodial sentences <https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/courts-sentencing-and-tribunals/average-length-of-custodial-sentences/latest#by-ethnicity-and-sex-of-offender>

27 The Traveller Movement (2021)

28 Table 5.3, Ministry of Justice (2016) Black, Asian and Minority Ethnic disproportionality in the criminal justice system in England and Wales

29 BBC (21 April 2020) Coronavirus: Why some racial groups are more vulnerable <https://www.bbc.com/future/article/20200420-coronavirus-why-some-racial-groups-are-more-vulnerable>

30 Howard League for Penal Reform (2020) Howard League for Penal Reform and Prison Reform Trust urge ministers to move further and faster to protect prisoners, staff and public from coronavirus <https://howardleague.org/news/howard-league-and-prison-reform-trust-urge-ministers-to-move-further-and-faster-to-protect-prisoners-staff-and-public-from-coronavirus>

4. DISCRIMINATION IN THE CRIMINAL JUSTICE SYSTEM

4.1 MULTIPLE DISADVANTAGE

It is well documented that women who experience multiple forms of disadvantage are more likely to come into contact with the criminal justice system. When women are alienated or excluded from systems that enable individuals to thrive, such as education, healthcare and employment, they are more likely to suffer from primary forms of disadvantage (including homelessness, substance misuse, poor mental health, violence or abuse) and are at increased risk of offending.³¹ This is especially true of racially minoritised women, who are more likely to suffer from poverty, marginalisation, and mental health issues.

A study on gendered patterns of severe and multiple disadvantage in England has shown that of those who suffer from disadvantage, combined with economic and social deprivation, there is a greater share of people from Black British and mixed/other backgrounds, especially among women. Among people who suffer from poor mental health on top of this, racially minoritised women are significantly over-represented.³²

[Racially minoritised women are] 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.

- The Corston Report



Compounding issues in complex lives are usually a result of the failure of institutions or services to address forms of primary disadvantage. Research shows that women facing multiple disadvantage are more likely to come into contact with the criminal justice system as a result.³³

COMPOUNDING ISSUES IN
COMPLEX LIVES ARE USUALLY
A RESULT OF THE FAILURE OF
INSTITUTIONS OR SERVICES TO
ADDRESS FORMS OF PRIMARY
DISADVANTAGE

31 Lankelly Chase (2020) Gender matters

32 Ibid.

33 Clinks (2020) Multiple disadvantage is gendered <https://www.clinks.org/community/blog-posts/multiple-disadvantage-gendered>

4.2 MENTAL HEALTH

There is a growing body of research that suggests racially minoritised people are at greater risk of developing a mental health condition, with racism playing a factor. Exposure to discrimination can increase the chance of conditions such as depression, which is also exacerbated by risk factors such as poverty and higher rates of unemployment.³⁴

An independent review into the Mental Health Act showed that Black people are more likely than white people to come into contact with mental health services through the criminal justice system rather than referral by their GP. Adults of Black African and Caribbean heritage are more likely than any other ethnic group to be detained under the Mental Health Act.³⁵ On top of this, racially minoritised people are much less likely than other groups to be offered psychological therapies as treatment for their mental health conditions.³⁶



VOICES FROM EXPERIENCE: OLA

People shy away from it, but there is still prejudice and institutional racism in this country. I was a victim of that, and it made me feel helpless when I was going through the court system. The jury was entirely white, the lawyer was white, the judge was white, it's like you don't have a single ally in the room. It means that as a Black defendant, you become implicated for your whole community. You might have done everything right, but you're still wrong.

In prison, the prison officers feel they're there to punish you rather than rehabilitate you, and racism plays a huge part in power relations. The prison officers I encountered didn't see a lot of Black people in their community so the only place they saw them was in

prison. Their attitude was that Black people belong in prison. A lot of prison officers believe that residents are wild animals – you have to attack so that you're not attacked.

Most of the women in prison right now don't need to be there. Not only does the UK lock up the most people in Western Europe, but is planning to put many more people inside by building 500 more prison places for women. I think that they're saving a lot of those places for Black and brown people.

When I was released from prison, I began working with people with convictions. When they apply for jobs, it's like everything is stacked against them. The fact that you have to disclose all the time works against you.

34 David R Williams (2018) Stress and the mental health of populations of color: Advancing our understanding of race-related stressors <https://pubmed.ncbi.nlm.nih.gov/30484715/>

35 Department of Health and Social Care (2018) Modernising the Mental Health Act: increasing choice, reducing compulsion <https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review>

36 Mind (2013) We still need to talk: A report on access to talking therapies <https://www.mind.org.uk/news-campaigns/news/new-report-shows-we-still-need-to-talk>

4.3 TREATMENT IN PRISON

The Lammy Review found that racially minoritised women receive lower quality rehabilitative care from the criminal justice system; they receive less support, fewer opportunities, and harsher punishments than their white counterparts. Among those who receive a custodial sentence, racially minoritised women report poorer relationships with prison staff, being checked on less by prison officers, and higher rates of intimidation and victimisation. They are less likely to report having a prison job, or to participate in behaviour programmes. More racially minoritised women than white women report being treated unfairly under the Incentives and Earned Privileges scheme (IEP), which is designed to punish and reward behaviour in prisons.³⁷



THE LAMMY REVIEW FOUND THAT RACIALLY MINORITISED WOMEN RECEIVE LOWER QUALITY REHABILITATIVE CARE FROM THE CRIMINAL JUSTICE SYSTEM; THEY RECEIVE LESS SUPPORT, FEWER OPPORTUNITIES AND HARSHER PUNISHMENTS THAN THEIR WHITE COUNTERPARTS

A recent thematic review from Her Majesty's Inspectorate of Prisons (HMI Prisons)³⁸ contained similar findings to the Lammy Review, stating that prison staff do not appreciate the influence of ethnic identity on rehabilitation. It found that a lack of understanding about cultural backgrounds, lack of diversity of prison staff, and unfair access to jobs hindered opportunities for rehabilitation. In the survey, racially minoritised women reported victimisation from staff and poor access to activities, including release on temporary licence (ROTL), which can be an important gateway to employment.

There is fear from experts that as the Ministry of Justice builds its digital categorisation tool to categorise the risk of people in prison, the algorithm will embed pre-existing prejudices and result in racially minoritised people in prison being unfairly placed in higher security conditions than white people in prison.³⁹

At its worst, discrimination in prison leads to worse health and mortality outcomes for racially minoritised women. Perhaps as a result of being more likely to be considered 'high risk', both racially minoritised men and racially minoritised women die disproportionately as a result of use of force or restraint in police custody or otherwise following contact with the police.⁴⁰ There is evidence that Black women in prison are not always provided with adequate mental health support, their symptoms sometimes being construed as signs of violence or disobedience, rather

37 The Lammy Review

38 HM Inspectorate of Prisons (2020) Minority ethnic prisoners' experiences of rehabilitation and release planning <https://www.justiceinspectorates.gov.uk/hmiprisons/inspections/minority-ethnic-prisoners-experiences-of-rehabilitation-and-release-planning>

39 The Bureau of Investigative Journalism (14 November 2019) Prisoner risk algorithm could program in racism <https://www.thebureauinvestigates.com/stories/2019-11-14/prisoner-risk-algorithm-could-program-in-racism>

40 INQUEST (2021) BAME deaths in police custody <https://www.inquest.org.uk/bame-deaths-in-police-custody>

than as a result of their condition.⁴¹ In these instances, they are punished rather than offered support. Of the Black and other racially minoritised women who have died in prison, the circumstances of their deaths reveal neglect and fatal delays in healthcare. This can be construed as evidence of the negligent treatment of Black and other racially minoritised women's physical and mental health conditions in custody.⁴²

4.4 LANGUAGE BARRIERS

Foreign nationals (non-UK passport holders) make up 10% of the women's prison population, and this has been steadily decreasing over the past decade. Provision for these women is inconsistent across the prison estate, with interpreting services under-used.⁴³ For many women in prison, English is a second language, inhibiting their access to rehabilitative support and the job market. Research suggests that people whose first language is not English are often the most disadvantaged in terms of accessing work, accommodation and other services that aid in rehabilitation following custody. The need for support is higher for foreign national women than men, as they are more likely to have had restricted access to education.⁴⁴

4.5 VICTIMS OF CRIME

While overrepresented as defendants, racially minoritised people are also disproportionately likely to become victims of crime, and make up the highest proportion of adults who were victims of crime in the year ending March 2020.⁴⁵

The Victims' Commissioner has reported concerns about discriminatory treatment in relation to racially minoritised women who are victims of crime, including routine failure of criminal justice authorities to assess levels of risk, identify indicators of coercive control and sexual exploitation, or to properly investigate reports of marital rape. These failures have reportedly resulted in the humiliation and criminalisation of racially minoritised women. This discourages racially minoritised women from disclosing and reporting violence, and is a reason that victims later withdraw complaints or retract statements.⁴⁶

WHILE
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AS DEFENDANTS,
RACIALLY MINORITISED
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41 Guardian (5 April 2019) Failing healthcare in jails is killing female prisoners <https://www.theguardian.com/commentisfree/2019/apr/05/health-care-jails-killing-female-prisoners-black-women-annabella-landsberg>

42 INQUEST (2017) Jury concludes unnecessary delays and failures in care contributed to death of Sarah Reed at Holloway prison <https://www.inquest.org.uk/sarah-reed-inquest-conclusions>; INQUEST (2018) Neglect and serious medical failures in Sodexo run prison contributed to death of Natasha Chin ; <https://www.inquest.org.uk/annabella-landsberg-conclusion> <https://www.inquest.org.uk/natasha-chin-conclusion>; INQUEST (2019) Inquest finds serious failures at Sodexo run HMP Peterborough contributed to death of Annabella Landsberg <https://www.inquest.org.uk/annabella-landsberg-conclusion>

43 Prison Reform Trust (2021)

44 Hibiscus Initiatives (2014) The language barrier to rehabilitation <https://hibiscusinitiatives.org.uk/the-language-barrier-to-rehabilitation/>

45 Victims Commissioner report

46 Ibid.

VOICES FROM EXPERIENCE: JESS



During my trial, I didn't see a single person in the courtroom who wasn't white. As a Black woman, I didn't see myself represented there. I know that racism played a role in my case, and had an impact on my sentence.

When I got to prison I saw the same thing there. White women got preferential treatment and didn't get disciplined as often as Black or brown girls. The prison officers always seemed to take their side if there was a disagreement. It felt like there was one rule for them, another for us. I didn't get any help with employment when I was inside, or from probation.

The worst thing is how my conviction tore my family apart, I'll never get over that.

The judge removed my children from my custody and I'm still fighting to get them back. I didn't see it coming. I'm sure that I wouldn't have lost my kids if I was a white woman.

Even though I'm out of prison, I'm working, and I'm doing well, my kids aren't with me. They make you fight, and fight, and fight to get your life back. Even though I've done my time, the conviction still follows me around. It's not fair.

It makes you feel powerless. It's so much harder to get a job with a criminal record, so I can see why some people reoffend. The system pushes you into a desperate situation, you're cut off from the things you need to survive and grow.

4.6 RESPONSIBILITY FOR CHILDREN

Convictions have a huge impact on family life. This disproportionately affects women, who are often primary caregivers, and is even worse for racially minoritised women. In the UK, 19% of Black families consist of a single parent with dependent children, meaning that Black women are more likely to be solely responsible for childcare duties.⁴⁷ The increased chance of receiving a conviction has a highly detrimental impact on their families.

While we don't know how many women in prison have dependent children, it is estimated that there are around 17,000 children in England and Wales with a mother in prison.⁴⁸ 95% of children with imprisoned mothers will have to move out of their family home as a result, many of them also having to change schools or be separated from siblings. One in five women in prison are lone parents before imprisonment.⁴⁹ In the UK, eight times as many women as men are not in paid

47 Gov.uk (2019) Ethnicity Facts and Figures: Families and households <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/demographics/families-and-households/latest>

48 Centre for Health and Justice (2019) Children of prisoners: Fixing a broken system <https://www.crestadvisory.com/post/children-of-prisoners-fixing-a-broken-system>

49 Prison Reform Trust (2017) Why focus on reducing women's imprisonment http://www.prisonreformtrust.org.uk/Portals/0/Documents/Women/why%20women_final.pdf



THERE ARE AROUND 17,000
CHILDREN IN ENGLAND
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MOTHER IN PRISON

employment due to caring responsibilities for children and others.⁵⁰

When convicted of a crime, there is a risk that mothers may lose custody of their children. Some racially minoritised children are disproportionately represented in the care system, which

could be a result of family courts more frequently removing children from certain ethnicities from their parents.⁵¹ Judges have even commented on unfair treatment in the family court against racially minoritised mothers.⁵²

Children of Black Caribbean descent are overrepresented in the care system as compared to white children, while Black African and Asian children are underrepresented. Research tells us that crude cultural assumptions about family patterns are inappropriate in determining a cause for these disparities, and that the interplay between racial and socio-economic structural inequality is the most appropriate explanation.⁵³

Racially minoritised women often report feeling ‘othered’ in family courts, meaning that they feel marked out as different or less deserving of respect. Often, they report that it feels as if their individual humanity was negated due to their ethnicity. When their ex-partner is white, racially minoritised women observe them benefitting from racial privilege while they do not.⁵⁴ Women may even choose not to disclose details that are important to their case that may bring about a more lenient sentence, in the fear that judicial discrimination will result in their abilities as a parent being cast into doubt and lead to them losing custody of children. This is one reason why domestic abuse is underreported by racially minoritised women, compared to their white counterparts.⁵⁵



IN THE UK, 8 TIMES
AS MANY WOMEN
AS MEN ARE NOT IN
PAID EMPLOYMENT
DUE TO CARING
RESPONSIBILITIES FOR
CHILDREN AND OTHERS

50 Government Equalities Office and Penny Mordaunt (2019) Press release: Mordaunt launches fund to help isolated and marginalised women return to work <https://www.gov.uk/government/news/mordaunt-launches-fund-to-help-isolated-and-marginalised-women-return-to-work>

51 Nuffield Foundation (2019) Identifying and understanding inequalities in child welfare intervention Rates: Comparative studies in four UK countries <https://www.nuffieldfoundation.org/project/inequalities-in-child-welfare-intervention-rates>

52 Rebekah Wilson (2016) Family Justice and Race: the need for a fundamental review? <https://www.familylawweek.co.uk/site.aspx?i=ed159951>

53 Paul Bywaters, Josephine Kwhali, Geraldine Brady, Tim Sparks and Elizabeth Bos (2017) Out of sign, out of mind: Ethnic inequalities in child protection and out-of-home care intervention rates <https://academic.oup.com/bjsw/article/47/7/1884/2629134>

54 Ministry of Justice (2020) Assessing risk of harm to children and parents in private law children cases <https://www.gov.uk/government/consultations/assessing-risk-of-harm-to-children-and-parents-in-private-law-children-cases>

55 Ibid.

5. IMPACT ON EMPLOYMENT

5.1 CRIMINAL RECORDS

As we have shown, discrimination in the criminal justice system creates a worst-case scenario for those with marginalised identities. Racially minoritised women who have convictions already contend with prejudice on the basis of gender and race; a criminal record adds another potential form of discrimination on top of that. Here, we examine how this extends into the world of work.

A higher likelihood of receiving a conviction, and a higher likelihood of getting a harsher sentence, means racially minoritised women are likely to wait longer for their convictions to become spent, meaning they will show up on a criminal record check for longer. As a result, it becomes much more difficult to find work, and therefore to secure an income and build a life.



THE CUMULATIVE EFFECT IS THAT RACIALLY MINORITISED WOMEN ARE MORE AT RISK THAN WHITE WOMEN OF LONG-TERM UNEMPLOYMENT, RELIANCE ON BENEFITS AND BEING RULED OUT WHEN THEY APPLY FOR JOBS

The cumulative result is that racially minoritised women are more at risk than white women of long-term unemployment, reliance on benefits and being ruled out when they apply for jobs. The reality is that leaving a conviction in the past is much more of a challenge for these women, and the path to a happy future is a more difficult one.

Evidence shows that almost half of employers would not consider hiring someone with a conviction,⁵⁶ and 75% admit to discriminating against applicants with a criminal record.⁵⁷ The standard question on job applications asking applicants to tick a box if they have a criminal record is a huge barrier for women, many of whom report that they are deterred from applying at all when they see the tick-box.



50% OF EMPLOYERS WOULD NOT CONSIDER HIRING SOMEONE WITH A CRIMINAL RECORD

There has been a movement to address criminal records discrimination through the 'Ban the Box' campaign. The campaign calls for employers to reduce the chance of discrimination by removing the criminal record tick box from application forms and asking about candidates' criminal convictions later in the hiring process.⁵⁸ However, the campaign doesn't address other biases, such as assumptions about applicants'

56 YouGov and DWP Survey Results (2016) https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/42yrwvixdo/YG-Archive-160126-DWPwaves.pdf

57 Working Links (2010) Prejudiced: Tagged for life – A research report into employer attitudes towards ex-offenders <https://www.insidetime.org/wp-content/uploads/resources/Employment/Prejudiced-Tagged-for-life.pdf>

58 See Business in the Community (2021) Why ban the box? <https://www.bitc.org.uk/fact-sheet/why-ban-the-box/>

ethnicity. Research suggests employers may end up making presumptions based on their own prejudices about who might have a criminal record when the tick-box is removed.⁵⁹ Racially minoritised people are already at a disadvantage if their name suggests an ethnic minority origin, with their job applications returning fewer invitations for interview than white British applicants.⁶⁰

Due to changes to filtering rules that came into effect in November 2020, very old or multiple spent convictions no longer show on DBS checks, and some convictions are set to become spent more quickly if the provisions relating to this in the Police, Crime, Sentencing, Courts Bill ultimately pass into legislation. While these changes are a small step in the right direction, they will impact a limited number of women while for the vast majority, criminal records remain an enormous burden. Criminal records impact on multiple areas of women's lives, including housing, insurance, travel, and the ability to volunteer or find employment.

This is unfortunate, because employment has a huge impact on desistance,⁶¹ while unemployment is a driver for reoffending. People leaving prison who find work on release are 5-10% less likely to reoffend than those who do not,⁶² while racially minoritised groups with higher rates of unemployment also have higher reoffending rates,⁶³ indicating that lack of a job is closely linked to offending.

5.2 STEREOTYPES AND STIGMA

Racially minoritised women can suffer acute stigma and shame after they receive a conviction. Shame brings implications for resettlement, since it can prevent women from reintegrating into the community. Research has suggested that Muslim women face exceptional levels of stigma, rejection or community isolation on leaving prison, likened to a 'second sentence'.⁶⁴ These attitudes can compound low self-esteem, which in turn inhibits women from applying for jobs and performing optimally during recruitment processes.

RESEARCH HAS SUGGESTED THAT MUSLIM WOMEN
FACE EXCEPTIONAL LEVELS OF STIGMA, REJECTION OR
COMMUNITY ISOLATION ON LEAVING PRISON, LIKENED TO
A 'SECOND SENTENCE'



59 Unlock (2019) Double discrimination? The impact of criminal records on people from black, Asian and minority ethnic backgrounds <https://www.unlock.org.uk/new-report-double-discrimination>

60 Centre for Social Investigation and GEMM Project (2019) Are employers in Britain discriminating against ethnic minorities? <http://csi.nuff.ox.ac.uk/?p=1299>

61 Russell Webster (2020) What has the justice data lab taught us about reducing reoffending? <http://www.russellwebster.com/jdl20/>

62 Ministry of Justice (2013)

63 The Lammy Review

64 Muslim Hands (2018) (In)Visibility: Female. Muslim. Imprisoned.

5.3 CAREER PROGRESSION

Once you are on the road to employment, or even in a stable job, the battle with discrimination isn't over. Despite workplace discrimination being against the law, in practice, racially minoritised people are more likely to perceive the workplace as hostile and are more likely to be disciplined or judged harshly in the workplace.⁶⁵ They are less likely than white individuals to obtain opportunities to progress in their careers.⁶⁶ This could be because of the unwritten rules for racially minoritised people that can pervade working culture, or because they are less likely to be included in the informal networks that assist with career progression.

Racially minoritised women experience structural bias on the basis of both their gender and their race, putting them at a double disadvantage in the workplace.⁶⁷ Unconscious bias occurs when people favour others who look like them or share their values. It can influence decisions in recruitment, promotion and staff development and can lead to a less diverse workforce. Employers may overlook talented workers and instead favour those who share their own characteristics or views.⁶⁸



VOICES FROM EXPERIENCE: CHERYL

I've been in debt for ten years because of my conviction. I've been operating in survival mode the whole time. I was so broke that I could barely afford to buy anything that wasn't essential.

The intersections of my identity, my ethnicity, mental health issues, debt, low income, the area I live in – it all collides and makes the worst-case scenario. It's the weight of racism that wears you down, the everyday racism. It's all part of the drip-drip-drip of inequality.

It's the same in the world of work. First of all, it's hard to believe that they judge job applications fairly when you see who usually gets the job. All of the things that strengthen your CV, like internships and work experience, are difficult to access when you're Black. There are systems

of privilege in workplaces that keep certain people at the top, while others are relegated to underpaid, overworked positions. I see my colleagues go on holiday, while I can't afford to.

After the Black Lives Matter activity in the summer of 2020, I've been asked to do diversity and inclusion work. My suggestions about diversity weren't listened to before, and now that they've become imperative, I'm asked to do the additional work without being paid extra for it. At work, I feel that I can't be myself; I have to be subdued and contained. It's jarring, not being able to be my true self every day. But if I speak up, if I disrupt, I know that I'll be seen as a troublemaker. But the world needs disruptors – otherwise how will anything change?

65 CIPD (2017) Addressing the barriers to BAME employee career progression to the top <https://www.cipd.co.uk/knowledge/fundamentals/relations/diversity/bame-career-progression>

66 Ruby McGregor-Smith (2017) Race in the workplace: The McGregor-Smith Review <https://www.gov.uk/government/publications/race-in-the-workplace-the-mcgregor-smith-review>

67 The McGregor-Smith Review

68 CIPD (2017)

ALMOST A THIRD OF
BME WOMEN REPORT
BEING UNFAIRLY
PASSED OVER FOR,
OR DENIED,
A PROMOTION AT
WORK



Stereotypes based on gender and race may be part of the reason women are held back at work. The most common stereotype attributed to Black women is dominance or aggressiveness, while East Asian women are stereotyped as submissive. Such stereotypes can result in discrimination, including increased scrutiny from employers, and a lower sense of wellbeing for racially minoritised women.⁶⁹

Studies have shown the impact of unconscious bias on racially minoritised women in the workplace. According to a briefing from the Trades Union Congress (TUC), almost half of

women from Black and minority ethnic (BME) backgrounds say that they have been singled out for harder or unpopular tasks at work compared to their white counterparts, while almost a third of BME women report being unfairly passed over for or denied a promotion at work.

5.4 VOLUNTEERING AND APPRENTICESHIPS

It is not only discrimination in accessing paid employment that sets racially minoritised women back. Lack of access to career-building opportunities such as volunteering or apprenticeships can be a barrier to certain industries and sectors. Both volunteering and apprenticeships are a good way for individuals to get work experience, become equipped with new skills, begin a new career, and build a CV. If they are less available to racially minoritised women, this entrenches inequality.

While it is difficult to find data that shows volunteering opportunities are withheld on the basis of discrimination, evidence shows that racially minoritised people have poorer volunteering experiences than their white counterparts, and report being less likely than white volunteers to continue volunteering in future.⁷⁰ The reasons for this include cultural barriers for potential volunteers, such as daunting application forms, lack of interest in diversity and inclusion at senior leadership levels, and negative attitudes from staff or other volunteers. Inflexible roles do not take diversity into account.

Barriers to apprenticeships can also prevent racially minoritised people from advancing their career, which contributes to the unemployment gap for those with skills-based qualifications. Racially minoritised workers are 23% less likely to obtain an apprenticeship than white workers.⁷¹

69 Victoria Opara, Ruth Sealy, Michelle K. Ryan (2020) The workplace experiences of BAME professional women: Understanding experiences at the intersection

70 NCVO (2020) Time well spent: diversity and volunteering <https://publications.ncvo.org.uk/time-well-spent-diversity-and-volunteering/>

71 The McGregor-Smith Review



VOICES FROM EXPERIENCE: RUBY

The racism I face as a Muslim woman has been so bad that I've thought about moving from my area to escape it. I've had cars stop so the driver can hurl abuse at me when I'm out walking, I've been knocked down, spat on, sworn at, all because I wear a veil.

I've experienced multiple disadvantages because I'm a woman, I'm a devout Muslim, and I'm visibly Muslim. I wear religious clothing, a niqab and abaya, because of my faith.

I did well at school, then trained as a social worker and physiotherapist, and have a Master's degree. But instead of my achievements, discrimination and my conviction have defined my life for the last ten years. I've experienced overt racism from the police. At my trial, the jury were all white.

The media exacerbates the problem. The Prime Minister calling us letterboxes has directly led to the Islamophobia I've personally experienced. It seems ironic now that we all have to cover our faces for public health. Muslim women deserve an apology.

Government programmes like Channel and the Prevent duty equate Muslim identity with terrorism, and demonise Muslims. My own home was searched and my electronics confiscated under the programme, but of course they didn't find anything. They targeted me because I pray and practise my faith.

I face stigma in the community too. As a Muslim woman, I'm expected to take on family responsibilities, take care of the home, and be a primary carer. A lot of Muslim women experience domestic violence but are silenced or don't feel they can speak out. Although I was a victim of domestic violence myself, I ended up being arrested. And when you've got a conviction, it affects every aspect of your life: employment, insurance, and how your community treats you.

At the same time, my faith and the niqab have helped me to cope. They help me to be patient, to deal with difficulties, and are a source of self-control. Islam is a positive and integral part of my life.

5.5 COVID-19

The pandemic has exacerbated the stressors and pressures of going out to work, and could be contributing to mental health issues for those in work, with racially minoritised people being hit the hardest. Recent studies show that for those who work outside the home, work-related anxiety is highest among racially minoritised people, with 65% of women from BAME communities reporting anxiety as a result of having to go out to work.⁷²

41% report working more than they did before Covid-19 (compared with 29% of white women) and nearly half said they were struggling to cope with demands on their time. These pressures could create an additional barrier to racially minoritised women staying in work and making a steady income. Plus, the higher likelihood of already suffering from mental health problems means that they will be even more affected than others by the negative impacts of the pandemic.

⁷² Fawcett Society (2020) Coronavirus: Impact on BAME women <https://www.fawcettsociety.org.uk/coronavirus-impact-on-bame-women>

6. RECOMMENDATIONS

How can we begin to put right all the wrongs that racially minoritised women face when they are handed a conviction? The issues are deep-rooted and systemic, but adopting these recommendations would be a strong start to show that the government and employers are serious about rectifying the multiple forms of discrimination that racially minoritised women face.

6.1 RECOMMENDATIONS FOR GOVERNMENT

1. Address racial inequality in the criminal justice system

- 
- Government should implement all remaining unimplemented recommendations of the Lammy Review, including Recommendation 34, which would allow people with convictions to present the case, before a judge, that they should have their criminal record sealed.
 - The Ministry of Justice should honour the commitments made in the Female Offender Strategy; currently almost all of the commitments that would specifically benefit racially minoritised women remain unfulfilled.
 - The Ministry of Justice should roll out provision of full written pre-sentence reports for all women and racially minoritised people, including specified targets for their completion.
 - The new Female Offender Minority Ethnic Working Group set up by the Ministry of Justice should look specifically at reducing racial disparities in access to and outcomes for employment.

2. A new review for racially minoritised women

- The Prime Minister should commission an independent review that focuses specifically on disparities in the treatment of and outcomes for racially minoritised women in the criminal justice system, as a follow-up to the Lammy Review.
 - The report should be accompanied by an action plan.
 - Progress against the recommendations of the report should be published annually.
- 

3. Accurate data

- The Ministry of Justice should disaggregate data on convictions, prison population and resettlement by gender, ethnicity and religion.
 - Statistics should be published in a way that enables the public to view and analyse data by gender in combination with ethnic groups and religions as variables.
 - In addition, disaggregated data should be published regarding non-custodial sentences and probation, including employment outcomes.
- 

4. Specialised support in the community

- The Ministry of Justice should address the root causes of offending in the community in such a way that includes allocating sufficient funding to support the development of culturally sensitive services for racially minoritised women.
- These services should be designed to meet women's specific needs and the diverse experiences of different minority groups should be recognised.
- As part of this effort, the Ministry of Justice should partner with and support specialist community organisations already doing this work.

5. Representation in government

- The Cabinet Office, Ministry of Justice and HMPPS should lead by example and adopt schemes to increase representation of racially minoritised women with convictions.
 - These should be paid employee roles with opportunities for career advancement, not only administrative, voluntary or peer mentor roles.
 - Government bodies should begin by reviewing vetting and security processes to aid the recruitment of people with lived experience.
 - There should be time-bound targets for the number of racially minoritised women with convictions recruited.
 - The Cabinet Office should publish the numbers of women they have recruited and retained under the Going Forward into Employment (GFIE) scheme.
 - The blanket ban under GFIE for those who have previously served a life sentence should be removed, and persons should be considered on a case-by-case basis.
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6.2 RECOMMENDATIONS FOR EMPLOYERS



1. Embedded inclusive practices

- Employers should commit to anti-racist practice by making a conscious effort and taking deliberate actions to provide equal opportunities for all employees.
- Gather and monitor data on diversity, with clear annual targets for improvement; publish this data to show progression.
- Ensure that the workplace has an equality, diversity and inclusion policy that all staff receive training on, and are obliged to comply with.

2. Building a diverse workforce

- Employers should ensure job specifications are drafted in plain English.
- Consider how their organisation is portrayed online and at recruitment fairs to attract a diverse pool of applicants.
- Consider actions that would make candidates more confident to apply, such as invitations to visit the workplace before the application deadline.
- Partner with organisations or groups that are experts in the recruitment of and issues faced by minority groups to benefit from their knowledge and to collaborate on recruitment efforts.

3. Inclusive recruitment



- Employers should reform recruitment processes to be inclusive on the basis of gender, ethnicity, and criminal convictions, as well as other protected characteristics.
- Sign up to the Ban the Box campaign.
- Carry out blind review of job applications, with personal details removed.
- Focus on applicants' mindset, skills and potential rather than qualifications.
- Use interview panels which include individuals from diverse backgrounds.
- Understand the laws around DBS checks and when it is legally required to ask for criminal record disclosure.
- Ensure that all Human Resources staff, and any other staff involved in recruitment, are trained in unconscious bias and know about inclusive hiring practices.

4. In-work support

- Employers should understand and prevent cultural biases in the workplace, including microaggressions or speech that may perpetuate discriminatory views towards women and/or racially minoritised people.
- Match employees with a career mentor wherever possible.
- Set up inclusive networks that allow employees to share challenges, make connections, and receive advice and support; encourage employees to participate.
- Ensure that flexible working conditions are available, including flexible working hours and the possibility of remote working.
- Establish professional development opportunities, including training and promotions, and make sure these are known to all staff; ensure staff are provided with support to take part.
- Provide equal pay and benefits.



7. CONCLUSION

The intersecting impact of both racism and sexism in our criminal justice system must be understood if we have any chance of working towards equality. Intersecting discrimination is holding women back and means that they are punished unfairly, with consequences that extend far beyond the end of a sentence.

It is clear from the evidence that inequality exists and is having a very real impact on the lives of racially minoritised women, who contend with discrimination on the basis of gender, race, and criminal conviction, creating a worst-case scenario when seeking employment. The consequences of getting a conviction are layered, and there are many other factors that lead to difficulties securing a job. Due to racial inequality in the criminal justice system, racially minoritised women are likely to wait longer for their convictions to become spent, meaning they will show up on a criminal record check for longer.



INTERSECTING
DISCRIMINATION IS
HOLDING WOMEN
BACK AND MEANS
THAT THEY ARE
PUNISHED UNFAIRLY

A conviction creates a series of obstacles to overcome, and you are more likely to encounter each of those obstacles as a racially minoritised woman, with Black women facing the most and highest hurdles.

Systemic racial inequality in the criminal justice system reflects racism in wider society. Change is urgently needed, and must begin with accepting that racial inequality is a problem. Anti-racist practice should be implemented across the criminal justice system, government, and the employment landscape, to give racially minoritised women a fair chance. The needs of these women have been overlooked for far too long.

A CONVICTION CREATES A SERIES OF OBSTACLES TO
OVERCOME, AND YOU ARE MORE LIKELY TO ENCOUNTER EACH
OF THOSE OBSTACLES AS A RACIALLY MINORITISED WOMAN,
WITH BLACK WOMEN FACING THE MOST AND
HIGHEST HURDLES



Government must take action, beginning with implementing overdue recommendations in the Lammy Review and commitments in the Female Offender Strategy. The new Female Offender Minority Ethnic Working Group set up by the Ministry of Justice should look specifically at reducing racial disparity in employment outcomes. The Prime Minister should commission a further review looking specifically at racially minoritised women in the criminal justice system, while the Ministry of Justice must begin collecting and publishing data that captures the multiple intersecting discrimination faced by racially minoritised women.

The Ministry of Justice should fund culturally specific services in the community that meet racially minoritised women's needs and divert women away from the criminal justice system. Further, our criminal justice system should have a workforce that is, at the very least, representative of the general population and informed by lived experience, with clear pathways and quotas to achieve it.



**EMPLOYERS
HAVE A HUGE
ROLE TO PLAY
IN ACHIEVING
EQUALITY**

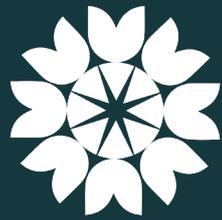
Employers have a huge role to play in achieving equality. By embedding inclusive business practices, taking measures to attract a diverse workforce, ensuring that recruitment is fair and inclusive, and providing in-work support for all employees, employers can recruit, support and retain racially minoritised women as employees. Inclusive practice should impact employees from before application right through to in-work support, and must be embedded in the entire hierarchy of a workplace. Charities like Working Chance are here to support employers ready to commit to

inclusive practices. Implementing the recommendations in this report will benefit not only racially minoritised women, but all women with convictions.

It is systems, more than individuals, that perpetuate the racial inequality that has such a harmful impact on the lives of racially minoritised women. The criminal justice system should operate fairly, as should the job market. Implementing the recommendations above would be a significant step in the right direction.

**IT IS SYSTEMS, MORE THAN INDIVIDUALS, THAT PERPETRATE
THE RACIAL INEQUALITY THAT HAS SUCH A HARMFUL IMPACT
ON THE LIVES OF RACIALLY MINORITISED WOMEN.
THE CRIMINAL JUSTICE SYSTEM SHOULD OPERATE FAIRLY,
AS SHOULD THE JOB MARKET**





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Unlocking women's potential

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