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Diversity and vulnerability in Prisons in the context of the Equality Act 2010:

the experiences of Black, Asian, Minority Ethnic (BAME), and Foreign National Prisoners (FNPs) in a Northern Jail.

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Introduction

This article details findings from a pilot study that was funded by the universities of Newcastle, Northumbria and Liverpool John Moores. The study was undertaken in an English Northern prison by members of the North East Regional Race Crime and Justice Research Network (NERRCJRN) and was approved by the National Offender Management Service (NOMS). The study arose out of concerns by practitioner members of the NERRCJRN that following the passing of the Equality Act (2010) there had been a dilution of focus on 'race' equality. The Equality Act (2010) shifted the emphasis from an Equality Duty that was focused on distinct protected characteristics of race, disability, gender to one that is all inclusive. The concern was that the positive focus on 'race' which had been growing in recent years, particularly in prisons, would be compromised. The aims of the pilot project were to explore the experiences of BAME national and Foreign National Prisoners (FNPs) in this prison (which is a Category B adult male prison) to find out how the specific needs of these prisoners are being met and to explore how the prison is responding to and managing prisoner vulnerability in relation to 'race', post the 2010 Act. The research methods consisted of:

- ❑ *In-depth semi-structured interviews with a quota sample of prisoners.¹ These included 13 British BAME prisoners and 3 prisoners categorised by the prison as foreign national prisoners (FNPs). In terms of ethnicity, rather than prescribe a set of categories we asked*

prisoners to state their own ethnic categories. The British BAME prisoners included three Pakistanis, one Indian, two Black Africans, two Black Caribbean's, and five Travellers. Travellers are treated in this article as a distinct BAME category with specific needs and they included one Scottish traveller, two English travellers and two British Irish Travellers. The FNPs included one Libyan, one Bangladeshi and one prisoner from the Republic of Ireland. All the prisoners interviewed were able to speak English although options for interpreters were provided.

- ❑ *In-depth semi-structured interviews with a purposive sample of prison staff including: uniformed prison officers; the deputy manager responsible for equality and diversity; education staff; the Prison Imam and Chaplain (9 in total).*
- ❑ *A focus group with three members of the Independent Monitoring Board.*

The interviews covered a variety of topics ranging from race relations in the prison; management of prisoners' complaints; experiences of racism or discriminatory behaviour;² perceptions of the prison experience; and the management of prisoner demands and vulnerabilities. The researchers complied with the ethical guidelines of Newcastle University and the Ministry of Justice/NOMS.

Context

Several studies have been published on race relations in prisons.³ Many of these studies have

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1. As this was a pilot study we did not attempt to obtain a representative sample of prisoners at the prison. Prisoners were made aware of the research and we used snowball sampling to interview those who came forward. Although small, the sample consisted of a diverse range of ethnicities that are typically found in British prisons.
 2. The examples cited in the article were obtained from inmate interviews. We did not investigate inmates to staff racist behaviour, because the primary aim of the research was to explore the experiences of prisoners. However, two members of staff mentioned an allegation of a racist comment made by an inmate against a female member of staff. This is an area for further research.
 3. Genders, E. and Player, E. (1989) *Race Relations in Prison*. Oxford: Clarendon Press; Cheliotis, L.K. and Liebling, A. (2005) 'Race matters in British Prisons', *British Journal of Criminology*, 45, 1-32; Ellis, T., Tedstone, C. and Curry, D. (2004) *Improving race relations in prisons: what works?* Home Office Online Report 12/04. London: Home Office.

indicated that BAME prisoners are more likely than their white counterparts to explain their negative experiences of imprisonment as resulting from racism and that these 'allegations' are often justified.⁴ The particular difficulties foreign national prisoners face in the UK prison system have also been reasonably well documented. Studies have shown that they share many of the common vulnerabilities that many prisoners face, but they are more vulnerable in terms of 'language barriers, difficulties in contacting families, accessing information and services, and the ever-present threat of deportation'.⁵ Studies have shown that due to the above factors, FNPs are more at risk of psychiatric illnesses than other prisoners.⁶ Borril and Taylor also attributed the increase in self-inflicted deaths among FNPs in 2007 to these factors.⁷

Addressing race relations and racism in prisons has been one of the priorities of the prison service and NOMS for decades. Major revisions have occurred since the publication of the Macpherson report in 1999.⁸ NACRO,⁹ the Equality and Human Rights Commission,¹⁰ Prison Reform Trust (PRT)¹¹ and the Ministry of Justice/NOMS¹² have published several reports that provided many guidelines on how race issues are to be addressed in British prisons. The 2008 Race Review provided a detailed report on progress that had been made in the prison service to address the recommendations in the 2003 Commission for Racial Equality (CRE) report and those made in Lord Keith's inquiry into the death of Zahid

Mubarek¹³ (including issues arising from the death of Shahid Aziz at Leeds in 2004). The Review noted that despite considerable investments that have been put into changes in procedure and management, the experience of BAME prisoners and staff has not been significantly transformed. For example, the report suggested that there is more to be done to make the complaints process suitable to handling covert forms of discrimination.¹⁴

Since 1996, the Prisons Ombudsman (now the Prison and Probation Ombudsman) has repeatedly reported on the plight of BAME and FNPs and highlighted complaints of these prisoners who had alleged that their experiences or treatments were discriminatory and/or racist. While available statistics show that racism is not high on the list of complaints by prisoners, the Ombudsman reports revealed that this was due, partly, to the fact that allegations of 'racism' were often undermined where prisoners' complaints could easily be placed under any of the other complaints categories such as adjudications, assaults (between inmates), properties, general conditions or even 'miscellaneous'.¹⁵

The concept of vulnerability has been used in prison literature more broadly, but generally to refer to notions of significant need, risk, susceptibility to harm or neglect; lacking durability or capability;¹⁶ inability to cope with the prison environment, for example, vulnerability to suicide¹⁷ due to poor mental health or the inability of the prison to provide adequate care and support.¹⁸ Ricciardelli et al (2015) have differentiated between

4. Young, Baroness Lola (ed) (2014) *The Young Review: Improving outcomes for young black and/or Muslim men in the Criminal Justice System Final report*. London: The Young Review; Liebling A, Arnold H and Straub C (2011) *An exploration of staff-prisoner relationships at HMP Whitemoor: 12 years on. Revised Final Report*. London: Ministry of Justice.
5. Martynowicz, M. (2016) Not so multicultural prison: Polish prisoners in a transitional prison system, *Criminology & Criminal Justice*, Vol. 16(3): 337–349, pp. 337 – 338; Bhui H.S. (2004) *Going the Distance: Developing Effective Policy and Practice with Foreign National Prisoners*. London: Prison Reform Trust; Bhui H.S. (2007) Alien experience: Foreign national prisoners after the deportation crisis, *Probation Journal* 54(4): 368–382; Bhui, H.S. (2016) 'The place of 'race' in understanding immigration control and the detention of foreign nationals', *Criminology & Criminal Justice*, Vol. 16(3) 267–285; HM Inspectorate of Prisons (2006) *Foreign National Prisoners: A Thematic Review*. London: HMCIP; HM Inspectorate of Prisons (2007) *Foreign National Prisoners: A Follow-Up Report*. London: HMIP; Prison Reform Trust (2004) *Forgotten Prisoners: The Plight of Foreign National Prisoners in England and Wales*. London: Prison Reform Trust; Prison Reform Trust (2012) *No way out: A briefing paper on foreign national women in prison in England and Wales*, January 2012. London: Prison Reform Trust.
6. NACRO (2010) *NACRO Mental Health Briefing Paper 2010. Foreign National Offenders, Mental Health and Criminal Justice System*. London: NACRO; Barnoux, M and Wood, J. (2013) The specific needs of foreign national prisoners and the threat to their mental health from being imprisoned in a foreign country, *Aggression and Violent Behaviour*, 18, 240–246.
7. Borril, J. and Taylor, D. A. (2009) Suicides by foreign national prisoners in England and Wales 2007: mental health and cultural issues, *The Journal of Forensic Psychiatry & Psychology*, Vol. 20(6), 886–905.
8. Ellis, T., Tedstone, C. and Curry, D. (2004) *op.cit.*
9. NACRO (2000) *Race and Prisons: a snapshot survey*. London: NACRO.
10. Equality and Human Rights Commission (2016) *England's most disadvantaged groups: Gypsies, Travellers and Roma*, March 2016, available at www.equalityhumanrights.com/EnglandFairer
11. Prison Reform Trust (2014) *Bromley Briefings Prison Fact file*, Autumn 2014. London: Prison Reform Trust; Prison Reform Trust (2015) *Prison: The facts. Bromley Briefings Summer 2015*. London: Prison Reform Trust.
12. Ministry of Justice/National Offender Management Service (NOMS) (2008) *Race Review 2008 Implementing Race Equality in Prisons—Five Years On*. London: MoJ/NOMS; Ministry of Justice/NOMS, *Promoting Equality in Prisons and Probation* (2008) *The National Offender Management Service Single Equality Scheme 2009–2012*; Ministry of Justice/NOMS (2011) *Ensuring Equality*. PSI 32/2011 London: NOMS Agency Board.
13. Keith, The Honourable Mr Justice (2006) *Report of the Zahid Mubarek Inquiry vols. 1 and 2*. London: TSO.
14. See also Cheliotis and Liebling (2005) *op.cit.*
15. Prisons and Probation Ombudsman Annual Reports (1996 – 2015) *Prison Ombudsman reports*.
16. Mechanic, D and Tanner, J (2007) Vulnerable People, Groups, And Populations: Societal View, *Health Aff* September 2007 vol. 26 no. 5 1220–1230, Page 1221.
17. Liebling, A. (1995) Vulnerability and suicide, *British Journal of Criminology*, Vol 35 (2): 173–187.
18. Rickford, D. and Edgar K. (2004) *Troubled Inside: Responding to the Mental Health Needs of Men in Prison, a Prison Reform Trust report*.

different aspects of vulnerability, namely physical, administrative and emotional vulnerability.¹⁹ Whereas many studies have exposed the vulnerability of several groups such as women,²⁰ older age prisoners,²¹ disabled prisoners,²² ex-military personnel or veterans,²³ traveller community²⁴ and LGBT prisoners;²⁵ and there is even a growing concern about vulnerability to radicalisation whilst in prison,²⁶ the concept of vulnerability in prison is not commonly associated with 'race'.

In what follows, we focus mainly on BAME and Foreign National prisoners' experiences of vulnerability resulting from racial discrimination, but also look briefly at a broader range of experiences and perceptions of vulnerability that became apparent in the course of this research.

1. Experiences of racist behaviour from other prisoners

All the BAME prisoners interviewed felt emotionally and/or physically vulnerable; they described the environment within the prison as 'rough and dangerous'; some said that they felt 'intimidated' and many talked about experiences of 'racial harassment', 'racist verbal abuse' and 'non-stop hustling'.²⁷

One prisoner commented: 'On F wing, on the pad on the wall, it says: "'All Pakis should be killed. All blacks should be killed"''. Racism is more intimidating when it is covert. According to a black prisoner: '[Racism in prison is not done] to your face but when you are walking down the landing... You can feel [sense] it. They won't touch you because they will get booked for it'. Previous research suggests that the subtle forms of discrimination that ethnic minority prisoners are exposed to can amplify their vulnerability.²⁸

BAME prisoners saw all racist behaviour in prison as impacting seriously on their vulnerability both in terms of physical and emotional harm.

Some of the prison officers interviewed said that they were aware of instances of racist behaviour among prisoners such as name-calling and the writing of racist/far-right graffiti, but that such behaviour was always challenged by staff. A Diversity Officer added that it is sometimes difficult to find out who was responsible. According to a Custodian Manager, racist behaviour in prison was due mainly 'to ignorance'. Generally, staff at this prison did not see racist behaviour amongst prisoners as so much of an issue compared with the BAME prisoners who saw all racist behaviour in prison as impacting seriously on their vulnerability both in terms of physical and emotional harm.

2. Geographical location and vulnerability

The Prison Chaplain suggested that racism issues were partly due to the geographical location of the prison. According to him:

.....Prisoners who are not from here often complain about racism, but this is not always the whole story... there are no black officers in this prison, but again that is due to the geographical

location of the prison. You can't help geography. No matter what you do it still has a bearing. It would be stupid to say that it doesn't.

Thus, the Chaplain has highlighted the important issue of feeling vulnerable because one is not from the area where one's prison is located and do not see staff representative of different cultural or ethnic groups.

19. Ricciardelli, R., Maier, K., & Hannah-Moffat, K. (2015) Strategic masculinities: Vulnerabilities, risk and the production of prison masculinities, *Theoretical Criminology*, 1-23.
20. Home Office (2007) *The Corston Report: A report by Baroness Jean Corston of a Review of women with particular vulnerabilities in the Criminal Justice System*, London: Home Office; Women in Prison (2017) *Corston + 10 The Corston Report 10 years on*, London: Barrow Cadbury Trust.
21. Prison Reform Trust (2008) *Doing time: the experiences and needs of older people in prison*, a Prison Reform Trust briefing, London: Prison Reform Trust.
22. HM Inspectorate of Prisons (2009) *Disabled prisoners: a short thematic review on the care and support of prisoners with a disability*. London: HMIP.
23. Lyne, C. and Packham, D. (2014) *The needs of ex-service personnel in the criminal justice system: a rapid evidence assessment*, Ministry of Justice Analytical Series, Page 7.
24. Op cit (1) and (2)
25. Maschi, T., Rees, J., and Klein, E. (2016) "Coming Out" of Prison: An Exploratory Study of LGBT Elders in the Criminal Justice System, *Journal of Homosexuality*, Vol 63(9), 1277-1295.
26. Mulcahy, E., Merrington, S., and Bell, P. (2013) The Radicalisation of Prison Inmates: Exploring Recruitment, Religion and Prisoner Vulnerability, *Journal of Human Security*, Vol 9 (1), 4-14.
27. Burnett, R. and Farrell, G. (1994) *Reported and Unreported Racial Incidents in Prisons*. University of Oxford Centre for Criminological Research Occasional Paper No.14; Clements, J. (2002) Diversity and Equality: Moulding a new future around racial equality. *Prison Service News*, July/August 2002; Commission for Racial Equality (2003) cited in Cheliotis and Liebling (2005) op.cit.
28. *Race Review 2008*, op.cit; Chakraborti N. and Phillips C. (2013) Minority groups and the penal landscape: Challenges for research and policy, in Dockley A. and Loader I. (eds.) *The Penal Landscape: the Howard League Guide to Criminal Justice in England and Wales*, London: Routledge.

3. Uncertainties of the prison environment: access to services and facilities

Some BAME interviewees felt that there were no clear rules regarding access to services and facilities in the prison; they believed that there were 'different rules for different people'. Some of them said that they were being denied or given restricted access to visits, work, education, healthcare services and the gym and that this was because of their nationality or ethnicity.²⁹ These allegations were denied by prison officers. With regard to prison work, the officers argued that access to certain jobs was generally restricted to certain prisoners because of their disability or lack of skills required to perform specific tasks. Prisoners who could not read or write or those whose first language was not English had fewer opportunities because 'if they want a job as a cleaner they need to be able to read the cleaning detergents' (Custodian Manager). The prison staff also argued that the apparent unequal access to facilities in the prison was not race related, but due to other logistical factors such as staffing issues and inadequate knowledge of different cultural needs. However, the prisoners who described their experiences of being denied access to work or other facilities were not clear about why these decisions were made. Some felt that they were denied things others had access to. For example, an Irish Traveller pointed to the lack of help with literacy skills and felt that there was 'nothing for Irish prisoners', but 'Asians have access to these things'. The lack of help for those who could not read or write exacerbated the uncertainty of the prison environment experienced by these prisoners as they were unable to read notices on the Notice Board or understand the complaints procedure. This was particularly the case with Traveller and Romany prisoners.³⁰ An issue was also raised about the difficulties encountered by the prison in managing the expectations of BAME prisoners who claimed that they were being denied privileges that they enjoyed at their previous prisons and that this denial was racist.

Some BAME Muslim prisoners we interviewed felt that they were being treated with less respect than British white prisoners because they were Muslim.

4. Respect

Some BAME Muslim prisoners we interviewed felt that they were being treated with less respect than British white prisoners because they were Muslim. One prisoner argued that the vulnerability of Muslim prisoners in this prison was exacerbated by the fact that there were 'few Muslim prisoners and no Muslim prison officer in this prison'. According to another prisoner, '[staff] need to know how to address Muslims'.

Muslim prisoners also felt that their faith-related needs were neglected by the prison which they saw as a blatant disrespect for their faith. These included food (e.g. no halal food or halal meat mixed with other meats); being forced to share cells with non-Muslims, not being allowed 'to wash private parts', not being able to take showers before prayer and no prayer mats available for Muslims. These faith-related complaints have been expressed by Muslim prisoners in several other prison studies.³¹ Studies have also shown that perceptions of discrimination and disrespect often arise from Muslim prisoners where the prison's explanations of decisions taken are not clear or fully explained to the prisoners.³² However, although Muslim inmates at this prison had some faith-related concerns, they were generally satisfied with the facilities provided by the prison for prayers and other Islamic activities.

Muslim prisoners also expressed their vulnerability in terms of being stereotyped as terrorists. At the time of conducting this research, the Paris attacks had just occurred (December 2015). One Muslim interviewee was concerned that this event could lead to Muslims being treated differently 'not because of attitudes of staff, but because of media attention and biased portrayal of Muslims'. In this context, the only authority-figure Muslim prisoners seemed to be able to rely upon for support at the prison was the prison Imam who was well respected by both prisoners and staff. Other studies have hailed the positive contributions of prison Imams as facilitators of good communication between prisoners and prison officers.³³ This Imam was noted as having played an important part in

29. *Race Review 2008* op.cit.; HM Chief Inspector of Prisons (HMCIP) (2015) *Annual Report 2014-15*.

30. See also *Race Review 2008* op.cit. p 59, 148; HM Chief Inspector of Prisons (HMCIP) (2014) *People in prison: Gypsies, Romany and Travellers: A Findings Paper*, London: HM Inspectorate of Prisons.

31. See *Race Review 2008* op. cit., pp.50, 147.

32. Cheliotis and Liebling (2005) op.cit.

33. Liebling, Arnold and Straub (2011) op. cit.

maintaining communication between prisoners and staff at the time of the Paris attacks.

Traveller prisoners also reported being treated with less respect than other prisoners simply because they were Travellers. According to one Traveller prisoner 'they [prisons] have behaved that way for years'. The Traveller community group felt that they could only trust someone from their own particular group to understand and know how to assist them. They resented the fact that there was no Traveller representative at the prison at the time of the research. Instead, the 'Traveller community' in the prison had 'informally' appointed one of them to be their representative and were in the process of asking the prison authorities to recognise that person as their representative.

5. Isolation and uncertainty (mainly by FNP's)

This study shows some similarities with findings of previous studies on the vulnerabilities of foreign nationals in British prisons in terms of: (1) overstay in prison beyond their prison sentence; (2) not knowing their release date and what is going to happen during and after completion of their sentence; (3) experiencing uncertainty and fear of deportation after their sentence; (4) mental health issues; (5) not being able to speak English which has led to other barriers such as not being able to get a job and not understanding how the prison system works; and (6) limited contact with families.³⁴ Prison staff mentioned the lack of background information on FNP's when they come to the prison. In spite of this, the prison had taken steps to ensure that these prisoners had access to legal advice, but translation services had been difficult to organise. It was noted that unlike other prisoners, there were no accredited offender behavioural programmes for FNP's in the prison. The Acting Deputy Governor said that the prison liaise with the Immigration Service, but was not aware of any other external organisations that could provide support for FNP's. Embassies were contacted on an ad-hoc basis, but the prison has encountered difficulties obtaining family contact phone numbers

from some foreign countries. Two of the FNP's interviewed mentioned experiencing racial hatred mainly from fellow inmates, but not from staff. Their major concern was their vulnerability by virtue of being literally invisible, isolated and helpless, and uncertain about the future.

6. Disempowerment: complaints procedure

The issue of being disempowered was raised mostly in the context of the prisoner complaints system within the prison. A general lack of confidence in the complaints system and a sense of being unable to raise concerns or see positive outcomes when using the complaints system were evident in a number of interviews.³⁵ Problems mentioned by prisoners included

complaints going missing or not being followed through; nothing done and staff putting pressure on prisoners not to make complaints. Some prisoners felt that it was not worth complaining. According to one prisoner: 'Nothing happens...Don't complain — it's better if you don't. The less you complain the better it is'. Another interviewee commented:

Officers give you abuse for making complaints. When one Asian complains, they leave it and say, 'another Asian has complained; we'll deal with it when we get 80'. But there are no 80 Asians here. Officers are just taking the piss.

A general lack of confidence in the complaints system and a sense of being unable to raise concerns or see positive outcomes when using the complaints system were evident in a number of interviews.

Other comments included; not wanting to 'go against a prison officer'; 'get on the wrong side of people'; or 'be seen as a "grass"'. Accordingly, an interviewee said that he preferred to 'deal with' racist actions against himself in his own way. However, positive comments about the complaints system came from some of the prisoners who said that they were helped by the Imam and that some prison officers and Prisoner Information Desk (PID) workers were 'good' (helpful). This view was supported by the IMB members we interviewed who noted that since the introduction of PIDs the number of requests to see the IMB has dropped significantly.

34. Bhui H.S. 2004 and 2007 op.cit. Bosworth M (2011) Deportation, detention and foreign national prisoners in England and Wales, *Citizenship Studies*, 15(5): 583–595; Warr, J. (2016) The deprivation of certitude, legitimacy and hope: Foreign national prisoners and the pains of imprisonment, *Criminology & Criminal Justice*, Vol. 16(3), 301–318.

35. See also *Race Review 2008*, p 62; HM Chief Inspector of Prisons (HMCIIP) (2015) *Annual Report 2014-15*, p. 44.

36. See also Ombudsman reports op.cit., and *Race Review 2008* op. cit., p.62.

IMB members said that most of the prisoners' complaints were not race-related, but were about food, contacts with family, money and property.³⁶ Similarly, the prison staff either felt that racism was not an issue at the prison or that it was well managed and that the prison responded effectively to racist incidents between inmates. They also described the complaints procedure as open and transparent. However, an issue mentioned by staff was that of the difficulty to categorise complaints where allegations of racism were made. Studies have shown that the Macpherson definition of a racist incident³⁷ (that is, 'any incident which is perceived to be racist by the victim or any other person') is often difficult to apply where the alleged racism is covert or concealed within another complaint category such as assaults, access to facilities and food. The alleged racism must be upheld by sufficient evidence and on the basis of a balance of probabilities.³⁸ However, the complaints system remains the only avenue in prisons through which prisoners can challenge the sources of their vulnerabilities. Lack of confidence in the system is an indication of prisoner disempowerment. The senior managers in the prison were aware of the need to make the complaints system effective and claimed to be doing more to improve it. This was supported by members of the IMB who felt that they provide an easily accessible avenue for prisoners to raise complaints directly with them. The IMB members also noted that they tend to be proactive by making themselves more visible around the prison and that they are called in whenever there is a serious incident. However there was a tendency by prisoners to view the IMB as being part of the authorities of the prison. According to the Residential and Safety Manager 'sometimes it's hard to find out who is responsible, so, the perception is that nothing has been done'. This is an area for further research, along with the role of the IMB.

7. Democratic Participation

According to prison officers interviewed, there were several consultative and support mechanisms available in the prison to address discrimination, advance equality of opportunity and promote good relations between prisoners and staff. These included focus group meetings for BAME, disabled, and older

prisoners where they could raise concerns; PID meetings; equality meetings; the Diversity Group; the User Voice Group and the Prison Council. Others included the use of faith leaders namely the Imam and Chaplain, the staging of cultural events (Black History month, Holocaust Memorial day, Open days); and the Governor going around the prison twice a week. A specific group had been established for ex-military personnel/veterans by a prison officer who himself was a veteran but there was no group set up for the LGBT prisoners because 'there were no takers'. Travellers also had no official representative group in the prison.

Many of these initiatives and mechanisms were mentioned by prisoners, indicating that these activities did not go unnoticed. However, some of the prisoners we interviewed felt that despite all of that they still had no voice in the prison system and that more needed to

be done to improve communication between them and the prison authorities.³⁹ Challenges mentioned by staff in relation to the consultative groups include the difficulty in sustaining the level of engagement in consultation because of staff workloads. According to the Imam, 'lots of stuff does come out of the meetings but it is actioning that is

the issue; staff do try and do things but staff just don't have the time to deal with all of it'.

8. Perceptions of vulnerability: staff and prisoners compared

Prison officers at this prison defined vulnerability mainly in terms of those who have specific needs or require special support and those in need of protection from harm, for example from other inmates. In particular, they mentioned prisoners with disabilities, older prisoners, sex offenders, LGBT community, ex-military personnel/veterans with specific emotional, mental health or drug abuse problems, and prisoners with mental health concerns more generally. Some prison officers said that older and disabled prisoners were most vulnerable because the prison did not have wheelchair access facilities.

In contrast, prisoners' perception of vulnerability was much wider in scope. Prisoners talked not only about who was vulnerable but also what makes people vulnerable. For some prisoners, being vulnerable simply

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prisoner
disempowerment.

37. Macpherson, W. (1999). *The Stephen Lawrence Inquiry* at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/277111/4262.pdf.

38. Edgar, K. (2010) *A Fair response: developing responses to racist incidents that earn the confidence of black and minority ethnic prisoners*. A Prison reform Trust Briefing. London: Prison Reform Trust.

39. *Race Review 2008* op.cit. p.139.

meant that the person was an easy target by other prisoners for various reasons. Those vulnerable in this regard were those who were susceptible to being harmed by other prisoners such as first time prisoners, prisoners with mental health issues, gang members and sex offenders. Some prisoners said that a prisoner can also be vulnerable due to being seen as 'different', not fitting in, or having no skills required in order to survive in prison. FNP's and BAME prisoners believed that their culture, religion, ethnicity and nationality had made them more vulnerable in prison than British white prisoners. However, according to a prisoner 'it doesn't matter who you are; it just depends on how you put yourself across. [There are] vulnerable prisoners but no particular groups'. One prisoner did not perceive that his race made him necessarily vulnerable. According to this prisoner, being able to work out how to 'survive' seemed to be crucial to someone's perceived vulnerability.

Discussion and conclusions

British prisons are multicultural and diverse institutions,⁴⁰ perhaps even more so than the wider society. How prisons are able to manage these diverse populations is now a key feature in the assessment of prison performance. This includes understanding and providing fair and equal treatment to persons of varying ethnicities, cultures, faith, nationality and vulnerabilities without diluting its core task of keeping safe and secure those that are serving prison sentences.

Whilst recognising the fact that there are many circumstances that can cause a person to be vulnerable in prison, this study has singled out the category of 'race' as the focus of its discussion of vulnerable prisoners. Studies have shown that most of the 'protected characteristics' are vulnerable when incarcerated and that their vulnerability is partly due to these characteristics. 'Race' is one of the least mentioned in this regard; gender reassignment and sexual orientation are two other obvious ones. Vulnerabilities accruing from 'race' range from susceptibility to harm resulting from being unprotected from subtle and overt experiences of racism, to experiences of isolation and disempowerment. This study found that prisoners can be vulnerable by virtue of being located in a Northern prison, not being provided with adequate mechanisms for voicing out their concerns and having little faith in the prison's complaints system. Although there was evidence that the authorities at this

prison were concerned about race issues and steps had been taken to improve the conditions of BAME and FNP's, the study found that most of the concerns raised in the 2008 Race Review and subsequent reports and studies on FNP's still existed at the time of this research.

It is mandatory under the Equality Act (2010) that those subject to the general equality duty must have due regard of the need to:

- ❑ *Eliminate unlawful discrimination, harassment and victimisation*
- ❑ *Advance equality of opportunity between different groups*
- ❑ *Foster good relations between different groups.*⁴¹

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the needs in relation to any particular group. The greater the relevance and potential impact for any group, the greater the regard required by the duty. Although public authorities are not required to set equality outcomes for each protected group, each public authority has flexibility to decide what the equality outcomes are and how many to set. Most importantly, it is required that public authorities must take reasonable steps to involve the relevant groups in the preparation of equality outcomes.

It could be argued that the 2010 Equality Act will not dilute attention to 'race' in prisons if 'protected characteristics' are seen as vulnerabilities, not 'diversity'. This means that prisons need to go further in terms of understanding what makes someone vulnerable in the prison, how prisoners express or perceive their vulnerabilities and how the specific needs accruing from these vulnerabilities can be met. This study supports Ricciardelli et al's⁴² definition of prisoner vulnerabilities as administrative, physical and emotional. Most of the vulnerabilities identified by BAME and FNP's in this study emanate mainly from institutional structures, practices and decision-making. Accordingly, it is imperative that prisons recognise that some demands by prisoners are/could be expressions of vulnerabilities and therefore, set standards in terms of institutional ways of responding to them. This, perhaps, calls for the demise of the use of the term 'diversity' in prisons as it does not, in itself imply anything concrete in terms of policy and performance; and its replacement with 'vulnerability' as an all embracing and flexible term that the prison system uses to respond to prisoner needs and concerns.

40. Phillips, C. (2012) *The Multicultural Prison*. Oxford: Clarendon Studies in Criminology. Oxford University Press.

41. Equality Act (2010) s. 1.

42. Ricciardelli, R., Maier, K., & Hannah-Moffat, K. (2015) op.cit.