

YOUNG MUSLIMS ON TRIAL

A scoping study on the impact of Islamophobia
on criminal justice decision-making





About T2A Alliance

The T2A Alliance is a broad coalition of organisations, which evidences and promotes the need for a distinct approach to young adults (18-24 year olds) throughout the criminal justice process. Building on the work of the 2005 Commission on Young Adults and the Criminal Justice System, the T2A Alliance was convened by the Barrow Cadbury Trust in 2008. T2A has produced more than 40 research and policy reports, and has worked with researchers, experts, professional bodies, policy-makers and service users to make its case for change.

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About Maslaha

Maslaha creates new ways of tackling long-standing issues affecting Muslim communities. It combines imagination and craftsmanship to improve services, change attitudes and challenge systems of inequality.

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FOREWORD



Baroness Lola Young

Trust is a fundamental component of the relationship between citizens and the institutions that serve them: when it is absent or breaks down, society has a problem.

Young Muslims on Trial – a scoping study on the impact of Islamophobia on criminal justice decision-making reveals how distorted and pernicious ideas about Islam can have an impact on criminal justice decision-making and have consequence for young Muslim defendants. This report is not offered as an excuse for criminal behaviour but gives a context for the perceptions of this group about society's attitudes towards them. Negative stereotyping has worked its way into the system. Practitioners themselves recognise the dilemma – such views were expressed during the first phase of the Young Review and Maslaha reports similar findings. The greater the emphasis on speed and cost cutting in the criminal justice system (CJS), the greater the likelihood that process-driven assessment practices will depend on stereotyping. Recognising the role such ideas play in institutional practices isn't simply an abstract, academic exercise.

It's crucial for all staff at every stage of the CJS to work hard at challenging cultural and religious assumptions regarding Islam. Throwaway discriminatory remarks made by professionals in the CJS reported widely by Muslim offenders during this research indicate that this is not a task that can be covered by an afternoon of diversity training: something much more nuanced and in-depth is urgently required.

Let's try looking at the situation through a more constructive lens. The desire expressed by many of the young men interviewed to use their faith and their experiences to prevent offending and re-offending is encouraging.

To ignore this potentially valuable resource would be a wasted opportunity, especially in an environment where there are pressures to process cases more quickly and to encourage desistance. Culturally competent engagement for these young men in terms of employment, aspiration and sense of purpose could have lasting benefits for them as individuals, in terms of preventing re-offending and fewer victims in wider society.

Baroness Lola Young

February 2016

INTRODUCTION

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**WE ARE
DISCRIMINATED
AGAINST AS
MUSLIMS FROM
THE BEGINNING
BECAUSE OF
OUR NAMES AND
THE WAY WE
LOOK**”

The Young Review¹, published in December 2014, identified an over-representation and a disparity in both treatment and outcome for young African, Caribbean, mixed origin and Muslim men at every stage of the criminal justice process.

In support of recommendations from The Young Review that a range of practical and powerful tools be developed for future providers to intervene early and reverse this disproportionality, Barrow Cadbury commissioned Maslaha to undergo a scoping exercise to ascertain how criminal justice professionals can be more effective in responding to offending by young Muslim men who come into contact with the criminal justice system (CJS.)

During the course of this scoping exercise we interviewed individuals at a range of bodies and agencies including representatives and employees of:

- probation services
- The Law Society
- criminologists
- regional police forces
- Police and Crime Commissioners (PCC) and
- voluntary sector organisations and projects working with young black and/or Muslim men in the CJS.

We also held discussion groups in London and Leicester with young Muslims who have experience of the criminal justice system.

Although there has been positive change in policy and practice in recent years in relation to young adults, which includes ‘lack of maturity’ being considered a mitigating factor in prosecution and sentencing decisions, the growing disproportionality of young BAME men in the system², has raised the question of whether other factors might need to be taken into account.

1. (2014) The Young Review: Improving Outcomes for Black and/or Muslim Men in the Criminal Justice System Final Report, Available from: http://www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

2. Ibid

Muslims in the UK suffer disproportionately from inequalities in areas such as health and employment as well as educational under-achievement and negative media coverage.³ In our interviews with young Muslim men it emerged that many of these inequalities have had considerable bearing on the lives of young Muslim men at risk of entering the criminal justice system. Muslims make up 4.4% of the population in England and Wales, but 13% of those in prison (though this includes both British and non-British nationals and those adopting the faith in prison) and 22% in Young Offender Institutions (YOIs) who identify as Muslim. Other inter-related inequalities include:

As well as being subject to faith-related violence, discrimination, inequality and stigmatisation, Muslims are more likely than all other faith groups to face unemployment, economic inactivity, ill health, educational under-achievement, and poor housing conditions.

According to the 2011 census, Muslims are disproportionately economically inactive. Almost 100,000 Muslim men of working age are unemployed, and almost 400,000 Muslim men of working age have no qualifications.⁴

Several reports have shown that Muslim communities often have difficulties accessing health services, and the support which exists isn't always relevant or appropriate.⁵

Maslaha's 'All We Are' project found that mental wellbeing played a significant role in offending for young Muslim men. Particular concerns were raised about depression and post-traumatic stress disorder (PTSD); practical support was limited and didn't take into account context, cultural or religious background.

A study published in December 2012 by the chief inspector of prisons and the Youth Justice Board showed that the proportion of young male offenders in Young Offender Institutions who describe themselves as Muslim had risen sharply from 13% in 2009 to 22% in 2011–12.

Muslims in the UK face high inequalities in housing⁶ - 28% of Muslims live in social housing, so it is less likely young Muslims will be in a position to move out and buy or rent their own accommodation. Similarly, for a lot of Muslim families, it is not the norm for children to move out until they get married⁷ – which means many young Muslims gain 'independence' – at a later age than peers of other backgrounds. The University of Greifswald and T2A Alliance report 'Better in Europe'⁸ argued that a young adult's 'developmental maturity' should be taken into account throughout the criminal justice process. Particular focus was placed on sociological research indicating that 'important role transitions' associated with desistance in crime are being completed later in life.⁹ These 'important role transitions' include being in full-time, permanent employment, moving out of the family home and getting married or being able to live independently. Less secure employment, means that financial independence is more of a challenge "and gives young people a fragile start into an independent life".¹⁰ Statistical evidence which shows that almost 100,000 Muslim men of working age are unemployed and that almost 400,000 Muslim men of working age have no qualifications¹¹, shows that these 'role transitions' are particularly relevant for young Muslim men.

3. Muslim Council of Britain. (2015) British Muslims in Numbers: A Demographic, Socio-economic and Health Profile of Muslims in Britain drawing on the 2011 Census, Muslim Council of Britain, Available from: https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport_2015.pdf
4. Ibid
5. Laird, L. Amer, M. Barnett, E. Barnes, L. (2007) Muslim Patients and Health Disparities in the UK and the US, Arch Dis Child. 2007 Oct;92(10):922-6., Available from: <http://www.ncbi.nlm.nih.gov/pubmed/17895342>
6. Muslim Council of Britain. (2015) British Muslims in Numbers: A Demographic, Socio-economic and Health Profile of Muslims in Britain drawing on the 2011 Census, Muslim Council of Britain, Available from: https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport_2015.pdf
7. Dhami, S. Sheikh, A. (2000) The Muslim family: predicament and promise, Western Journal of Medicine, 2000 Nov, 173(5), 352–356.
8. Purin, I. Dünkel, F. (2015) Better in Europe?: European Responses to Young Adult Offending, Available from: http://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf
9. Ibid, (p. 23)
10. Ibid, (p. 25)
11. Muslim Council of Britain (2015) British Muslims in Numbers: A Demographic, Socio-economic and Health Profile of Muslims in Britain drawing on the 2011 Census, Muslim Council of Britain, Available from: https://www.mcb.org.uk/wp-content/uploads/2015/02/MCBCensusReport_2015.pdf

The ‘Better in Europe’ research highlighted that lack of financial security and extended dependence on family “complicate the development of personality and life structure”¹². It could be argued that when magistrates and judges are dealing with young Muslim men there is a stronger case for ‘maturity’ to be considered as a mitigating factor because of the high levels of unemployment and low levels of financial security.

The numerous social inequalities faced by young Muslims in the UK, and their implications on the maturity of a young person, combined with the added stigmatisation of negative media coverage makes young Muslims particularly vulnerable before, during and after leaving the criminal justice system. The findings of this scoping exercise indicate that more could be done throughout the criminal justice process to ensure more appropriate, fair and effective decision-making in relation to young Muslim men.

This scoping exercise, involved a series of interviews with a range of statutory bodies and young adults, finding that an understanding of the distinct needs of young Muslims could benefit criminal justice decision-makers. The report makes recommendations for how this knowledge could be developed and applied.

This project has shown us that for many reasons, criminal justice professionals may not have a sufficiently comprehensive understanding of the complex issues which commonly affect young Muslim men.¹³ A case in point would be the stark contrast between how Muslim prisoners view Islam and the sometimes negative view of the religion among criminal justice professionals. The Young Review had already highlighted that while many Muslim ex-offenders and prisoners have identified Islam as a positive force for change, authorities view it with suspicion.¹⁴

A report by Her Majesty’s Inspectorate of Prisons report in 2010 found that compared to other prisoners Muslims still report the least positive perceptions of prison life.¹⁵

Despite the fact that only 1% of Muslim prisoners are convicted for terrorist related offences,¹⁶ the dominant attitude to Muslims by prison authorities is on their potential to become radicalised.¹⁷ The prevalence of these attitudes became apparent to us during focus groups with Muslim ex-offenders in London and Leicester where young men described, for example, being seen as a threat if they were praying in groups, or feeling compelled to shave off their beards to get a less severe sentence. The Young Review described experiences of Muslim prisoners as being the result of “at best a lack of cultural competence and at worst prejudice and racist stereotyping.”¹⁸

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12. Purin, I. Dünkel, F. (2015) “Better in Europe?: European Responses to Young Adult Offending” Available from: http://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-_online.pdf (p. 26)

13. Ibid

14. (2014) The Young Review: Improving Outcomes for Black and/or Muslim Men in the Criminal Justice System Final Report, Available from: http://www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

15. HM Chief Inspector of Prisons (2010) Muslim Prisoners’ Experiences: A Thematic Review, London, HMIP, Available from: https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2014/04/Muslim_prisoners_2010_rps.pdf

16. Ibid

17. Ibid

18. (2014) The Young Review: Improving Outcomes for Black and/or Muslim Men in the Criminal Justice System Final Report, Available from: http://www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

The often negative light in which Islam is viewed by authorities at different stages of the CJS, sits in stark contrast to how Muslim prisoners and ex-offenders perceive it, which is as a positive and supportive influence in coping with both prison and release and resettlement. The increase of Imams in the prison chaplaincy over the last decade was perceived as improving Muslim prisoners' experiences and providing confidence in the outcome of prison procedures.¹⁹ Failing to recognise and harness the potential of religion to contribute positively to the lives of young Muslims, is a missed opportunity on the part of authorities. How this prejudice, whether conscious or unconscious, plays out in criminal justice decision-making deserves particular attention.

This report summarises themes emerging in the interviews, followed by a series of recommendations proposing interventions which we believe could lead to criminal justice professionals having a broader understanding of a young Muslim's life. This could have the potential to deliver more appropriate strategies for responding to offending by young Muslims, in the same way that considering maturity as a mitigating factor improves effectiveness in relation to young adults generally.

Our conversations with different statutory bodies such as the Crown Prosecution Service, the Judicial College, and the Law Society, as well as with young Muslims who have experienced the criminal justice system are summarised in the next section.

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**BEING SEEN TO
BE MUSLIM OR
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IS OFTEN
CONSIDERED A
WARNING SIGN AND
A RISK FACTOR**”

19. Mullen, J. (2014) The Young Review: Improving Outcomes for Black and/or Muslim Men in the Criminal Justice System Final Report, Available from: http://www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

KEY THEMES FROM THE INTERVIEWS



Bias by criminal justice agencies

All of those interviewed acknowledged the reality of the disproportionately negative experiences of young Muslim men at every level of the CJS. Many recognise that subconscious or otherwise, there is a problem with unconscious bias and stereotyping towards Muslim men on the part of criminal justice agencies. There is also a recognition that the different aspects of an individual's life are not understood especially in the case of a young Muslim man. These will include the nature of family and community relations, mental health, culture and religion.

Changes in the criminal justice system

We found broad consensus that the potential for developing effective solutions has been reduced by the recent fast pace of change within the CJS – often increasingly aimed at fast-tracking and streamlining services, in a way which does not take into account the broader context of individuals' lives. Respondents said that saving resources has led to increasingly poorly thought through decisions and processes that impact disproportionately on groups with complex needs, such as young Muslim men.

Political and social climate

The current political and social climate in the UK today, where Muslims are the subject of increased suspicion and surveillance, means these issues have to be responded to with increased urgency and commitment. The new and particular challenges facing Muslim communities call for new solutions.

In the following section we present the key findings of our interviews grouped under a number of key themes which recurred throughout our research. There is overlap between these themes, indicating the need to take a broad approach while also understanding the granularity that exists within the lives of young Muslim men and how this can be affected or ignored by particular processes within the criminal justice system, such as pre-sentence reports or the types of sentence a magistrate may deliver. Our findings inform and shape our recommendations, which will be laid out in the final section.

◀ Embroidered hooded sweatshirt as part of 'Inside Out' a collaborative art project between Akikur Rahman and Hannah Habibi Hopkin.

1 Unconscious discrimination by criminal justice agencies

As mentioned previously many of the interviewees suggested that, whether unconscious or otherwise, the judiciary often stereotype young Muslim men which is reflected in the sentences they pass. Actually addressing this discrimination in a system that is increasingly focused on cost-cutting and processing cases in volume, as opposed to considering individual needs and the broader context of someone's life, was seen as a considerable challenge by criminal justice professionals.

Bill McHugh, the Chief Executive and former Chair of West Yorkshire Community Rehabilitation Company (CRC),²⁰ who has over three decades experience working in probation, reflected that the probation service has been wrestling for decades with how to influence the sentencing decision-making process. *"The issues young Muslim men are facing today should be seen in the context of those faced by young black men in the CJS – namely evidence of a more punitive approach sometimes being adopted towards them and the failure to take into account the very real inequalities they face in education and employment, as well as other socialisation issues."* He reflected that "depressingly" some of the attitudes and stereotypes held by some sentencers still haven't been addressed or changed – *"a self-examination needs to happen in criminal justice and among politicians to challenge a system where we often judge the offender and not the offence."*

While there has been an increase in more punitive community and custodial sentencing, McHugh said it is important to remember that Muslim prisoners can face a double discrimination – they are not only an offender, but also a Muslim. *"Magistrates may link being a Muslim and the possibility of being persuaded into terrorism."*

There is a real need for education of magistrates in general – particularly when dealing with equitable crimes such as theft. It has not been uncommon to see a young white person receive an 'interactive' community service order for shop theft – yet someone of a minority background is likely to receive a more punitive sentence."

Peter Neyroud, former Chief Constable, now an affiliated lecturer at Cambridge University, said there is an understandably heightened sense of anxiety among the police and that they are *"looking for shadows all the time,"* especially after incidents such as the murder of Lee Rigby and more recent events in Paris and elsewhere.

Bill McHugh raised the question of magistrates' training arguing that that they may, intentionally or otherwise, bring bias or stereotyping into their work. He suggested that magistrates can potentially become more "dislocated" from local communities and that we need to assess the training of sentencers and consider if there can be more constructive ways of sentencing people.

Andrew Neilson, Director of Campaigns at the Howard League for Penal Reform told us that while the point of magistracy originally was that the magistrates would know communities and would bring that knowledge to the court room, it increasingly isn't the case in practice.

And Bill McHugh argues that the impact of stereotyping from magistrates extends beyond the person standing in the dock, to their wider family in the gallery: *"how do families feel when they see their son has been treated differently, potentially, because of their religion - does this then contribute to further alienation and disenfranchisement?"*

This was something that was echoed in our discussions with a group of Muslims in their early twenties in Leicester, all of whom had direct experience of the criminal justice system. Most of the group have been in prison for drug offences with sentences ranging from six months to four years. The group described what they see as

20. Please note, the views expressed by Bill McHugh are not by implication those of the CRC by which he is employed.

strong inconsistencies in how young people are sentenced and a disregard for guidelines – the result of this being that they have no confidence in the CJS.

The group also described what they saw as being discriminated against by judges on the basis of the records of their brothers, older cousins, or even uncles. In the words of one group member, *“I don’t know what it is about our family but we never seem to get bail – you get people nicked on big conspiracy charges who get bail – they give excuses and say things like oh we think you’re going to commit further offences.”*

Young men from other communities may well share similar stories about the criminal justice system. However these young men felt that the disproportionality and discrimination which they felt Muslim men face in the criminal justice system, suggest there may be ground for further investigation.

Religion plays a big part in the way the group believe they have been treated by the criminal justice system: One young man said *“We know a lot of it has to do with our religion. I’ve met people in jail who have been scared to grow a beard because they’re worried they will get a high end sentence.”* And some of the group claimed that ideally they wouldn’t get their pre-sentence reports signed by someone from their own community for fear of it being negatively received: *“now knowing the system I wouldn’t go to Muhammad to sign something, I’d go to Jonathon!”* There was also a perception that discrimination starts a long time before pre-sentence reports, *“we are discriminated against as Muslims from the beginning because of our names and the way we look.”*

2 Islam viewed as both a protective factor and a risk factor

The feedback from our discussion group in Leicester was that Islam can be a hugely positive and supportive influence while in prison, and upon release.

One member of the group, who had since graduated from Nottingham University with a degree in criminology, had served a two year prison sentence. He said that religion often provided Muslims with an impetus not to reoffend and could be a helpful tool in tackling re-offending among young Muslim men: *“I’ve seen a lot how Islam offers people more core values to ensure you’re not going to commit crime again. We know some prime examples of people who became more religious in prison, and with it very humble. You know they would never offend again.”*

These views were echoed by a focus group of young ex-offenders in Mile End, East London, where many of the group viewed and experienced religion as a force for good which provided a framework of values that has sustained them and helped prevent them from falling into old habits upon release: *“When you’re praying in your cell, you feel a real connection; if you go to mosque you might go just to show other people but in prison it’s just you in your cell. There is integrity to that and remembering that comfort and calm helps change your perspectives when you get out.”*

Bill McHugh was also clear about the value of faith as a driver for positive change, *“We have to see that young Muslim men are contributing to society and are not just subjects of worry and suspicion. A better understanding of what Islam is and what that means for young men coming before the court would certainly be helpful.”*

He added that there needs to be an increase in valuing diversity and valuing people from different life backgrounds – which he feels is not always the case.

The importance of faith to reform young Muslim prisoners was recognised in the recently published ‘Young Review’²¹, as well as an HM Chief Inspector of Prisons report published in 2010 around the experiences of Muslim prisoners.²² The latter included testimonies which accorded closely with those we have heard from the groups we have worked with in both East London and Leicester including; *“A Pakistani Muslim from birth who had not been religious until recently, described its value as follows: The Qur’an ... gives me strength and comfort, everything I need it gives me ... I have become a more positive person, much better than 10 months ago. I was not ashamed of my behaviour before I read the Qur’an, things didn’t register properly ... I don’t believe I would have found myself without the Qur’an. It is about caring and giving.”*

Despite this Inspectorate report from five years ago recognising the potential for faith to be a positive catalyst, prison authorities and politicians continue to overlook its potential. Suspicion towards Islam or the act of a person becoming ‘more devout’ is considerable and is particularly pronounced in the CJS setting. As was noted in the previous section, the group of young men we spoke to in Leicester felt strongly that their identity as Muslims influenced the decision-making of magistrates and judges.

In prison different members of the group described receiving racist abuse from prison officers and a general cultural incompetence on the part of the prison. This ranged from being on the receiving end of *“racist banter”*–*“how come you’re wearing a condom on your head today?”* - which, on occasion, provoked serious incidents, to a lack of cultural sensitivity and knowledge, such as selling prayer mats to non-Muslim prisoners to use as rugs on the floors of their cells, not understanding a Muslim’s need for cleanliness and on understanding of the importance of prayer time.

Members of the group had said they experienced heightened suspicion from officers and other prisoners around group prayers – *“any excuse they will ban you from prayers. Once a group of us got banned from prayers because of an incident that happened on the way to the prayer room – even though it had nothing to do with prayers!”* One group member described how he had asked for a Muslim cell mate so he could pray in his cell. This wasn’t facilitated and his cell mate would watch television while he was praying, which would cause fights. Most felt that this and other incidents could have been avoided and diffused easily by prison officers. Such conduct from officers sits poorly with guidance from the Ministry of Justice on faith and pastoral care for prisoners, indicating that adequate provision and sensitivity needs to be shown to collective and private worship.²³

Andrew Neilson from the Howard League for Penal Reform described how these problems are often more pronounced in rural areas as staff are less likely to have experience of multi-cultural society and instantly assume prisoners are becoming radicalised. In such situations, Muslim prisoners are also more likely to band together *“as natural friendships,”* which again raises suspicions of radicalisation among staff.

This report argues that the failure to capitalise on the values which resonate with young Muslims is a missed opportunity. Working to actively harness the positive aspects of faith to support young Muslims leaving prison, will form a central part of our recommendations.

21. Mullen, J. (2014) The Young Review: Improving Outcomes for Black and/or Muslim Men in the Criminal Justice System Final Report, Available from: http://www.youngreview.org/sites/default/files/clinks_young-review_report_dec2014.pdf

22. HM Chief Inspector of Prisons (2010) Muslim Prisoners’ Experiences: A Thematic Review, London, HMIP, Available at https://www.justiceinspectorates.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/04/Muslim_prisoners_2010_rps.pdf

23. Ministry of Justice (2011) Faith and Pastoral Care for Prisoners, National Offender Management Service, Available from: <https://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi-51-2011-faith-pastoralcare.doc+&cd=1&hl=en&ct=clnk&gl=uk>

3 Seeing ex-offenders as assets and supporting their involvement in civil society

Our interviews with Muslim ex-offenders in London and in Leicester reveal a hunger among these young men to set up their own initiatives to tackle high rates of offending and problems such as poor mental health or unemployment. These young men feel that their experience of the criminal justice system gives them a unique insight into how to prevent offending and re-offending among young Muslim men. A number have also pointed out that their entrepreneurialism could be used for social benefit.

“Everyone who’s standing on that street corner has got entrepreneurial skills – imagine they could put that into something else. Put that energy from the street into something ‘legal’ – imagine the development of that area.”

“You have to be your own accountant’. ‘You’re making more money than the adults in your households.”

“To me a young person making 70-80K a year – to me that’s not a criminal – that’s someone who has a head on their shoulders”.

The opinions and voices of young men like these tend to be absent from formal discussions and schemes to tackle disproportionality or discrimination experienced by Muslim men within the criminal justice system. These young men should be viewed as assets and a solution to reducing offending while also creating an emerging class of young Muslim men who want to engage with and strengthen civil society, whilst fulfilling their own potential.

“We’ve never had people like us talking to us about us”.

“We need people from our communities to represent our second and third generations not our first generations”.

4 Training and processing issues

In the interviews we carried out the issue of CJS ‘processes’ and relevant training for CJS professionals came up repeatedly.

Cultural competency of criminal justice agencies

- Andrew Neilson of the Howard League for Penal Reform told us that magistrates are now more diverse in terms of ethnicity but not necessarily in terms of class or age. They are still primarily middle-aged, middle class white men.
- As indicated in the previous sections there is evidence of bias, whether unconscious or otherwise, among magistrates.
- Among the problematic attitudes of magistrates was the homogenisation of groups. We have seen this in our work in different sectors where public services and politicians struggle to differentiate between different Muslim communities, whether they are Somali or Pakistani, Shia or Sunni, or how their lives are affected if they live in Walthamstow in London, or Washwood Heath in Birmingham. It’s crucial to understand the rich diversity within Muslim communities if appropriate services are to be provided.
- A senior probation officer emphasised the importance of understanding the background of magistrates. He said: *“I would argue whether you could even say a magistrate has been through any type of formal training. They are people from a particular background who won’t understand the needs of ethnic minority communities. I’ve even had one magistrate ask about what happens as a result of a particular sentence that he’s already issued. Shouldn’t he have known what that sentence meant in practice before passing it?”*

Swift, yet uncertain, justice

The rapid pace at which cases are processed by prosecutors and the courts, in the interests of saving time and resources, was flagged as a key point of concern by a number of interviewees who have worked in probation and the police for many years.

Fast Delivery Reports (FDRs) – Bill McHugh raised the issue of FDRs as having the risk of delivering poor service: *“these are increasingly common and more like a scoping report than anything. They were introduced in the interests of delivering speedy justice so that the court system isn’t being clogged up. It is often painted as a positive thing for defendants as well as it means that they don’t have to wait for decisions. They can be done in as little as an hour.”* He also suggested that there may be instances where if a person is from an ethnic minority background, there should be more time available to write a report. One major change in recent years is the increasing use of unqualified probation officers to supervise offenders.

- One of the ex-offenders we spoke to in Leicester had received an FDR and said that while this was promoted to him in court as a positive action at the time (because the decision would be made quicker), he had no time to actually understand what was going on. Having gone in expecting to be home that evening on bail, he had to ring his mum from inside prison and to explain his situation.
- A senior probation officer we spoke to complained that there is an emphasis on running through cases quickly, and not having adjournments. Typically, a probation officer could have a two hour window to write a report. The probation officer also mentioned that he could adapt his report to tailor it to a magistrate who may not be *“as clued up on diversity or understand minority communities”*.

Contracting out of probation to commercial agencies – closely linked to FDRs this is an issue which confirms concerns about the quality of probation support.

- Peter Neyroud, described how contracting out probation has the potential to cause problems and may mean that cases are pushed through in volume with less and less consideration for the individual. *“In order to make profit, private companies have less skilled staff – those staff employed are focused on a rapid process that operates in a more ‘tick boxy’ way. This doesn’t help deal with the more subtle distinctions and needs that different communities have – which is particularly relevant when considering Muslim men.”*

Neyroud explained how cases often go through magistrate courts in volume and that reports are sometimes drafted over the phone with a lot of content drawn from skeleton templates. This is particularly problematic for young Muslim men, who often struggle to divulge information because of issues of trust or lack of legal advice and guidance.

- Andrew Neilson described magistrate courts as a *“bit of a conveyor belt - they see a lot of cases and so probably they start to see repeat patterns with defendants and make assumptions on the basis of that. This definitely mitigates against taking a more individualistic approach to cases.”*

“**PROBABLY YOUNG MUSLIM MEN DON’T HAVE A HIGH LEVEL OF TRUST AND NOR DO THEIR DEFENCE LAWYERS**”

Lack of confidence in the system and low levels of trust among young Muslim men

Throughout our interviews a recurring issue was that young Muslims are less likely to plead guilty and therefore get longer sentences than others, who may have better legal representation and advice at hand.

- Jason Harwin, District Police Commander for Rotherham, South Yorkshire told us that from his experience trust is a major issue, “typically people from minority communities are less trustful of public services – so they are less willing to engage and divulge information during the report writing period. This impacts on their sentencing in that the content of their report will be more limited as there is less supporting evidence.”
- Peter Neyroud, feels that a lack of trust among young Muslim men, and their lack of access to appropriate legal support, may play a role in the harsher sentencing of Muslim men.

“We have known about the issues driving this for at least 30 years since a key study of police cautioning in the mid 1980’s – it’s because if you don’t admit the offence because you don’t trust the police then you go straight into the formal system. We have already seen these trends with young Afro-Caribbean boys. If you have insufficient access to a good solicitor you’ll end up in prison faster because the lawyer isn’t there to dig you out. Add on top of that family issues – for example for practising Muslims, admitting drug use might not be easy, so you don’t have that support.” “Probably young Muslim men don’t have a high level of trust and nor do their defence lawyers. If the defendant is reticent and feels unable to open up – they will have a very limited pre-sentence report.”

He added that *“often magistrates respond well to simple concessions such as agreeing to go on an anger management course or a substance misuse course and often decide not to charge in such cases. However if defendants aren’t being advised in this way, they wouldn’t know to do this.”*

Alternative interventions and the potential of restorative justice

- According to Jason Harwin, ‘Community Justice Panels’ that he has worked with and that are due to start soon in Rotherham, are useful because they look at the broader circumstances of a person’s life instead of going straight into the court process. He understands that if we want to break the cycle of reoffending more could be done: *“we either put our head in the sand and continue with reactive models or we recognise that there are shortages across all sectors and try to address this. Prison is expensive and doesn’t necessarily work so without appropriate interventions, people will end up back in prison again.”*
- Stuart Johnson, Head of Youth Offending Services at Tower Hamlets Borough Council spoke about the usefulness of the ‘Dear Judge’ letters; *“In Bradford it was understood that a lot of Muslim young men had kept the fact that they had been arrested and charged from their families. They used older friends and siblings to be their ‘appropriate adult’ while all along keeping their parents in the dark for fear of what they would think. In response to this it was decided that in Bradford a family conference would be called when a pre-sentence report had been ordered, with as wide a network of the young person’s family present as possible. This involved a tool called a ‘Dear Judge’ letter which asked each member of the family to say what would be the effect of the young person going into custody and what they would do*

to keep the young person out of trouble. An uncle for example might say he can work at my stall, a cousin might say he can come to my football club. This has a two-prong function; it makes the family aware and sets them up to better support the young person and importantly it also lets the judge have some flavor of the young person's family."

- Grace Loseby, former Justice Project co-ordinator at IARS, an organisation that have conducted extensive research into restorative justice told us that that the challenges faced by young Muslims in their pre-sentence reports means there could be an argument for a more restorative approach. *"Restorative justice meetings – which bring together the perpetrator with the victim and often other parties – can take place before or after sentencing. The content and outcome of those meetings communicate the impact of the harm caused and potentially give a much fuller/'more human' picture of an offender's situation."* Loseby suggested that the use of 'therapeutic jurisprudence'²⁴ in Coroner Courts in Australia and New Zealand, where variables such as age, gender and race are taken into account when working to delivering justice, could be a useful model.

“
**PUT THAT ENERGY
FROM THE STREET
INTO SOMETHING
'LEGAL'**”

5 Maturity

All of the parties we spoke to agreed that the recognition of maturity is important, and that diverting under 25s from the criminal justice system should be a priority. There was also a consensus that the complex inequalities faced by Muslim communities have an effect on the development of maturity. It was felt that criminal justice professionals should be particularly thorough when taking into account of maturity working with to Muslim offenders.

Research suggests that 'important role transitions' including being in full-time employment, moving out of the family home and having financial independence are central to a young adult's 'developmental maturity.'²⁵ Given the disproportionate inequalities young Muslims face in employment, education, housing and access to services, as well as stigmatisation and stereotyping, young Muslim men are particularly likely to be misjudged on maturity criteria. This difference is not currently being recognised by judges and magistrates.

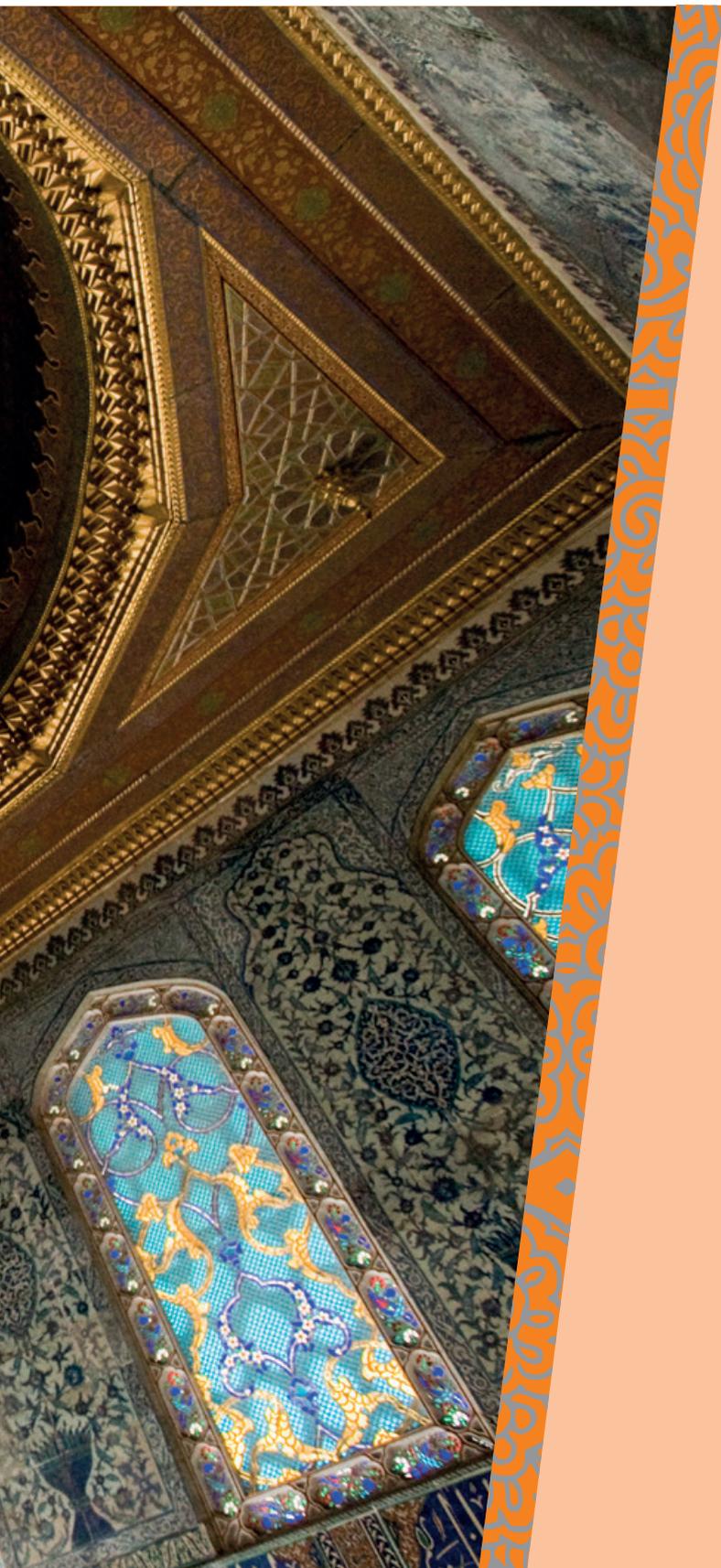
Stuart Johnson commented that the Muslim Asian youth population is over 50% in Tower Hamlets and that it is over-represented in custody. We also know from a study published in December 2012 by the Chief Inspector of Prisons and the Youth Justice Board found that the proportion of young male offenders in Young Offender Institutions (YOIs) who describe themselves as Muslim had risen sharply from 13% in 2009 to 22% in 2011–12.

Police Commander Jason Harwin said that they recognise in South Yorkshire that certain young people are more likely to be in the CJS because of inequalities and disadvantages in their backgrounds and that this should be factored into conversations on how these young people 'develop' in maturity compared to more privileged peers.

24. Braithwaite, J. (2002) Restorative Justice and Therapeutic Jurisprudence, Criminal Law Bulletin-Boston 38(2), 244-262

25. Purin, I. Dünkel, F. (2015) Better in Europe?: European Responses to Young Adult Offending, Available from: http://www.barrowcadbury.org.uk/wp-content/uploads/2015/02/T2A_Better-in-Europe_Report-online.pdf (p.23)

RECOMMENDATIONS



Overarching recommendation: for criminal justice professionals to have a broader and richer understanding of a young person's life in order to issue the most appropriate sentence that will be of the most benefit to the individual and to society. We recognise that in order to facilitate this, interventions have to be made at different stages of the CJS.

1 Training

Develop training for criminal justice professionals so that problems associated with stereotyping and unconscious bias can begin to be overcome.

Training would involve magistrates working directly with young people who have experienced the CJS, such as the group we worked with in Leicester. Training resources would be created as part of this work.

This training would lead to increased understanding of the networks which exist within Muslim communities and in particular in the lives of these young men.

Create accessible resources for police and young people to tackle gaps in knowledge and misunderstanding that may lead to situations escalating unnecessarily – for example arrests being made and people being charged. Build up knowledge about Islam and around the idea that religion can be a strong and positive tool for addressing offending and re-offending among young Muslim men. This would involve authorities working closely with young Muslim men who have been in prison and have a unique experience and knowledge which could be capitalised on and which has the potential to reduce offending.

2 Community Resilience

Build community resilience – Maslaha have identified (and been approached by) three groups of young Muslim men who have experienced the criminal justice system based in East London, North London and Leicester. We are looking at models of successful networks or incubation programmes such as that used by St Giles Trust which could be used to help support young Muslim men.

These different groups of Muslim ex-offenders have all expressed a desire to be supported by individuals and organisations who can understand the cultural and religious aspects of their lives. There are a number of ‘incubation’ programmes currently running for entrepreneurs or social entrepreneurs. Any training programme needs to take into account the cultural, social and religious background of these groups.

3 Wider public narrative

Reframe the wider public narrative. It is clear that the wider negative discourse surrounding Islam and Muslim communities influences players in the criminal justice system and how Muslim communities are perceived. Campaigns or creative projects for magistrates, probation workers and the police are needed to shed light on the daily lives of Muslim communities. This is different to diversity training and would involve understanding the specific elements of a religion in the context of CJS processes. This approach would be more about challenging a pervasive attitude and mood and would require a creative approach.

4 Sentencing Reports

Improve the contents and process of sentencing reports – the process of compiling these reports does not allow for an understanding of a young Muslim man who has come into contact with the CJS. The current requirements for rapid delivery and quick turnaround to write these reports, does not lend itself to appropriate sentencing or providing a full picture for the magistrate.

“
WE’VE NEVER HAD PEOPLE
LIKE US TALKING TO US
ABOUT US”

YOUNG MUSLIMS ON TRIAL

A scoping study on the impact of Islamophobia on criminal justice decision-making

Building on the recommendations in Baroness Lola Young's 2014 Review, this report focuses on the disproportionate number of young Muslims in the criminal justice system compared to their proportion in the general population. It examines how perceived prejudice and discrimination against young Muslim men can impact on criminal justice decision making, particularly in sentencing, probation supervision and management in prison.

Based on interviews with groups of young Muslim ex-offenders in London and Leicester, as well as criminal justice professionals, this scoping study has found that young Muslim men who found faith in prison faced system-wide responses based on suspicion and risk aversion.

Although only 1% of Muslim offenders are in prison for terrorist offences, there is a perception among professionals that prisons have the potential to foster radicalisation, and this appears to be setting a tone for a more punitive response to Muslim offenders. There was also strong testimony that suggests a missed opportunity by criminal justice agencies to harness Islam's potential to help young Muslim offenders to rehabilitate and resettle in their communities.

The report recommends a rethink in the approach to equalities throughout the criminal justice system, with an emphasis on the need for specialist training of criminal justice professionals about Islam and the lives of young Muslims.



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