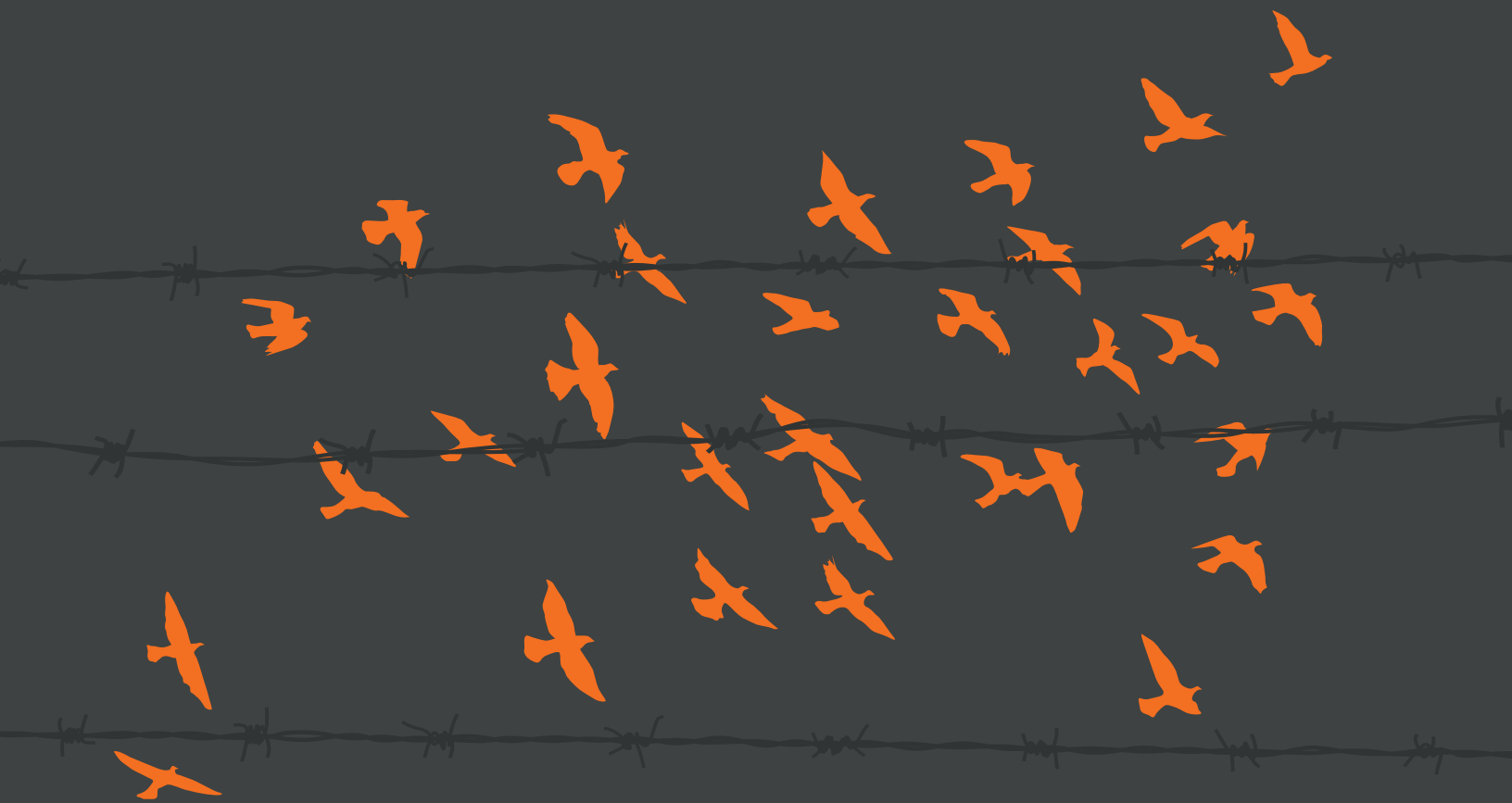


HEALTHCARE AND HARM REDUCTION FOR

RACIALIZED PEOPLE IN PRISON



HARD TIME PERSISTS



Canada must ensure that racialized people have access to culturally appropriate healthcare, including harm reduction programs, in prison.¹

Historic and ongoing racism in Canada has had enormous impacts on the health and well-being of racialized individuals in the country.² As a result of disproportionate policing, bias in our criminal legal system, and other forms of systemic discrimination, Black people, as well as Southeast Asian men continue to be overrepresented in the criminal legal system, including in prison settings.³ Black people, for example, make up about 9% of the federal prison population in Canada but are only 4% of the overall population.⁴ Southwest Asian and North African men are also among *the* fastest growing populations in prison.⁵ Racialized women are *the* fastest growing population in prison.⁶ Incarceration exposes people to worse health outcomes, including increased risks of acquiring sexually transmitted and blood-borne infections (STBBIs), as well as toxic drug injury and death.⁷ As confirmed by the United Nation Committee on the Elimination of Racial Discrimination, “**freedom from racial discrimination requires providing alternatives to detention and the provision of humane conditions of detention in strictly necessary cases, including access to healthcare.**”⁸



In general, African Canadians have poorer health outcomes and are less likely to avail themselves of health services than many other groups.

Social factors, including poverty, unemployment, racism and discrimination, increase the risk of illness and interfere with timely and equitable treatment. Thus, African Canadians experience a high and disproportionate level of chronic health conditions such as hypertension, diabetes, HIV and AIDS, cancers, mental health problems and sickle cell disease. Several factors contribute to these health disparities, including historic barriers to access and continuity of health care, long-standing systemic racism, low socioeconomic status, lack of cultural specificity in health education and underrepresentation of Black health professionals in the system.”

Source: *Report of the Working Group of Experts on People of African Descent on its mission to Canada*, United Nations Human Rights Council, A/HRC/36/60/Add.1, at paras 64-65.



Despite repeated calls to address pervasive racism in the criminal legal system, prisons across the country are failing to provide culturally sensitive and appropriate programs and services to racialized people.⁹

Racialized people in prison experience substantial (and often explicit) discrimination from prison staff, including correctional officers and healthcare providers.¹⁰ Prison staff lack meaningful cultural competency training, while incarcerated people see their complaints of discrimination ignored, rejected, or used as a basis for reprisal.¹¹

At the federal level, Correctional Services Canada (CSC) has recently developed a policy to respond to the needs of racialized people. The policy, however, has replaced meaningful action:

- The **“Ethnocultural Offenders” policy** aims to ensure that culturally appropriate services are available to meet the needs of racialized people in prison.¹² Pursuant to the policy, CSC is to deliver and monitor services to meet the needs of racialized people, using an intersectional lens. Prison administrators must foster environments in which the diversity of people in prison is appreciated, and they must promote an environment that is inclusive and free from discrimination. The policy calls for the engagement of community organizations who can further support racialized people throughout their incarceration and upon release. The policy also confirms that racialized people should be able to form their own cultural associations, obtain interpreters where required, and obtain culturally appropriate food for cultural events.
- The **experiences of racialized people in federal prisons** reveal a significant gap between policy and practice. In the Office of the Correctional Investigator’s (OCI) 2022 report, OCI found that prison staff continued to engage in pervasive and systemic discrimination against racialized people. Racialized people continued to be exposed to discrimination in accessing healthcare in prison, including healthcare providers who minimized their physical and mental pain.¹³ Racialized people were also banned from having cultural items, like do-rags, and punished for forming associations, like support groups, because of perceived connections to gangs. Racialized women did not have access to needed hair or skin care or hygiene products — a challenge that is amplified for trans women in men’s institutions. Additionally, studies have found that religious minorities do not have access to adequate spiritual services, particularly since CSC shifted away from a faith-based community model, through which organizations were provided contracts to hire, train, and oversee the work of their respective chaplains.¹⁴ CSC has now privatized the chaplaincy service to a single company, imposing a “one size fits all” approach to religious services, and reducing the quality of service and number of resources for religious minorities.



A Black inmate in pain will often be treated with contempt.

They will accuse him of exaggerating the pain, of trying to elicit pity, even though his suffering is actually unbearable. But if a White guy shows up with much less pain, he will be taken at his word. He will be prescribed painkillers right away or transferred to a hospital for a thorough examination.”

– Interview excerpt with a Black incarcerated person

Source: Office of the Correctional Investigator, *Annual Report 2021-2022, 2022*, available at <https://oci-bec.gc.ca/sites/default/files/2023-06/annrpt20212022-eng.pdf>, at p. 63.



At the provincial and territorial level, the needs of racialized people are largely overlooked. Not one jurisdiction has established comprehensive culturally responsive policies or practices:

- In **Nova Scotia**, multiple policies appear aimed at addressing the needs of racialized people in prison. However, each policy fails to meaningfully promote or protect access to cultural programs or services. For instance, the province has a policy that recognizes the importance of providing access to spiritual and cultural programs and services.¹⁵ However, the policy only specifies programs that are to be available to Indigenous people in prison and does not indicate what programs may be available to other racialized people. The province also has a policy that appears to allow for the provision of cultural diets upon request, which must be approved by “the chaplain.”¹⁶ Yet, the policy explicitly provides for special meals to celebrate Easter, Thanksgiving, and Christmas. In practice, advocates have confirmed that racialized people in Nova Scotia prisons are treated in a discriminatory manner.¹⁷
- In **Ontario**, the *Inmate Information Guide for Adult Correctional Facilities* confirms that all incarcerated people have a right to be free from discrimination, including based on race.¹⁸ The guide claims that there is a focus on “Afrocentric programs, such as the African Canadian Excellence (ACE) program that addresses the needs of black male inmates.” However, there is no information about what the ACE program entails or whether it is still offered, and what other programs are available to meet the needs of racialized people.¹⁹ In the Ontario Chief Coroner’s 2023 findings, the Chief Coroner marked an urgent need to advance “anti-racism, cultural and gender considerations in all facilities, including attention to zero-tolerance policies; sensitivity training for correctional staff; collection, reporting and use of race-based data; culturally specific product availability within canteens and facilities.”²⁰
- **Other jurisdictions in Canada** also fail to provide adequate cultural services in policy or practice. Saskatchewan and Prince Edward Island are the only other jurisdictions to mention culturally responsive programs or services in policy, but the policies are limited to allowing for special diets.²¹ At the same time, there is a lack of information regarding what cultural programs exist in practice.





While Muslim prisoners are given prayer mats and Qurans, their struggles with broader access to religious services raise questions about the way the *Charter* right to practice religion is actually implemented.

The obligation, for example, to provide a vegetarian or Halal diet can be met by providing cereal as meals, but these are hardly adequate menus. When prisoners have to fight to see spiritual advisors of their faith, while Christian chaplains are employed in every institution, then it's hard to argue that all prisoners are given equal rights to practice their faith. [...] As Malik tells me when I ask about practicing his faith while incarcerated:

The joy of being a Muslim is profound. We're trying to reach spiritual awakesness. Obviously we realize we're in prison, but we can't compromise our fundamental freedoms, nor should we have to. We feel like there's a racial component to it. I've requested books to be sent here. People can grow. Look at the example of Malcolm X. He came out of prison, he was a speaker and leader for his whole nation.

There's people reaching out to me for me to explain and spread Islam. But I don't have the resources, or the books, to explain. It's usually people of colour who are reaching out. When you look at the sentences handed out, we're the longest here; we have the worst sentences."

Source: El Jones, "Ramadan in jail: prisoners in Burnside are being denied the right to practice their religion," *Halifax Examiner*, May 13, 2019.

Moving forward, federal, provincial, and territorial governments must ensure that culturally appropriate healthcare, including harm reduction services, are consistently available to racialized people in prison.

The present lack of programs and services tailored to the needs of racialized people in prison marks a clear violation of Canada's promise to promote, protect, and respect the rights of all people without distinction based on race.²²

1. Prioritize decarceration and alternatives to detention:

Not only has Canada's legacy of colonialism and racism, and particularly anti-Black racism, contributed to the enactment of criminal laws that target racialized people, but it has also resulted in their harsh treatment throughout the criminal legal system. Racialized people are more likely to be denied bail, sentenced to custody, placed in higher security prisons, and subject to greater use of force in prison.²³ Promoting the health and well-being of racialized people in prison thus hinges on recognizing and addressing the ways in which colonialism, racism, discrimination, marginalization, gender discrimination, misogynoir, and other factors contribute to their treatment in the criminal legal system.

All levels of government must invest in Impact of Race and Culture Assessments, which detail how racism and discrimination contribute to a racialized person's interaction with the criminal system.²⁴ These pre-sentencing reports should be used to promote culturally relevant and appropriate alternatives to incarceration. At the federal, provincial, and territorial level, prison administrators must also develop and implement, in partnership with community organizations representing Black and other racialized communities, policies and plans to prioritize increased access to community-based alternatives to detention, such as conditional sentences that are served in the community. Additionally, the federal government must work towards eliminating mandatory minimum sentences for all offences, which increasingly and disproportionately affect racialized people.²⁵ These measures must be viewed as an ongoing and evolving process in decarceration and the decolonization of Canada's correctional system.

2. Provide consistent culturally responsive services and programs:

Racialized people have a right to culturally sensitive and appropriate care that is tailored to meet diverse social, cultural, and linguistic needs, regardless of their involvement in the criminal legal system. Culturally responsive programs, including culturally sensitive healthcare services, are known to have a profound impact on well-being — enhancing resilience, fostering social cohesion, and promoting health-supporting practices — and should be understood as fundamental to health and well-being among racialized people.

Prison administrators across Canada must invest in cultural programs and services, inside and outside healthcare, tailored to meet the unique needs of the racialized prison population.²⁶ The programs must respond to religious and spiritual needs, as well as gender-specific needs.²⁷ Those programs and services must be developed in concert with racialized people in prison and relevant community organizations. An emphasis should be placed on in-reach programs, which can provide people in prison with opportunities to connect with cultural and/or spiritual community organizations. Community organizations must be appropriately funded and compensated for their contributions.

3. Prioritize cultural sensitivity and understanding:

Racialized people have a fundamental right to freedom from discrimination, including in the prison environment. Prison authorities across the country must develop strategies to create cultural safety and understanding among all prison staff, including healthcare staff, to respect those fundamental rights.

Racial and cultural understanding must be treated as a requirement when hiring new prison staff, and racial and cultural competence training, in addition to training on gender competency and gender-affirming care, must be treated as a core part of staff training. Healthcare providers must be provided with targeted training that draws on the research on racial bias and its impact on medical decisions. Training programs should be implemented and administered by external organizations, who can provide knowledge about relevant spiritual and cultural beliefs and practices, as well as in-depth information on harm reduction and trauma-informed care, taking into account the unique harms faced by racialized people in Canada. These training programs must be monitored and evaluated to allow for improvement and adaptation based on local realities and practical experiences. External organizations should be engaged to provide ongoing monitoring and evaluation, in order to establish layers of community-led accountability. Their contributions must be appropriately funded and compensated.





Bright Spots

- **“African Canadian Reintegration Officer” in Nova Scotia:** At the federal level, an African Canadian Reintegration Officer position was developed in 2021 at Springhill Institution to connect incarcerated people with culturally responsive services.²⁸ The officer works with community groups and connects them with racialized people prior to release to find ways to meet their needs, and promote successful reintegration.²⁹ For instance, the officer facilitates unescorted temporary absences, which allow individuals to build community networks prior to the release. The success of the position at Springhill Institution has led to the creation of similar positions in other institutions.
- **“Black Social History” in Ontario:** At the federal level, a pilot project in the Central Ontario District emphasizes the importance of understanding the unique lived experiences of Black people in prison. Specifically, the pilot project involves taking into account “Black Social History” in correctional planning,³⁰ and the specific cultural needs and interests of Black people in prison. While limited information is available on how the program has been received by people in prison, the pilot has been considered a success by prison administration and is being expanded to other locations.³¹



References

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- ² See *Report of the Working Group of Experts on People of African Descent on its mission to Canada*, United Nations Human Rights Council, A/HRC/36/60/Add, in which the Working Group calls on Canada to address racial discrimination, through an intersectional lens, including in prison and in healthcare.
- ³ See Justice Canada, *Fact Sheet: Key Facts and Statistics about the Overrepresentation of Black People in the Criminal Justice*, September 1, 2023, available at www.justice.gc.ca/eng/cj-jp/cbjs-scjn/fact1-fait1.html; Department of Justice Canada, *Overrepresentation of Black people in the Canadian criminal justice system*, December 2022, available at www.justice.gc.ca/eng/rp-pr/jr/obpccjs-spnsjpc/pdf/RSD_JF2022_Black_Overrepresentation_in_CJS_EN.pdf; *R v Gladue*, [1999] 1 SCR 688, 1999 CanLII 679 (SCC), at paras 58-65; *R v Morris*, 2021 ONCA 680, Appendix; Office of the Correctional Investigator Canada (OCI), *Annual Report 2021-2022*, June 30, 2022, available at <https://oci-bec.gc.ca/sites/default/files/2023-06/annrpt20212022-eng.pdf> [OCI Annual Report 2022]; S. Wildeman et al., “Conditions of Confinement in Nova Scotia Jails Designated for Men: East Coast Prison Justice Society Visiting Committee Annual Report 2021-2022,” *East Coast Prison Justice Society*, 2023, at pp. 8, 32 [Conditions of Confinement 2022]; Government of Canada, *Ethnocultural offenders in federal custody: Population trends*, 2022, available at <https://www.canada.ca/en/correctional-service/corporate/library/research/glance/446p.html> [Ethnocultural offenders].
- ⁴ See Justice Canada, *Fact Sheet: Key Facts and Statistics about the Overrepresentation of Black People in the Criminal Justice*, *supra* note 3; Canadian Civil Liberties Association, *Fact Sheet: Anti-Black Racism in Canada’s Criminal Justice System*, November 2021, available at <https://ccla.org/wp-content/uploads/2021/12/Anti-Black-Racism-Fact-Sheet-2021.pdf>, at p. 8.
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- ⁷ A. Boulanger et al., *Hard Time Persists: Healthcare and Harm Reduction in Canada’s Prison System*, HIV Legal Network, forthcoming.

- ⁸ *General Recommendation No 37: Racial discrimination in the enjoyment of the right to health*, UN Committee on the Elimination of Racial Discrimination, CERD/C/GC/37, August 23, 2024, at para 26.
- ⁹ See, e.g., OCI, *A Case Study of Diversity in Corrections: The Black Inmate Experience in Federal Penitentiaries*, 2013, available at <https://oci-bec.gc.ca/sites/default/files/2024-04/oth-aut20131126-eng.pdf>; OCI *Annual Report 2022*, *supra* note 3.
- ¹⁰ See, e.g., OCI *Annual Report 2022*, *supra* note 3, at p. 60; Ontario Chief Coroner's Expert Panel on Deaths in Provincial Custody, *An Obligation to Prevent: Report from the Ontario Chief Coroner's Expert Panel on Deaths in Custody*, January 2023, available at www.ontario.ca/document/obligation-prevent-report-ontario-chief-coroners-expert-panel-deaths-custody, at p. 36 [*Obligation to Prevent*]; *Conditions of Confinement 2022*, *supra* note 3, at p. 73; Formerly Detained at Toronto South Detention Centre (Interview with the HIV Legal Network, February 22, 2023).
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- ¹² CSC, CD 767: *Ethnocultural Offenders*, January 25, 2021.
- ¹³ OCI *Annual Report 2022*, *supra* note 3, at pp. 39-76.
- ¹⁴ See, e.g., National Council of Canadian Muslims, *A Review of Privatized Prison Chaplaincy Services*, 2021, available at www.nccm.ca/wp-content/uploads/2025/02/Prison-Chaplaincy-Privatization-Report-1.pdf [*Privatized Prison Chaplaincy*]; Senate Standing Committee on Human Rights, *Combating Hate: Islamophobia and its Impact on Muslims in Canada*, November 2023; Senate Standing Committee on Human Rights, *Human Rights of Federally-Sentenced Persons*, Report of the Standing Committee, June 2021, at p. 84.
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- ¹⁶ Nova Scotia, *Menu Planning and Food Services*, October 2, 2020.
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- ¹⁸ Ontario, *Inmate information guide for adult correctional facilities*, July 22, 2024.
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