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Published version

BANKS, James (2011). Foreign national prisoners in the UK: explanations and implications. *The Howard Journal Of Criminal Justice*, 50 (2), 184-198.

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Foreign National Prisoners in the UK: Explanations and Implications

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Abstract: This paper examines the rapid expansion of the foreign national prison population in the UK against a back-drop of public and political anxiety about immigration and crime. It explores official data considering some of the possible explanations for the growth in the number of foreign national prisoners and the implications this has for penal management. Whilst increases in both the number of foreign nationals entering the UK and the number of foreign nationals in UK prisons has strengthened the association between immigration and crime in the public imagination, there is little empirical evidence to suggest that foreign nationals are more dangerous than British nationals. Instead, the growth of the foreign national prison population appears to stem from a number of sources that may operate alone or in tandem.

Keywords: foreign national prisoners; British national prisoners; immigration; crime.

On 30 June 2009, there were 11,350 foreign nationals in prison, representing an increase of 111 per cent over the past decade (Ministry of Justice 2010). This rise in the number of foreign national prisoners has taken place in the context of increased populist anxiety about immigration and crime. The broad issues of immigration and race relations have grown in public importance since the early twenty-first century (MORI 2007). Repeated myths concerning immigration and immigrants have, in part, caused this concern and consternation amongst the public at large (Mollard 2001). Newspapers, most notably the tabloid press, routinely propagate an alarmist discourse that draws associations between immigrants and a number of social ills, including crime, disease and terrorism (Mythen and Walklate 2006; Banks 2008). And it has not only been far right political parties, such as the United Kingdom Independence Party and the National Front, that have legitimated peoples' fear of foreigners, both Conservative and Labour parties have acquiesced to a discourse that bundles together asylum seekers, economic migrants, illegal immigrants, and foreign nationals more generally,

depicting them as dangerous and deviant. The 2005 election was particularly notable for Michael Howard's 'dog whistle' campaign, with the slogan 'Are You Thinking What We're Thinking?', which sought to target anxious groups on the issue of immigration and asylum. In effect, the habitual portrayal of the immigrant as criminal has fused the otherness of the stranger with the otherness of the deviant, evoking a 'new' moral panic over outsiders.

The discovery, in April 2006, that over a thousand foreign national prisoners had been released from custody before immigration authorities could assess whether or not they should be deported caused considerable media, public and political outcry, enflaming concerns about immigration and crime. The ensuing media depiction of released foreign nationals as dangerous strangers, supervised by incompetent criminal justice and immigration professionals, led not only to the resignation of the then Home Secretary Charles Clarke, but placed the spotlight firmly on the management of foreign national offenders in the UK. This has had the effect of legitimating a debate on the foreign national prison population shaped by a panic-stricken discourse which equates foreigners with increased levels of crime.

The growth in the foreign national prison population has led to a significant body of research (Bhui 2004a, 2004b; Cheney 1993; HMIP 2003, 2004a, 2004b, 2005a, 2005b, 2006a, 2006b, 2006c, 2006d; Prison Reform Trust 2004; Tarzi and Hedge 1990, 1993) which has documented the particular difficulties foreign nationals experience in the prison system. Collectively, the work has identified that foreign nationals' experiences of prison are characterised by isolation, language barriers, limited or no family contact, discrimination and racism, limited understanding of the prison and criminal justice system, and a number of problems linked to immigration-status, post-sentence detention, resettlement and deportation. Yet, whilst this body of work has documented the (largely negative) effects of prison on foreign nationals, the possible reasons behind the rapid expansion of the foreign national prison population have, to date, not been subject to rigorous empirical analysis. This paper

employs official statistics to examine the possible explanations for the growth in the foreign national prison population and considers this rise in the context of heightened public and political concern about foreign nationals, immigration and crime.

The Growth of the Foreign National Prison Population

Ministry of Justice statistics show that in 2009 foreign nationals comprised 13.7 per cent of the total prison population in England and Wales. Although the total number of foreign nationals in prison fell by one per cent from 2008 this has followed a continuous increase from 1999 to 2008. Table 1 provides figures for the population in prison by nationality between 1999 and 2009. In 1999, there were 5,388 foreign nationals in prison in England and Wales. By 2009, this figure had risen to 11,350, an increase of approximately 6,000 foreign nationals within a ten year period. And whilst the prison population as a whole has continued to expand, the foreign national prison population is distinguished by the rapidity of its growth. Between 1999 and 2009, the number of foreign national prisoners increased by a staggering 111 per cent compared to a rise of just 21 per cent in British national prisoners.

(Insert Table 1 about here)

The growth in the foreign prison population has been fuelled by substantial increases in both the number of foreign nationals receiving immediate custody and the number of foreign nationals subject to untried reception into custody. In 2009, 24,581 foreign nationals were received in UK prisons. Of this figure, 12,350 prisoners of a foreign nationality were received under an immediate custodial sentence, representing a two percent increase from 2008. Similarly, there were 11,300 untried receptions, representing a one percent increase from 2008. However, both figures represent relatively small increases when compared to longer

term trends, which have seen the number of foreign nationals received under immediate custodial sentence rise by 152 per cent and the number of untried receptions increase by 136 per cent between 1999 and 2009.¹ By contrast, the number of British nationals subject to an immediate custodial sentence decreased by 6 per cent and the number of untried receptions declined by 28 per cent between 1999 and 2009.

Today, one in five female prisoners and one in nine male prisoners is a foreign national. The foreign national prison population is increasingly diverse, consisting of individuals from 169 different countries. Of this population, 70 per cent are from an ethnic group other than white and foreign nationals consist of 40 per cent of the total number of ethnic minorities in prison (Ministry of Justice 2010). Contributing to just under 14 per cent of the total prison population, foreign nationals represent a growing and diverse group that pose many changes and challenges for the UK's prison system. No longer the 'forgotten prisoners' (Cheney 1993; Prison Reform Trust 2004), the rise in foreign nationals in prison has encouraged research (Bhui 2004a; 2004b; Prison Reform Trust 2004) into their experiences of imprisonment, however, less consideration has been given to the reasons behind this increase and there is scant analysis of official data in relation to foreign nationals and prison.

Possible Explanations for the Growth in the Foreign National Prison Population

Concerns about the criminality of the foreign born in the UK resonate throughout political and public discussion of immigration, with many social commentators positing a direct link between immigration and crime (Young 2003). Underpinning such 'common sense' notions is the idea that increased levels of immigration result in increased levels of crime, as foreign nationals are more likely to commit crime than British nationals and are more likely to commit crimes of a serious nature. 'Common sense' also dictates that if crime increases,

prison rates will also increase. A steady growth in both the number of foreign nationals entering the UK and the number of foreign nationals in UK prisons has strengthened the association between immigration and crime in the public imagination.

Notwithstanding the inherent problems in assuming a one-to-one relationship between the size of the prison population and the crime rate in the UK (Matthews 2009), there is little evidence to demonstrate that increased levels of immigration result in more crime and more foreign nationals in prison (Bell et al. 2010). Instead, the marked increase in the number of foreign national prisoners between 1999 and 2009 could stem from a number of sources that may operate alone or in tandem: patterns in offending; increases in non-criminal prisoner receptions; increasingly restrictive immigration policy; ineffective deportation provision; and a (perceived) lack of viable options to custody. Official statistics will be employed to evaluate the potential of these factors to provide some understanding as to the growth in the number of foreign nationals in UK prisons.

Patterns in Offending

There is little evidence to suggest that foreign nationals are more likely to be imprisoned, and imprisoned for longer, because they commit more serious crimes than British nationals. However, certain patterns in offending behaviour may contribute to the overrepresentation of foreign nationals in UK prisons. Table 2 provides an overview of the population in prison establishments under an immediate custodial sentence by nationality and offence type.

(Insert Table 2 about here)

The disproportionate number of foreign nationals convicted for drug offences appears to be a significant contributory factor to their overrepresentation in prison. For June 2009, foreign

national prisoners imprisoned for drug offences comprised 29 per cent of the total number of foreign nationals under immediate custodial sentence in comparison to just 14 per cent of British nationals. Female foreign national prisoners, in particular, are more likely to have been convicted for such crimes, with just under half (48 per cent) of all female foreign national prisoners under immediate custody for drug offences. The penalties for drug smuggling are particularly severe, with average sentences of between five and eight years for a first offence. Consequently, three quarters of all female foreign nationals and 63 per cent of foreign national men in prison are serving sentences of more than four years, compared to a third of UK national women and half of all UK national men (Allen et al. 2003).

Current sentencing practice for drug couriers has been criticised for penalising the vulnerable, not proving effective and placing unnecessary pressure on an already overstretched prison system (Allen et al. 2003). As the report of the Committee on Women's Imprisonment chaired by Professor Dorothy Wedderburn recognises, 'the deterrent purpose of sentencing these women to long periods of custody has not been evaluated and its effectiveness must be highly questionable.' (Prison Reform Trust 2002: 3). This is particularly pertinent, as many of those convicted come from a background of poverty, are unlikely to be aware of the seriousness of drug offences in the UK, and only become drug couriers through violence, intimidation and coercion (Green 1998; Allen et al. 2003; Prison Reform Trust 2004). Yet, whilst improved international communication has resulted in a 45 per cent fall in the proportion of female foreign nationals in prison for drug offences between 2002 and 2009 – reversing the steady increase since 1996 – the total number of prosecutions of foreign nationals for drug offences continues to contribute to the growing number of foreign nationals in UK prisons.

Ministry of Justice data does not support the view that foreign nationals are more likely to receive a prison sentence and/or be sentenced for a longer period of time because

they are more dangerous than British nationals. Whilst it is acknowledged that offence group data ‘can provide only a blunt measure of offence seriousness’ (Bhui 2008: 157), the data presented in Table 2 does indicate that foreign nationals are no more dangerous than British nationals with rates of sexual and violent offences either comparable or lower for foreign nationals. Official statistics for 2009 show that 12 per cent of foreign and British nationals were subject to immediate custody for sexual offences, whilst British nationals are more likely to be imprisoned for ‘violence against the person’, with 30 per cent of all immediate custodial receptions being for violent offences in comparison to 22 per cent for foreign nationals.

Assessments of whether crime committed by foreign nationals is becoming more serious is hampered by a lack of detailed data provided by the Ministry of Justice. Little is known about court convictions or the sentences passed on foreign nationals. Moreover, Ministry of Justice data on custodial receptions does not provide details of offence type. Short term data on the foreign born population under immediate custodial sentence by offence type is detailed in Table 3.

(Insert Table 3 about here)

Table 3 shows that immediate custodial sentences for both sexual and violent offences rose between 2008 and 2009. However, the extent of this increase may be overstated. It worth cautioning that because the absolute figures for both offences are relatively low, percentage changes exaggerate any rise in violent and sexual offending. Only by examining longer term trends can we better understand any changes in offending patterns. However, data for immediate custodial sentences by offence type has only been made available since 2007, so little is known about any possible changes in the severity of offending by foreign nationals

and how, if at all, this has contributed to the growth in the foreign national prisoner population.

The Growth of the Non-criminal Prisoner Population

As well as foreign nationals held on remand or serving custodial sentences, the total number of foreign nationals imprisoned includes those held under the 1971 Immigration Act and those in immigration removal centres at Dover, Haslar and Lindholme. It does, however, exclude the large, and growing, number of asylum seekers and refugees held in detention centres throughout the UK.

Official statistics provide irrefutable evidence that the increase in foreign nationals in prison has, in part, been fuelled by the marked growth of the non-criminal prison population. Table 4 details the annual average non-criminal population between 1999 and 2009. The non-criminal population rose by 2 per cent between 2008 and 2009, following a 6 per cent increase between 2007 and 2008. Over the last decade, the non-criminal prison population has almost trebled from 558 in 1999 to 1,540 in 2009. Receptions of non-criminal prisoners also continue to rise. Between 2008 and 2009 receptions increased by 11 per cent, a continued growth of 36 per cent since 2003 (Ministry of Justice 2010).

(Insert Table 4 about here)

In 2009, 95 per cent of all non-criminal prisoners were being held under the 1971 Immigration Act. Under Schedule 2 of the Act, a person may be detained without arrest pending their removal from the country. Table 4 illustrates how a steady growth in the average number of individuals held under the Act accounts exclusively for the rise in the non-criminal population in prison. In 1999, the total non-criminal population held under the Act in

prison establishments and police cells stood at 485. By 2009, this figure had trebled to 1,493. The growth in non-criminal population held under immigration provisions may, in part, be a consequence of a greater number of foreign nationals seeking entry to the UK, but could also be exacerbated by increasingly restrictive immigration policy and ineffective deportation provision.

Increasingly Restrictive Immigration Policy

A further possible explanation for the growth in foreign nationals in prison is that increasingly restrictive immigration policy enacted by successive UK governments has resulted in both an increase in the number of those held without arrest and the number of those charged with immigration offences. In particular, the ‘securitisation of asylum’ (Huysmans 2008) has provided for the successful integration of criminal justice and migration systems of control (Warner 2005), with detention becoming a principal organising dynamic in a cluster of ‘technologies of exile’ (Simon 2007) which are embedded in an approach that seeks to immobilise, exclude and eject.

A significant proportion of foreign nationals are imprisoned for fraud and forgery offences (see Table 2), which may be the outcome of increased numbers seeking to enter the country through illegitimate means. The closure of legal passages to the UK corresponds closely with increased attempts to enter and stay illegally (Nadig 2002). In 2009, 928 foreign nationals were in prison for fraud and forgery, representing 12 per cent of the foreign prison population. By contrast, just 2 per cent of all British nationals (922 individuals) were subject to immediate custody for fraud and forgery offences.

Today, there are approximately 50 immigration act offences that could result in a custodial sentence (AVID 2008). In particular, the 1999 Immigration and Asylum Act significantly increased the opportunity for those seeking asylum to be prosecuted for

immigration offences. Under Section 2 of the Act, deception exercised in obtaining leave to enter or remain in the UK can be punished by up to two years imprisonment. Deception broadly encompasses entering the UK under false pretence, possessing false documentation or the destruction of travels documents, whilst the burden of proof is placed upon the asylum seeker who must demonstrate a 'reasonable excuse' in such circumstances.

More recently, Section 2 of the 2004 Asylum and Immigration Act has made it illegal for anyone to enter the UK without a valid passport, increasing the difficulty for those seeking asylum to enter the country and further criminalising those individuals that do arrive without the appropriate documentation (Stevens 2004). Within a year of its implementation, 230 asylum seekers had been arrested and 134 convicted for failing to produce a passport upon arrival (Taylor and Muir 2005).

These measures have come under severe criticism for criminalising foreign nationals who under Article 31 of the 1951 Geneva Convention should not be punished for their illegal entry or presence if they arrive from a country in which their life or freedom is threatened. The inappropriateness of such measures is highlighted by Lord Justice Sedley who recognises how it is extremely dangerous, if not impossible, for refugees to obtain the requisite documentation from their own state in order for them to travel to the UK via safe and legal channels:

As is obvious, many people fleeing persecution have no option but to travel on false papers. An enactment which may have the effect of prescriptively requiring a judge to disbelieve an individual's otherwise credible story, and so possibly send them back to torture or death, is a serious invasion of judicial independence. (cited in Verkaik 2008)

The tightening of UK borders can impact significantly on the number of foreign nationals in prison and may explain both the high number of foreign nationals convicted of fraud and forgery offences as well as the increase in the number of foreign nationals held under the

1971 Immigration Act. Moreover, with detention an ‘essential element’ of an asylum policy, which seeks to establish a ‘seamless’ process from induction to the removal of asylum applicants, there appears to have been some seepage from detention centres into prison estate. Whilst the exact number of asylum seekers in prisons is undeclared, there is an estimated 500 immigration detainees held in such facilities whose whereabouts are unknown and unrecorded in Ministry of Justice statistics (Ireland 2006).

Ineffective Deportation Provision

The large number of non-criminal foreign nationals held under the 1971 Immigration Act may be further exacerbated by ineffective deportation provision. In 2009, the UK Border Agency released their first press statement incorporating statistical data to highlight how deportation provision operates effectively:

[O]ver 5,000 foreign national prisoners were deported in 2008. This means that the UK Border Agency yet again exceeded its target for the year as well as exceeding the previous year’s record number of removals and deportations of foreign national prisoners. (Hansard, 10 February 2009, vol. 505, col. 1828)

Yet, it is worth cautioning that the figure given is a provisional outcome, is not a specific figure and the target is self imposed. The number of foreign national prisoner deportations is closely guarded and has never been separately identified in any National Statistics publications (Homer 2009). Moreover, data on the number of foreign prisoners liable to deportation is ‘sketchy’ (Paoletti 2010), further hindering analysis of the effectiveness deportation provision.

What is evident is that financial difficulties seriously hampered the deportation of foreign nationals in the early part of the 21st century leading to a deportation crisis in 2007 (Home Office 2007). In particular, a recruitment and budgetary freeze in 2003 and 2004

prevented extra resources from being allocated to the Home Office's Criminal Casework Team (CCT) and resulted in them being unable to keep pace with a rapidly growing caseload. The early removal scheme for foreign prisoners, aimed at reducing prison overcrowding further increased the CCT's caseload. Yet, whilst additional staff were allocated for early removals casework, the initial growth in casework remained under-resourced (Home Office 2007). Moreover, both the 'early removals scheme', in operation since April 2008, and the 'facilitated removals scheme' have failed in their attempts to speed up deportations due to inconsistencies in implementation (HMIP 2007a; 2008a; 2008b).

A growing number of time-served foreign national prisoners held under the 1971 Immigration Act following sentence completion may also contribute to the growth in the number of foreign nationals in UK prisons. Since the UK Borders Act came into force on the 1 August 2008, Non-European Economic Area Citizens sentenced to a prison term of 12 months or more can be automatically deported at the end of their sentence unless there is evidence that it will breach their human rights. European Economic Areas citizens may also be deported on grounds of 'public policy, public security or public health'.

In 2007, approximately 1,300 time-served foreign nationals were held across the Immigration and National Directorate's² Removals Estate and in prisons whilst deportation action against them was pursued (Hansard, 29 Oct 2007, vol. 465, col. 809). And whilst it was expected that numbers would be reduced, through continued efforts to decide cases before sentence expiry and increased deportation, this does not appear to have happened. Consequently, as of January 2010, the number of time-served foreign national prisoners held stood at 1,250.

The high number of 'time served' foreign nationals in prisons may stem from a number of sources, including: applications for asylum or appeals against deportation that are made towards the end of their sentences, which leaves an inappropriate amount of time in

which to process the case; difficulties in obtaining appropriate travel documentation from home countries; deportation recommendations passed on foreign nationals on remand who will have limited period of time to serve once they have been sentenced; and casework that is not completed in time for deportation or release to be authorised at the end of sentence (Home Office 2007).

The number of foreign nationals held post sentence may also be aggravated by the strong parliamentary and public interest in foreign national prisoners and the political damage than could be caused to a government who authorises the release of a foreign national who goes on to (re)offend. This concern was particularly evident during the foreign national prisoner crisis, when foreign nationals spent longer periods of time in post sentence detention and the prison service moved foreign nationals held in open prisons to closed conditions (HMIP 2007b). Foreign nationals were given no prior warning of such decisions and no risk assessment was undertaken. Nevertheless, whilst public protection and political expediency are likely to play an important role in post-sentence decision making, it is unclear as to the degree to which they have contributed to the growth in the number of foreign nationals in prison.

A (Perceived) Lack of Viable Options to Custody

A (perceived) lack of viable options to custody may also contribute to the number of foreign nationals incarcerated in England and Wales. This can affect both bail and sentencing decision making. In particular, the number of foreign nationals on remand has grown substantially. Table 5 details the untried receptions into prison establishments by nationality between 1999 and 2009. In 2009, there was a levelling off in the number of untried foreign national receptions from 11,176 in 2008 to 11,284 in 2009, representing a 1 per cent increase. However, over the last ten years, the number of untried foreign national receptions has more

than doubled from 4,772 in 1999 to 11,284 in 2009, a rise of 136 per cent. By contrast, untried receptions of British Nationals fell by 7 per cent between 2008 and 2009 and 28 per cent between 1999 and 2009. Today, over twenty per cent of the untried prison population consists of foreign nationals.

(Insert Table 5 about here)

The desire to prevent absconding may have a significant influence on court decision making. Article 14 of the European Court of Human Rights prohibits discrimination in securing rights guaranteed under the Convention and the Court has ruled that under Article 5(3) automatic or mandatory detention is incompatible with the right to liberty. So, whilst courts can consider a defendants links when assessing their risk of absconding, they should not simply assume that foreign nationals are more likely to abscond than British defendants. Nevertheless, fears of dangerous foreign nationals absconding may mean they are highly unlikely to be given home detention, released on temporary licence or placed in a category D prison.

In particular, those arrested for immigration offences may be perceived as potential absconders. The Home Office claim that detention enables immigration officers to effectively monitor asylum seekers and refugees, verify their identity, aid deportation and prevent them from absconding (Hassan 2000). Yet as Hughes and Field (1998: 47) recognise, ‘there are virtually no government statistics to indicate that the scale of non-compliance and disappearance of asylum seekers warrants such a drastic policy’. This is further substantiated by Bruegel and Natamba’s (2002) research into the risk of detainees absconding which identifies that ninety per cent of released detainees who had originally been classified as high risk absconders by the Home Office complied with terms of bail and had been unnecessarily detained.

Furthermore, limited information on an offender's character and offence history is likely to limit the value of the National Offenders Management Service's (NOMS) Offender Assessment System (OASys) and see remand and custody the default option for many foreign nationals. This lack of information has significant implications for risk assessment and sentence planning and decision making and is likely to highlight the importance of public protection. Probation staff have noted that the lack of verifiable data has serious implications for working with foreign national prisoners as not knowing the antecedents of foreign national prisoners can make risk planning extremely problematic (Bhui 2004b). Placed in the context of heightened public and political anxiety about foreign nationals, immigration and crime, detention is a highly probable outcome for many of those foreign nationals whose offence history is unknown.

Conclusion

There is little evidence to support the theory that the foreign national prison population continues to grow because foreign nationals are more likely to commit crime than British citizens or more likely to commit crime of a serious nature. Rather, this paper tentatively points towards a number of interrelated factors which collectively may contribute to the substantial increase in the number of foreign national prisoners over the past ten years.

Increasing numbers of foreign nationals subject to remand and immediate custody are important drivers of the growth in the foreign national prison population. That foreign nationals lack the requisite antecedents and offence history to enable accurate risk assessment, coupled with a belief that they pose a greater risk of absconding than British nationals, may result in remand and custody as the default option in many cases. Moreover, the significant number of foreign nationals convicted for drug offences appears to contribute to the number of foreign nationals subject to immediate custody.

The marked growth in the non-criminal prison population has also fuelled this rise in the foreign national prison population, driven primarily by an increase in the number of individuals held under the 1971 Immigration Act. This may be exacerbated by both increasingly restrictive immigration policy and ineffective deportation provision. The closure of legal passage to the UK could also account for the over-representation of foreign nationals imprisoned for fraud and forgery offences.

Collectively, these explanations shed some light on the growth of the foreign national prison population, however, greater clarity in official data is required if we are to pinpoint the exact causes of this increase. For this to happen, data must be collected at the stage of sentence – detailing both the offence type and sentence decision – whilst the Ministry of Justice should seek to publish figures for receptions by offence type in order to enable a greater understanding of the degree to which patterns in offending and sentencing contribute to the growth of the foreign national prison population. Second, the publication of deportation figures, outlining the number of foreign nationals liable to deportation and the number of those successfully deported, would provide a clearer picture as to the degree to which removal provision impacts upon numbers. Ultimately, clear and accurate data on the foreign national prison population can be employed to counteract unsubstantiated discourses which equate foreigners with increased levels of crime. This, in turn, can help enable reasoned public and political debate on the foreign national prison population which will help facilitate the formulation of a consistent strategy to address the rising population, prisoner welfare and public safety.

Notes

- 1 The discrepancy between the total number of foreign national received in UK prisons and the number of untried receptions and foreign nationals receiving an immediate custodial sentence could be accounted for by the number of non-criminal receptions as this comprises largely of those held under the 1971 Immigration Act. Further, it is worth

heeding the Ministry of Justice (2010: 74) caution that: ‘These figures have been drawn from administrative IT systems. Care is taken when processing and analysing the returns, but detail collected is subject to the inaccuracies inherent in any large scale recording system, and so although shown to the last individual may not be accurate to that level.’

- 2 The Immigration and Nationality Directorate was replaced by the Border and Immigration Agency on 1 April 2007, which was in turn subsumed into the UK Border Agency on 1 April 2008.

References

- Allen, R., Levenson, J., and Garside, R. (2003) *A Bitter Pill to Swallow: The Sentencing of Foreign National Drug Couriers*. London: Rethinking Crime and Punishment.
- Association of Visitors to Immigration Detainees (2008) *Post Sentence Foreign National Prisoners*,
http://www.aviddetention.org.uk/index.php?option=com_content&view=article&id=93:postsentenceforeignnationalprisoners&catid=14:postsentenceforeignnationalprisoners&Itemid=16, 24 August 2010.
- Banks, J. (2008) ‘The Criminalisation of Asylum Seekers and Asylum Policy’, *Prison Service Journal*, 175: 43-49.
- Bell, B., Fasani, F. and Machin, S. (2010) *Crime and Immigration: Evidence from Large Immigrant Waves*. Paper Number: CEPDP0984. London: London School of Economics.
- Bhui, H. S. (2004a) *Developing Effective Policy and Practice for Work with Foreign National Prisoners*. London: Prison Reform Trust.
- Bhui, H. S. (2004b) ‘The Resettlement Needs of Foreign National Offenders’, *Criminal Justice Matters*, 56: 36-37 and 44.
- Bhui, H. S. (2008) ‘Foreign National Prisoners: Issues and Debates’, In H. S. Bhui (ed) *Race and Criminal Justice*. London: Sage: 154-169.
- Bruegel, I. and Natamba E. (2002) *Maintaining Contact: What Happens After Detained Asylum Seekers Get Bail?* Social Science Research Papers, South Bank University.
- Cheney, D. (1993) *Into the Dark Tunnel: Foreign Prisoners in the British Prison System*. London: Prison Reform Trust.
- Green, P. (1998) *Drugs, Trafficking and Criminal Policy: The Scapegoat Strategy*. Winchester: Winchester Press.
- Hassan, L. (2000) ‘Deterrence Measures and the Preservation of Asylum in the United Kingdom and United States’, *Journal of Refugee Studies*, 13, 2: 184-204.
- Home Office. (2007) *A Review of the Failure of the Immigration and Nationality Directorate to Consider Some Foreign National Prisoners for Deportation*. London: Home Office.
- Homer, L. (2009) Letter to Sir Michael Scholar of the UK Statistics Authority,
<http://www.statisticsauthority.gov.uk/reports---correspondence/correspondence/letter-from-lin-homer--chief-executive-of-uk-border-agency-to-sir-michael-scholar---statistics-on-deportation-of-foreign-national-prisoners.pdf>, 25 August 2010.
- HM Inspectorate of Prisons (2003) *Report of an Unannounced Follow-up Inspection of HM Prison Kingston*. London: Home Office.

- HM Inspectorate of Prisons (2004a) Annual Report. London: Home Office.
- HM Inspectorate of Prisons (2004b) Expectations: Criteria for Assessing the Conditions in Prisons and the Treatment of Prisoners. London: Home Office.
- HM Inspectorate of Prisons (2005a) Annual Report. London: Home Office.
- HM Inspectorate of Prisons (2005b) Report of an Announced Inspection of HMP Gartree. London: Home Office.
- HM Inspectorate of Prisons (2006a) Foreign National Prisoners: A Thematic Review. London: Home Office.
- HM Inspectorate of Prisons (2006b) Annual Report. London: Home Office.
- HM Inspectorate of Prisons (2006c) Report on an Unannounced Follow-up Inspection of Pentonville. London: Home Office.
- HM Inspectorate of Prisons (2006d) Report on an Unannounced Short Follow-up Inspection of HMP/ YOI Hollesley Bay. London: Home Office.
- HM Inspectorate of Prisons (2007a) Report on an Announced Inspection of HMP Winchester. London: Home Office.
- HM Inspectorate of Prisons (2007b) Foreign National Prisoners: A Follow UP Report. London: Home Office.
- HM Inspectorate of Prisons (2008a) Report on an Announced Inspection of HMP Canterbury. London: Home Office.
- HM Inspectorate of Prisons (2008b) Report on an Announced Inspection of HMP Bullwood Hall. London: Home Office.
- Hughes, J. and Field O. (1998) 'Recent Trends in the Detention of Asylum Seekers in Western Europe' in J. Hughes and F. Liebaut (eds.) Detention of Asylum Seekers in Europe: Analysis and Perspectives. The Hague: Martinus Nijhoff: 5-49.
- Huysmans, J. (2006) The Politics of Insecurity: Fear, Migration and Asylum in the EU. London: Routledge.
- Ireland, H. (2006) Immigration detention: A handbook for visitors. London: AVID.
- Matthews, R. (2009) Doing Time: An Introduction to the Sociology of Imprisonment. Basingstoke: Palgrave Macmillan.
- Ministry of Justice (2007) Offender Management Caseload Statistics 2006. London Ministry: of Justice.
- Ministry of Justice (2008) Offender Management Caseload Statistics 2007. London Ministry: of Justice.
- Ministry of Justice (2009) Offender Management Caseload Statistics 2008. London Ministry: of Justice.
- Ministry of Justice (2010) Offender Management Caseload Statistics 2009. London Ministry: of Justice.
- Nadig, A. (2002) 'Human Smuggling, National Security, and Refugee Protection', Journal of Refugee Studies, 13, 1: 1- 25.
- Paoletti, E. (2010) Deportation, Non-Deportability and Ideas of Membership. Working Paper Series No. 65. Oxford : Refugee Studies Centre.
- Mollard, L. (2001) Asylum: The Truth Behind the Headlines. Oxford: Oxfam.
- MORI. (2007) Most Important Issue Facing Britain, <http://www.ipsos-mori.com/polls/trends/issues.shtml>, 12th October 2008.

- Mythen, G. and Walklate, S. (2006) 'Communicating the Terrorist Risk: Harnessing a Culture of Fear?', *Crime, Media and Culture*, 2: 123-142.
- Prison Reform Trust (2004) *Forgotten Prisoners: The Plight of Foreign National Prisoners in England and Wales*. Briefing Paper. London: PRT.
- Prison Reform Trust (2002) *Justice for Women: The Need for Reform*. The Report of the Committee on Women's Imprisonment Chaired by Professor Dorothy Wedderburn. London: PRT.
- Simon, J. (2007) *Governing Through Crime*. New York: Oxford University Press.
- Stevens, D. (2004) *UK Asylum Law and Policy – Historical and Contemporary Perspectives*. London: Sweet and Maxwell.
- Tarzi, A. and Hedge, J. (1990) *A Prison Within a Prison – A Study of Foreign National Prisoners*. London: Inner London Probation Service.
- Tarzi, A. and Hedge, J. (1993) *A Prison Within a Prison – Two Years On: An Overview*. London: Inner London Probation Service.
- Taylor, D. and Muir, H. (2005) 'Asylum seekers jailed for having no passport', *The Guardian*, 18 March 2005.
- Verkaik, Robert (2008) 'Asylum seekers put at risk by law, warns top judge', *The Independent*, 2 July 2008.
- Warner, J. A. (2005) 'The Social Construction of the Criminal Alien in Immigration Law, Enforcement and Practice and Statistical Enumeration: Consequences for Immigrant Stereotyping', *Journal of Social and Ecological Boundaries*, 1, 2: 56-80.
- Young, Jock (2003) 'To these wet and windy shores: Recent immigration policy in the UK', *Punishment & Society* 5(4): 449–62.

TABLE 1
Population in Prison by Nationality, 1999-2009

Year	All	British Nationals	Foreign Nationals	Unrecorded nationality	Foreign Nationals as a proportion of recorded nationality
1999	64,529	59,074	5,388	67	8.4%
2000	65,194	59,043	5,586	565	8.6%
2001	66,403	58,732	6,926	745	10.5%
2002	71,218	62,553	7,719	946	11.0%
2003	72,286	62,417	8,728	1,141	12.3%
2004	74,488	64,379	8,941	1,168	12.2%
2005	76,190	65,670	9,651	869	12.8%
2006	77,982	66,160	10,879	944	14.1%
2007	79,734	67,767	11,093	874	14.1%
2008	83,194	70,751	11,498	946	14.0%
2009	83,454	71,231	11,350	874	13.7%

(Source: Ministry of Justice 2008, 2010)

TABLE 2

Population in Prison Establishments under an Immediate Custodial Sentence by Nationality and Offence Type, as at 30 June 2009

Offence Group	British Nationals		Foreign Nationals	
	Number	%	Number	%
Violence against the person	18,270	30	1,640	22
Sexual offences	7,063	12	892	12
Robbery	8,431	14	611	8
Burglary	7,568	12	300	4
Theft and handling	3,047	5	321	4
Fraud and forgery	922	2	928	12
Drug offences	8,542	14	2,138	29
Motoring offences	1,014	2	131	2
Other offences	5,590	9	514	7
Offence not recorded	268	-	25	-
Total	60715	100	7,500	100

(Source: Ministry of Justice 2010)

TABLE 3
Foreign Born Population in Prison Establishments under an Immediate Custodial Sentence
by Offence Type, as at 30 June 2008 and 2009

Offence Group	2008	2009	Numerical difference +/-	% change
Violence against the person	1,494	1,640	+146	+10
Sexual offences	817	892	+75	+9
Robbery	646	611	-35	-5
Burglary	275	300	+25	+9
Theft and handling	297	321	+24	+8
Fraud and forgery	1,085	928	-157	-14
Drug offences	2,322	2,138	-184	-8
Motoring offences	142	131	-11	-8
Other offences	583	514	-69	-12
Offence not recorded	21	25	+4	+19
Total	7,682	7,500	-182	-2

(Source: Ministry of Justice 2009, 2010)

TABLE 4

Annual Average Non-Criminal Population in Prison Establishments, as at 30 June 2009

Year	Held under the 1971 Immigration Act	Others	Total
1999	485	73	558
2000	576	63	639
2001	955	57	1,012
2002	777	69	846
2003	1,041	67	1,108
2004	1,033	68	1,101
2005	1,022	65	1,087
2006	1,288	65	1,353
2007	1,348	72	1,420
2008	1,457	49	1,506
2009	1,493	47	1,540

(Source: Ministry of Justice 2007, 2010)

TABLE 5
Untried Receptions into Prison Establishments by Nationality, 1999-2009

Year	All	British Nationals	Foreign Nationals	Unrecorded nationality	Foreign Nationals as a proportion of recorded nationality
1999	64,572	59,456	4,772	0	7.4%
2000	58,892	49,363	4,994	0	8.5%
2001	53,467	47,184	5,666	0	10.6%
2002	58,708	51,624	6,326	0	10.8%
2003	58,696	51,333	6,623	0	11.3%
2004	54,566	46,845	7,176	535	13.2%
2005	55,455	46,575	8,346	534	15.1%
2006	55,809	46,092	9,215	502	16.5%
2007	55,305	44,056	10,739	510	19.4%
2008	57,417	45,687	11,176	554	19.5%
2009	55,207	42,655	11,268	1,284	20.4%

(Source: Ministry of Justice 2010)