

Forgotten Prisoners – The Plight of Foreign National Prisoners in England and Wales

This briefing looks at the startling increase over the last decade in the number of foreign national prisoners and highlights their conditions and inconsistent treatment. It argues that their specific needs are being overlooked and that they are not given the attention and support they require – in some cases they are treated with disrespect and experience racism. The Prison Service should implement a policy on foreign nationals that sets out a coherent strategy to improve their predicament.

Key Facts and Figures

- There are 8,937 foreign national prisoners (defined as anyone without a UK passport), about one in eight (12 per cent) of the overall prison population. One in five women in prison are foreign nationals.
- They come from 168 countries, but over half are from just six countries (Jamaica, Irish Republic, Nigeria, Pakistan, Turkey and India). A quarter are Jamaicans, by far, the largest single group.
- There has been a 152 per cent increase in foreign national prisoners in the last ten years compared to a 55 per cent increase in British nationals.
- In two prisons, the Verne in Dorset and the women's prison Morton Hall in Lincolnshire, foreign nationals make up half or more of the population. In sixteen prisons they make up a quarter or more.
- Despite their number the Prison Service does not have a dedicated policy or strategy to deal with foreign national prisoners.
- A recent Prison Service survey found that nearly 90 per cent of prisons holding foreign nationals are not making regular use of the available translation service.
- The vast majority of foreign national prisoners, four out of ten sentenced men and eight out of ten sentenced women, have committed drug offences, mainly drug trafficking. Six out ten foreign national prisoners are serving sentences of more than four years.
- Last year eight foreign national prisoners committed suicide, out of a total of 94 suicides. In the past five years, 35, have taken their own lives.

The Profile of Foreign National Prisoners

Given the nature and extent of the international drugs trade it is not surprising that the majority of foreign national prisoners (47%) have committed drug offences - nearly half of sentenced men (43%) and more than three quarters of sentenced women (79%) compared to just over a tenth (13%) of British sentenced men and nearly a third (29%) of British sentenced women.

Sentenced Foreign National Prison Population, 31 December 2003 (Home Office, RDS)

Offence group	Male	Female	Total
Violence against the person	971	35	1,006
Sexual offences	435	0	435
Burglary	238	8	246
Robbery	448	11	459
Theft and Handling	220	16	336
Fraud and Forgery	309	46	355
Drug offences	2,383	533	2,916
Other	499	26	425
Not recorded	48	2	50
Total	5,551	677	6,228

At the beginning of the 1990s there were a significant number of Nigerian nationals sentenced for drug offences. But in the past decade Jamaicans have become by far the largest single group of foreign national prisoners. There are currently nearly 2,500 in custody, just over a quarter of the total population. Seven out of ten Jamaican prisoners have been convicted of drug offences. Increasing income inequalities, particularly between the rural and urban areas, have left many Jamaicans prepared to make a living from involvement in the drugs trade. This is particularly the case for Jamaican women who can earn up to £1,000, providing them with a way out of poverty (Rethinking Crime and Punishment, 2003).

Over the past eighteen months the number of Jamaican foreign nationals has begun to decline slightly due to the introduction of visa controls and improved detection rates for drug smuggling at Jamaican ports. There are indications, however, that they are being displaced by people from other Caribbean countries with the latest statistics showing a recent increase in the number of foreign nationals in prison from Trinidad and Tobago (Prison Statistics England and Wales, 2003).

There are also hundreds of western Europeans, including a large number of Dutch nationals, who are sentenced for their involvement in the drugs trade. They are likely to play a more senior role in the business. At the bottom of the trading hierarchy are women, many of whom are drug couriers. Often they will swallow pellets of drugs before setting off by air for the UK. One in five women in prison are foreign nationals and 80 per cent of them have committed drug offences.

The courts have responded by handing down tough sentences. Three-quarters of foreign national women and nearly two-thirds of foreign national men are serving sentences of four years or more. Overall, only ten per cent of foreign nationals are serving short sentences of less than 12 months.

The most recent figures show that there were a significant number of foreign national children in prison. On 30 April 2003 there were 126 foreign nationals under the age of 18 in custody, nearly half of them held in Feltham Young Offenders Institution (Hansard, 20th January, 2004).

There are more than 1,200, (fifteen per cent of the overall foreign national population), on remand awaiting trial. This proportion is slightly lower than the equivalent figure for the number of British nationals.

The routine practice of holding asylum seekers in prison who have not committed a criminal offence ended at the beginning of 2002, although the Home Office reserves the right to hold asylum seekers in prison on a case by case basis for reasons of security and control (Hansard, 30th January 2004).

It is important to note that the Prison Service does not have a complete, accurate picture of the

number of foreign national prisoners. For many prisoners their nationality has not been recorded or is incorrectly recorded. Officials estimate that the overall figure may well underestimate the actual foreign national prisoner population by between 10 and 20 per cent¹. At the end of January 2004 1,200 people in prison were recorded as being of 'unknown nationality'.

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Meeting the Needs of Foreign National Prisoners

Language barriers – The 168 nationalities in prisons across England and Wales speak a vast range of languages. Prisons with a large number of foreign nationals tend to have their official documents in several languages. The Prison Service, together with the Prison Reform Trust (PRT), produces a Prisoners Information Booklet, which is translated into 22 languages. These are placed in prison libraries but access is restricted and their availability is poorly publicised. In prisons such as The Verne, where there are more than fifty different nationalities, not all information and official documents will be in the corresponding languages.

The main language problems, however, exist around everyday issues. Foreign national prisoners miss out on basic provisions, such as showers and association, because they have not understood staff instructions or basic questions (Singh Bhui, 2003). For prison officers this can be equally frustrating. A recent internal Prison Service survey of 87 jails found that staff felt language barriers were the main obstacle to working with foreign national prisoners. Nine out of ten prisons surveyed said they did not regularly use the translation facilities provided by the Prison Service because it was too expensive (Punter, 2003). This raises serious questions about how foreign national prisoners are able to communicate their concerns. Often other prisoners are used, which means translation is not monitored or could be misleading.

Isolation and mental health concerns – It is extremely difficult for foreign nationals to maintain family contact, especially fulfilling their roles as parents. This is particularly the case for women, of whom nearly three quarters are mothers, compared to two-thirds for the overall population (Caddle and Crisp, 1997). Research has found that many explain their offending as a way of supporting their children (Green, 1991).

In an attempt to help foreign national prisoners maintain links with their families the Prison Service has recently negotiated a contract to allow them to make calls home at significantly reduced costs (Hansard, 1 March, 2004). However, in her report last month on HMP Featherstone the Chief Inspector of Prisons noted that foreign nationals face unnecessary difficulties:

‘Foreign national prisoners could receive a five-minute telephone call in lieu of domestic visits but this was on application rather than being provided automatically. There was no system to provide airmail letters, or other arrangements to support contact with families.’ (HMCIIP, 2004)

Separation from family in an alien environment can mean that foreign national’s mental health needs are often greater than for other prisoners. A prisoner recently wrote to PRT expressing her desperation to see her daughter who she was deeply concerned about.

'Her state of depression is severe and I fear I could lose my daughter whilst in prison.'

Language barriers can make matters even more difficult. And some foreign nationals may have experienced torture, persecution or abuse in their homelands. Many of them are likely to feel desperate and vulnerable, and possibly be at risk of self harm. The Prison Service does not routinely record separate statistics on self harm or suicide amongst foreign nationals. However, in response to a recent parliamentary question it said there had been eight suicides last year, out of a total of 94, and 35 in the last five years (Hansard 1st March, 2004).

Immigration problems – The Prison Service should notify the Immigration Service about all foreign national prisoners, along with their release date. Depending on their status immigration officials then consider whether having served their sentence they should be deported or removed. However due to poor co-ordination, cases get lost in the system and a significant number of foreign nationals face indefinite Immigration Act detention. There is a lack of accurate data on the exact numbers as the Prison Service does not record this information (Hansard, 10th February 2004). Prison Service officials estimate that there are currently around 400 people in this position². They remain in

custody because there are often delays awaiting deportation, either because arrangements have not been made or due to difficulties obtaining travel documents. Some people will be awaiting a decision from the Home Office having made an asylum application towards the end of their sentence. PRT has been contacted by a number of prisoners who complain about being in a state of limbo. One prisoner said:

'As I write this letter it is ten days after my release date, yet I have received no written notification from immigration as to the reason and length of this continued imprisonment.'

There are serious questions about how appropriate and just it is to hold foreign nationals in prison who have completed their sentence. They are, in effect, being subject to a double punishment.

Cultural issues – Foreign nationals have specific dietary needs and may also require appropriate toiletries, mainly skin and hair products. These needs are not always catered for, particularly in remote and rural prisons, and it is not the norm for them to be consulted by prison staff about these requirements. A recent internal Prison Service survey found that less than a third of prisons holding foreign nationals took advice from prisoners on these matters (Punter, 2003).

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The Experience of Imprisonment

Lack of information and legal support – Research by the Prison Reform Trust (PRT) has found that foreign national prisoners awaiting trial experience particular problems accessing basic information about the legal system (Ruthven and Seward, 2002). Many are unaware of the workings of the criminal justice system in this country and have problems understanding prison procedures and rules. Those who have been recommended for deportation or have other immigration matters pending have a particularly urgent need for information. However, access to legal and

immigration advice is limited. A recent internal Prison Service survey of nearly 90 establishments found that a third of prisons did not provide any immigration advice (Punter, 2003). The situation is vastly inferior to immigration detention centres where people are able to receive incoming calls and faxes and, in general, are able to maintain better contact with legal representatives. In crowded prisons access to phones is a daily problem. One prisoner who recently contacted PRT's advice and information line, expressed his frustration and despair:

'Why is it so hard to get anyone's attention, every day my pleas have been totally disregarded'

Prisoners have also complained to PRT about accessing information to make applications for repatriation and there being long delays in processing the application.

Lack of respect and racism – Interviews with foreign national prisoners have revealed that racism and a lack of respect and understanding from prison staff is not uncommon. Annual surveys of foreign national prisoners in HMP Wandsworth have consistently revealed that racism or discrimination is a serious concern (Singh Bhui, 2003). Prisoners said:

'...I find... that nearly all the officers are racist and because they have not travelled they think the sun only rises from England and sets in England or Scotland...'

'...most important is some of the officers treating inmates like animal. Some of them are swearing like fuck off, fucking bastard. If they say five word, one of them bad word.'

In her inspection of HMP Cookham Wood last year, where foreign nationals currently make up 28 per cent of the total population, the Chief Inspector noted the disrespectful attitude of some staff:

'Foreign national prisoners reported that they felt that prison staff did not understand their specific needs or their own culturally-specific behaviour or

requirements. They felt that this was manifested by a lack of empathy for foreign national prisoners and, occasionally, aggressive behaviour towards them.' (HMCIIP, 2004a)

Lack of preparation for release – Foreign nationals are often ill-prepared for release because their language skills are not sufficient to participate in resettlement programmes, or if they are to be deported, they may not be considered a priority for classes that often have limited places. Many are unable to access offending behaviour courses because of language difficulties. A recent Prison Service survey found that staff felt this was one of the main obstacles to working with foreign national prisoners (Punter, 2003). There are also very few courses specifically for drug importers, who make up a large proportion of foreign nationals. They can be disadvantaged in the parole process unless they have demonstrated that they have addressed their offending behaviour.

Deportation orders can be served with little prior notice leaving very limited time to make basic preparations, such as informing relatives, for release. PRT has received letters from foreign national prisoners saying that their resettlement needs have been ignored and overlooked. In open prisons they have complained about not being able to work out of the prison on day release, as is the norm in such prisons depending on appropriate risk assessments. And there have also been concerns raised about being transferred to closed jails prior to deportation without proper risk assessments.

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An Institutional Blind Spot

There is little doubt that prison staff are generally unaware of the very distinct needs of foreign national prisoners and that policy and practice is inconsistent and sub-standard. It is the exception rather than the rule for a prison to have policies in place under the strategic leadership of a dedicated foreign nationals co-ordinator. In her annual report for 2002-2003 the Chief Inspector of Prisons states:

'This institutional blind spot for foreign nationals as a whole is evident from the fact that 32 prisons

that we reported on had no specific foreign national work, and many did not know how many they held until inspectors informed them. This was not helped by the dilatory attitude of the Immigration Service, which, unless pressed, was not monitoring those liable to deportation, and making arrangements for this to take place as soon as sentence had expired. In many prisons, we found prisoners well beyond sentence with no idea when they might be released and go home.' (HMCIIP, 2004b)

The current record prison population, with the entire estate close to full capacity, will mean that foreign nationals' concerns are likely to be further overlooked. Limited budgets are in danger of being restricted and staff pressures could mean that foreign national co-ordinators are diverted away from their duties.

The Home Office has responded to these issues with two policy changes:

Early removal scheme – A new scheme will allow foreign nationals serving fixed term sentences of more than three months, who are liable to be removed from the UK, to be deported up to four and a half months early, subject to risk assessments. The scheme is similar to the Home Detention Curfew programme which allows UK nationals to be released early, and will not apply

to people serving offences for serious sexual or violent crimes or who pose a high risk due to their offending history. Due to individual prisons not recording on their computer systems who is eligible for deportation the Prison Service has had to carry out a detailed audit of all foreign national prisoners before the scheme begins. The first removals are expected to begin in June. It is estimated that the move will free up four hundred places.

Foreign national centres for women – The Prison Service has adopted an informal policy of grouping all foreign national women in four jails, Morton Hall, Drake Hall, Buckley Hall and Downview³. The largest numbers are being held in Drake Hall and Morton Hall. In her annual report HM Chief Inspector of prisons notes how the bulk of women were moved to these jails *'with very little warning or time for preparation'* (HMCIP, 2004c).

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The Way Forward

For too long foreign national prisoners have not been given the attention and priority they require, despite the fact that their situation has been highlighted on many occasions (Cheney, 1993; Ellis, 1998; Abernathy and Hammond, 1999). There has been a tendency to regard them as a single entity who come under the remit of race relations policies and committees. This overlooks the fact that they are individual prisoners with very different and specific needs.

If the Prison Service is to fulfil its commitment to ensure all prisoners are treated with respect and decency then there is an urgent need to improve the treatment of, and conditions for, foreign nationals.

This can best be achieved by implementing a separate Prison Service policy on foreign national prisoners that sets out a coherent strategy to meet their needs. The strategy should establish consistent working practices and minimum standards that each establishment is expected to meet. This would allow work with foreign nationals to develop and to be sustainable in the longer term. Most importantly central direction

and guidance would give governors something tangible to support and reassure them that resources are not being misdirected.

Ultimately, every establishment should have a foreign national prisoner strategy that seeks to meet the needs of foreign nationals, no matter how many or few there are. It is not appropriate simply to rely on race relations policies. As HM Chief Inspector of Prisons stated in her report on Cardiff last year, which has few foreign nationals, there is a distinction between the need to maintain good race relations and *'the need to develop services specifically for foreign national prisoners'* (HMCIP, 2003).

Staff who work with foreign national prisoners are keen to have dedicated policies put in place. In the recent Prison Service survey on foreign nationals, one officer noted:

'Equality is paramount but lack of training, resources and knowledge of who to turn to is making it difficult. The Prison Service does not have a policy so each establishment could be doing something different.' (Punter, 2003)

A foreign national prisoners resource pack providing information for staff and prisoners was published by PRT working with the Prison Service ten years ago. It has been in the process of being updated for the past six years, but there have been long delays due to responsibility for foreign nationals being moved around different Prison Service departments. If published the pack should complement an overarching Prison Service strategy, rather than stand alone.

Urgent action must also be taken to ensure that foreign nationals are not left in prison having served their sentence. The failure of the Immigration Service to monitor those liable for deportation and then to make arrangements for this to happen as soon as the sentence is complete

is unacceptable. The flow of information between the Prison Service and the Immigration Service must be greatly improved.

Finally, there is a need to look at sentencing practice. The courts have, in general, adopted a punitive approach to foreign nationals involved in the drugs trade handing down long sentences in the hope that they will have a deterrent effect. However, there is little evidence that these sentences act as a deterrence (Home Office, 2001). Long sentences, particularly for women with children, who are minor players in the drugs trade, are disproportionate and cause great hardship for their families. It would therefore be appropriate for the sentencing guidelines councils to review sentencing practice for drug couriers.

Agenda for Action

- The Prison Service should implement a Prison Service Order on work with foreign national prisoners that sets out the minimum provisions needed to meet their requirements, standards subject to audit, training requirements, and structures of accountability.
- Each prison should produce a foreign national prisoners strategy, led by a dedicated member of staff, covering the provision of information, support for prisoners and contact with families. It should be regularly reviewed against clear objectives as part of a wider diversity strategy.
- Each prison should have in place appropriate pre-release support and effective links and procedures to manage deportation or repatriation.
- Prisons with sufficient numbers of foreign national prisoners should establish a separate foreign national prisoners committee.
- The foreign national prisoners resource pack with separate sections for prisoners and staff should be completed and distributed without further delay.
- Training programmes should be developed for staff working with foreign national prisoners.
- Statistics on self-harm and suicide amongst foreign national prisoners should be gathered systematically in order to establish whether a particular response is required to this issue.
- Research on the access of foreign national prisoners to offending behaviour programmes and the viability of setting up programmes for drug importers, should be considered.
- The Prison Service and the Immigration Department of the Home Office need to improve the way they collate and share information on foreign national prisoners.
- Foreign national prisoners who have completed their sentence and are awaiting deportation should be released immediately from prison. If, subject to risk assessments, there are security concerns, people should either be held in immigration removal centres or placed under electronic monitoring.
- The sentencing guidelines council should review sentencing practice in England and Wales for drug couriers, and in particular, the effect of sentencing on the welfare of children dependent on the offender.
- There should be a reduction in the use of custodial remand for foreign nationals. If the courts are concerned about offenders jumping bail then electronic monitoring should be used instead.

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End Notes

- ¹ Personal communication with Probation Service
- ² Personal communication with Prison Service officials
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Prison Reform Trust would like to thank Nick Hammond and Hindpal Singh Bhui for their assistance with this briefing paper.

Design by Perro, Telephone: 0191 230 8258.

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First published in 2004 by Prison Reform Trust
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