

Foreign Bodies:
The Prison's Place in a Global World

Emma Kaufman
New College
DPhil Thesis
Trinity 2012

Emma Kaufman
New College
DPhil Thesis
Trinity 2012
94,000 Words

Foreign Bodies: The Prison's Place in a Global World

This thesis examines the treatment and experiences of foreign national prisoners in England and Wales. The number of imprisoned foreign nationals has more than doubled over the past decade (MoJ 2010a; Banks 2011). New penal policies oblige prison staff members to identify foreign nationals to immigration authorities and mandate that prisons hold 'foreigners' facing deportation beyond the length of their criminal sentences (MoJ and UKBA 2009). In these ways and others, the contemporary British prison is a site for migration control.

The field of prison studies is relatively ill equipped to critique these changes in the practice and purpose of punishment. Many prison theories rely on a static and outmoded understanding of the nation-state. As a result, criminological accounts of the prison often ignore the effects of globalisation and overlook key links between identity and imprisonment. Countering that trend, this thesis explores a 'global' approach to prison studies. Over the course of seven chapters, I argue that prison practices reaffirm the boundaries of the British nation-state and promote an exclusionary notion of British citizenship. I conclude that research attuned to the affective, embodied dimensions of incarceration can help criminologists to develop a more 'global' perspective on state power.

That argument begins and builds from ethnographic research. As a whole, the thesis is based on more than 200 interviews conducted over the course of a year in and around five men's prisons in the north, southwest, and center of England. Structurally, the thesis proceeds from a theoretical critique of prison studies, to an ethnographic account of prison life, to a conclusion about the purpose of prison scholarship. Thematically, it focuses on the relationship between identity and imprisonment, and in particular, on the ways in which normative beliefs about race, gender, sexuality, and class get infused in incarceration practices.

Table of Contents

Table of Abbreviations	5
Table of Cases	6
Table of Statutes	7
Primary Legal Sources	8
Introduction	9
Facts and Figures	14
Theory and Structure	18
Chapter One: The Prison and the State	25
Prison Sociology	29
Punishment and Society	39
Westphalian Blindspots	48
Conclusion: A Problem of Method	59
Chapter Two: Bearing Witness	62
Prison Ethnography	65
Ethnography as Witnessing	74
Witnessing Imprisonment	82
Conclusion: Truth and Subjectivity	92
Chapter Three: Hubs and Spokes	95
The Crisis	97
Immigration Postmen	109
The Criminalisation of Immigration	117
Conclusion: A Decriminalised Penalty?	129
Chapter Four: Making Citizens	133
Finding Foreigners	134
‘Second Class Service’	147
‘Practice Your English’	157
Conclusion: Contingent Citizenship	165
Chapter Five: Passing and Performing	168
‘Obvious Evidence’	171
‘The Queen’s English’	184
Undoing Citizenship	193
Conclusion: An Intersectional Approach	204
Chapter Six: Political Amnesia	207
‘The Problem is Still With Us’	211
Colonial Amnesia	223
Managerialism as Memory Loss	238
Conclusion: Registers of Imprisonment	244

Chapter Seven: The Bodily Remainder	246
Human Consequences	248
‘Body Language’	259
Foreign Bodies	275
Conclusion: The Politics of Feeling	280
Conclusion: Start from the Body	283
Bibliography	292

Table of Abbreviations

Border and Immigration Agency	BIA
Commission for Racial Equality	CRE
Criminal Casework Directorate	CCD
Foreign and Commonwealth Office	FCO
Her Majesty's Inspectorate of Prisons	HMIP
Her Majesty's Prison Service	HMPS
Immigration and Nationality Directorate	IND
Immigration Removal Centre	IRC
Ministry of Justice	MoJ
National Audit Office	NAO
National Offender Management Service	NOMS
Prison Reform Trust	PRT
Prisoners' Advice Service	PAS
Public Accounts Committee	PAC
UK Border Agency	UKBA
UK Border Agency's Criminal Casework Directorate	CCD
United Nations High Commissioner for Refugees	UNHCR

Table of Cases

Case	Page(s)
<i>R v. Governor of Durham Prison, Ex parte, Hardial Singh</i> [1983] Imm AR 198, [1984] 1 All ER 983	106
<i>R (On the Application of the Equality and Human Rights Commission)</i> <i>v. Secretary of State for Justice</i> [2010] EWHC 147, [2010] All ER (D) 198	104
<i>RU (Bangladesh)</i> <i>v. Secretary of State for the Home Department</i> [2011] EWCA Civ 651, [2011] All ER (D) 38	106, 126, 147
<i>AP (Trinidad and Tobago)</i> <i>v. Secretary of State for the Home Department</i> [2011] EWCA Civ 551, [2011] All ER (D) 108	106, 126, 147
<i>Lumba (WL) (Congo)</i> <i>v. Secretary of State for the Home Department</i> [2011] UKSC 12, [2011] All ER (D) 262	106, 126, 147

Table of Statutes

Statute	Page(s)
Immigration Act 1971	105, 126, 234
Race Relations Act 1976	104
Carriers' Liability Act 1987	218
Asylum and Immigration Appeals Act 1993	218
Asylum and Immigration Act 1996	218
Human Rights Act 1998	100, 236
Immigration and Asylum Act 1999	218
Nationality, Immigration and Asylum Act 2002	160
UK Borders Act 2007	100-101, 105, 112, 121, 182, 198, 225-226, 237
Borders, Citizenship and Immigration Act 2009	134, 160, 198, 226

Primary Legal Sources

Commission for Racial Equality (2003) *A Formal Investigation by the Commission for Racial Equality into HM Prison Service of England and Wales: The Murder of Zahid Mubarek.....*p. 175

HM Prison Service (2006) *Prison Service Order 4630: Immigration and Foreign Nationals in Prison.....*pp. 101, 113, 175, 251

HM Prison Service (2007) *Prison Service Instruction 21/2007: Immigration and Foreign Nationals in Prison.....*pp. 14, 101-102, 171, 182, 243

HM Prison Service (2007) *Prison Service Order 7100: Key Performance Indicators, Key Performance Targets and Additional Measure.....*pp. 108, 155

HM Prison Service (2007) *Prison Service Order 4410: Prisoner Communications, Visits.....*p. 277

HM Prison Service (2008) *Prison Service Order 4630: Immigration and Foreign Nationals in Prison.....*pp. 109-110, 120, 123-124, 144, 183

Home Office (1998) *Fairer, Faster, Firmer: A Modern Approach to Immigration and Asylum.....*pp. 166, 220

Home Office (2007) *A Review of the Failure of the Immigration & Nationality Directorate (IND) to Consider Some Foreign National Prisoners (FNPs) for Deportation.....*pp. 99-100, 225

Macpherson Report (1999) *The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, CM4262-1.....* p. 169

Ministry of Justice (2007) *Letter from Maria Eagle, MP, to Mr. John Shine, Chair of the Independent Monitoring Board. 20 September 2007.....*p. 103

Ministry of Justice and UK Border Agency (2009) *Service Level Agreement to Support the Effective and Speedy Removal of Foreign National Prisoners.....*pp. 2, 11, 14, 21, 83, 95, 103-108, 111, 113-114, 116, 119, 120, 122, 125-126, 131-132, 134, 144, 169-170, 182-184, 205, 226, 243, 250-251

Public Accounts Committee (2006) *Hearing of Commons Committee of Public Accounts, Thirty-fourth Report of Session 2005-6, HC 620.....* p. 98

UN High Commissioner for Refugees (UNHCR) (1994) *Die Lage der Flüchtlinge in der Welt (State of the World's Refugees).....*p. 217

Woolf Report (1991) *Prison Disturbances April 1990: Report of an Enquiry by the Rt. Hon. Lord Justice Woolf (Part I and II) and His Honor Judge Stephen Tumin (Part III), Cm. 1456.....*pp. 26, 31-32, 36, 84

Introduction

Patrick was born in Zaire in the early 1980s.¹ He was six years old when his father was kidnapped by the Mobutu regime. Shortly after his father's disappearance, Patrick fled with his family to London. After several moves, they settled in Croydon in the shadow of the Home Office's immigration headquarters.² Fourteen years later, Patrick was arrested and sentenced to six years imprisonment for robbing a post office. On the last day of his criminal sentence, Patrick was detained by immigration authorities, who informed him that he would soon be deported. For the next seventeen months, Patrick remained in a high-security men's prison under a deportation order. During that time, two of his three brothers died—one collapsed on the football field; the other, his younger brother, was shot to death in London.

After nearly a year and a half waiting to be deported, Patrick received bail in the autumn of 2008. He was free for nine months. Then, in the summer of the following year, Patrick was arrested again when he checked in for a routine meeting with his bail supervisor. Deportations to the Congo had begun again, they explained. This time Patrick was sent to an immigration 'removal' centre to await his deportation from the UK. After seven months with no movement in his case, Patrick signed a petition and joined a hunger strike to protest his ongoing detention. He was transferred back to prison a week later. He remained there, on suicide watch, for four months. Then one day, four years after the end of his criminal sentence, Patrick was released on bail for the second time.

¹ The Republic of Zaire was renamed the Democratic Republic of the Congo (DRC) on 17 May 1997.

² All names used in this thesis are pseudonyms chosen by the prisoners.

Noishime was born in a Rwandan village near the Congo. When the genocide began in 1994, he was nine years old. Though his entire family was killed, Noishime escaped with a friend to the Kenyan border. He was detained at that border—at age ten—for eight months before making it to a Kenyan missionary camp. When he turned eighteen, Noishime moved to the United Kingdom and began a decade of asylum applications, denials, and appeals. Time and again, immigration authorities informed Noishime that he had to provide documents proving his identity as a Rwandan national. Time and again, he replied that those documents had been destroyed in the genocide. As a failed asylum-seeker, Noishime could neither work legally nor claim benefits; instead he volunteered at a refugee organisation and leaned on his partner, a fellow asylum-seeker with two young daughters. He also began drinking. Noishime was arrested and remanded in early 2009. When he encountered immigration officials at reception into the prison system, he failed, yet again, to prove his identity.

Said was born in Somalia. At age eight he migrated with his family, first to Italy and then to Holland. Said lived with his family in Holland until his mid-teens, when he became a Dutch national. Then, when his aunt moved to Great Britain, Said decided to go with her. Initially, he was granted leave to remain in the UK. Said settled in London, began using a British name, and started taking drugs. Several years later, he was arrested on drug charges and was sent to a British prison to serve out his criminal term. When he arrived in prison, Said told the authorities that he was from Somalia. He had heard that foreign nationals could be deported directly from the prison and he did not want to return to Holland. Said also believed that people could not be sent back to Somalia. So he changed his name and filed for asylum. This plan, he thought, would prevent his deportation. Instead, Said was identified for ‘removal’ and held in the prison

while immigration officials tried to determine where to send him. Four months after the end of his criminal sentence, Said remained in prison, waiting for a flight.

Said, Noishime, and Patrick are three of the approximately 11,000 foreign nationals currently imprisoned in England and Wales (MoJ 2010a).³ Noishime is one of the many failed asylum-seekers in these ranks; Said and Patrick are among the nearly 800 ex-prisoners indefinitely held in prisons under immigration powers (Vine 2012: 19).⁴ None of these three men is a legal citizen of his birth country. All of them call Britain home. Their stories, like many others told from behind prison walls, pose a significant challenge to our understanding of the 21st century prison. These men's narratives raise questions about truth, trust, and the purpose of the penal institution. They also situate British prisons at the intersection of postcolonial migration and late modern crime control.

Today, foreign national prisoners cannot be released on license until immigration officials permit them to leave the prison. Prison staff members are obliged to identify 'foreigners' to immigration authorities, and in cases where they cannot be deported, foreign nationals can be held in prisons as the Border Agency negotiates their cases. The number of imprisoned foreign nationals has more than doubled in the last decade and in the last five years three separate prisons have been 'reeroled' to hold only prisoners facing deportation (Bhui 2004, 2007; MoJ 2010a; MoJ and UKBA 2009; Vine

³ The precise number of foreign nationals imprisoned in the British penal estate is difficult to calculate. As of December 2010, there were 10,866 prisoners identified as foreign nationals within prisons in England and Wales (MoJ 2010a). Another 1,794 prisoners were identified as 'nationality not recorded' (ibid.). Both my own research and Hindpal Singh Bhui's work for the Prison Reform Trust suggest that these 'unidentified' prisoners are often foreign nationals, which would put the number of foreign nationals in the British prison estate as high as 12,660 (Bhui 2004). However, I have also found that some prisoners identified as foreign nationals are in fact misidentified British nationals. This inaccuracy in the statistics on foreign nationals captures a broader problem with the attempt to identify and record prisoners' nationalities.

⁴ The Vine Report, which was published early this year by the Chief Inspector of the UK Border Agency, states that 760 people are currently being detained under immigration powers within the prison (Vine 2012).

2012). In these ways and many others, the contemporary prison serves as a site of migration control. The prison is one key border of the British nation-state.

The overlap between immigration and imprisonment raises difficult questions about the penal institution. What is the relationship between globalisation, migration, and incarceration? What is the purpose of a prison that holds people beyond their criminal sentences? How would an account of punishment change if scholars examined the experiences of prisoners like Patrick, Noishime, and Said?

Until recently, such questions have been more-or-less overlooked in studies of the prison. Foreign nationals have dominated tabloid headlines and popular political discussions for years (BBC 2006a, 2006e; Greenhill et al 2006; Johnston 2006b; Norfolk 2009), but these prisoners rarely surface in criminological literature, particularly in the UK. While there is some research on the ‘non-citizen’ prison population in the US (Bosworth and Kaufman 2011; Simon 1998; Stevens 2009; Stumpf 2007) and in Europe (Ugelvik 2012; van Kalmthout *et al* 2007; van Kooten 2008), foreign nationals remain an overrepresented and understudied part of the British penal estate. In the past several years, scholars like Mary Bosworth (2011a, 2011b) and James Banks (2011) have worked to reverse this trend (See also Leerkes and Broeders 2010; Yildiz and Bartlett 2011). Their academic work complements a small but growing body of research on foreign nationals by government agencies and independent prison inspectors (Bhui 2004, 2007; Borrill and Taylor 2009; Cheney 1993; HMIP 2010a).

While this work is much needed, there are still significant gaps in the literature on foreign national prisoners in England and Wales. For the most part, government-funded research on this prison population examines concrete concerns about the distinct challenges that foreign nationals face behind bars (*ibid*). This research, while illuminating, sidesteps a different set of critical questions about the relationship between

migration and crime control. On the whole, criminologists have not asked how these prisoners' stories test our understanding of punishment and state power. Scholars have not asked what 'foreign' prisoners' narratives tell us about the effects of imprisonment or the purpose of criminological research. Criminologists have also generally separated empirical studies of foreign national prisoners' experiences from theoretical questions about the nature and meaning of punishment. In this sense, foreign national prisoners remain, as the Prison Reform Trust put it nearly a decade ago, 'the forgotten prisoners' of the British penal estate (Bhui 2004).

This thesis aims to redress that imbalance. Drawing on a year of fieldwork in five men's prisons, I ask what happens to studies of the penal institution when scholars begin from the stories of the 'foreigners' behind bars. I argue that many accounts of imprisonment overlook the prison's part in migration control, and that as a field, prison studies is relatively ill equipped to address the changes wrought by globalisation.⁵ I also argue that we need a more phenomenological approach to prisons research. Turning to the lives of foreign national prisoners reveals a prison system structured on exclusionary ideas about who 'really' belongs in Britain. The narratives told by 'foreign' prisoners suggest that the nation-state is constructed behind bars, and moreover, that the boundaries of the British nation are contested within prisons every day. These stories also demonstrate that the practice of imprisonment is deeply intertwined with normative beliefs about identity—and specifically, with presumptions about race, ethnicity, gender, and class. Ultimately, the testimonies that emerge from within the penal institution illustrate the need for more critical scholarship on the links between identity, incarceration, and late modern state power.

⁵ Notable exceptions to this general claim include several studies that explicitly address the relationship between prisons and globalisation. See, for example, Julia Sudbury's (2005) edited collection *Global Lockdown*. See also: Bosworth 2011b; Cain 2009; Sudbury 2004.

Facts and Figures

Before examining those links, it is worth providing a bit of background on the people with whom this thesis is concerned. The term ‘foreign national’ refers to any prisoner who has been identified by authorities (including prison staff members, immigration officials, or police officers) as a non-British citizen (HMPS 2007a; MoJ and UKBA 2009). This is a wide and at times inaccurate descriptor. Some of the prisoners categorised as foreign nationals are in fact legal citizens of the UK who have been misidentified by prison and immigration staff. Other prisoners, like Said, identify with British culture and ‘feel British’ despite holding citizenship in a different country. Conversely, some British citizens self-identify as foreign nationals, leading them to be categorised in prison as ‘foreigners’ when they are technically citizens of the UK. Prisoners such as Patrick and Noishime do not hold any legal citizenship status. In sum, the term ‘foreign national prisoner’ does not always align with a prisoners’ actual citizenship status or with his sense of himself.⁶

Despite this ambiguity, the official statistics on ‘foreign nationals’ do highlight some notable trends in the practice of imprisonment. On March 2, 2012, there were 87,787 prisoners incarcerated in England and Wales (MoJ 2012). According to the most recently available Ministry of Justice polls, foreign nationals constitute 13 per cent of that population and 40 per cent of those identified as black and minority ethnic (MoJ 2010a; See also Banks 2011; Bhui 2004, 2007). In 1999, there were 5,388 foreign nationals in the British penal estate (MoJ 2010a; See also Banks 2001). Today that number has more than doubled, lying somewhere between 10,500 and 13,000, depending on the source of the statistics and the definition of foreign nationality (Banks

⁶ I examine the practical and political implications of defining the term ‘foreign national’ later in the thesis. Chapter five contains a section titled ‘Finding Foreigners’, which describes the process by which foreign national prisoners are identified by prison and immigration staff.

2011: 186).⁷ At either end of the spectrum, the number of imprisoned foreign nationals has grown rapidly in the last decade.⁸

Criminologist James Banks attributes this growth to ‘substantial increases’ in the use of custody for foreign nationals (*ibid.*). In the decade between 1999 and 2009, the number of foreign nationals who received an immediate custodial sentence rose by 152 per cent (MoJ 2010a; See also Banks 2011). This compares to a 6 per cent decline in the number of British nationals subject to an immediate custodial sentence over the same decade (*ibid.*). Foreign nationals are, in other words, being sentenced to imprisonment more than they were before and more than British nationals. This is not because foreign nationals commit more or more serious crimes than British citizens—there is little evidence to support that claim (*ibid.*; Banks 2011: 187; Vine 2012). Rather, foreign nationals appear to commit criminal offences at roughly the same rates as their British counterparts (Banks 2011: 187; MoJ 2010a). The two exceptions to this rule are immigration offences, such as forging a false passport, and drug offences (*ibid.*).⁹ Foreign nationals are imprisoned at higher rates than British nationals in both of these

⁷ See note 3.

⁸ It is difficult to draw concrete conclusions about the growth of the foreign national prisoner population. There is much ambiguity surrounding the term ‘foreign national’ and the process of collecting statistics on this population has changed in recent years. The Prison Service has kept better statistics on foreign nationals since a political scandal drew attention to these prisoners in April 2006. (Chapter three examines that scandal in detail). Using only official statistics, the growth rate in the foreign national population since 1999 (94 to 200 per cent, depending on the source) is significantly higher than the growth rate in the British national prisoner population during the same time period (21 per cent) (Banks 2011; MoJ 2010a). Those numbers suggest that the foreign national prisoner population is growing at a faster rate than the population of imprisoned British nationals—but again, this comparison can be misleading, since the British national prisoner population started out much higher than the foreign national population. Nonetheless, in broad terms, it is clear that the imprisonment of foreign nationals has been a growing trend in the past decade.

⁹ In 2009, 29 per cent of foreign nationals were imprisoned for drug offences, as compared to only 14 per cent of British nationals (Banks 2011: 187; MoJ 2010a). In the same year, 12 per cent of foreign nationals were imprisoned for fraud and forgery, the typical charges for ‘immigration offences’, as compared to only two per cent of the British national population (*ibid.*).

categories and drug offences in particular receive severe penalties (*ibid.*).¹⁰ Foreign national women are disproportionately affected by this trend; nearly half (48 per cent) of that prison population is serving time for a drug offence (Banks 2011; MoJ 2010a). In the end, these sentencing patterns mean that foreign nationals tend to be serving longer criminal terms than the British citizens incarcerated in England and Wales (Allen *et al* 2003).

These numbers highlight the increasing overlap between immigration and imprisonment and raise urgent questions about the uneven treatment of citizens and non-citizens under the law. However, statistics comparing British nationals and ‘foreigners’ can also obscure more fundamental questions about the purpose and effects of imprisonment. The growth rate in the foreign national prisoner population is a superficial representation of a deeper issue: today’s prisons are being used to draw the line between citizens and ‘foreigners’. The prison is not only a place where foreign nationals are incarcerated; it is also a site where the very ideas of foreignness and British citizenship are constructed. In this sense, statistical claims about the foreign national prison population can be misleading.

Statistics on the numbers of ‘foreigners’ behind bars can also suppress the wide variation within the foreign national prisoner population. Foreign nationals imprisoned in the British penal estate do have distinct and identifiable needs: they often face greater language and cultural barriers than British prisoners; they tend to have difficulty maintaining family contact; and some studies suggest that they have higher rates of self-harm and suicide than British nationals (Bhui 2004, 2007; Borrill and Taylor 2009; Bosworth 2011a; Leerkes and Brodeur 2010). But these prisoners cannot—and ought not—to be lumped into a single homogenous group.

¹⁰ The average sentence for a drug offence is between five and eight years for a first offence (Allen *et al* 2003; Banks 2011).

According to the Prison Service, imprisoned foreign nationals hail from 161 different countries (or ‘disputed territories’ such as Western Sahara, which is counted as a distinct region in Ministry of Justice polls) (MoJ 2010a). Just under 700 of the approximately 11,000 ‘foreigners’ behind bars are women (ibid.). Nearly half were born in countries with colonial ties to the British state (ibid.).¹¹ In December 2010, the most recent date for which statistics are available, the top five countries represented in the British penal estate were Jamaica (865), the Irish Republic (683), Poland (670), Nigeria (649), and Vietnam (536) (ibid.).¹² Some of these prisoners conceive of themselves as British; others do not. Some migrated as infants; others were arrested at Heathrow. Some foreign nationals want to return to their ‘home’ countries; others vow to appeal their deportation no matter how long it takes. Ultimately, the prisoners categorised as foreign nationals are a diverse collection of people, each with his or her own story about life in the prison. The next seven chapters aim to contextualise and explore their stories, and in the process, to push criminologists to rethink our approach both to the prison and to the people held inside it.

¹¹ Foreign nationals born in countries with colonial ties to Britain that formally ended in the 20th century constitute 45 per cent of the total foreign national prisoner population and 8 per cent of the total prison population (MoJ 2010a). This number includes both remand and sentenced prisoners and excludes those prisoners whose nationalities are ‘not recorded’ or recorded as ‘other’, as well as those prisoners from nations whose colonial relations with Britain formally concluded before the twentieth century (such as the United States) or were never formally colonial (such as Somalia). Hindpal Singh Bhui has noted that the unrecorded prison population likely includes foreign nationals (Bhui 2004). That claim—not to mention a more expansive definition of nations that have ‘colonial’ relations with Britain—suggests that the estimate of 45 per cent is low.

¹² The list continues: Pakistan (435); Somalia (433); Lithuania (404); Romania (400); India (374); and China (302). This ranking is informative, but it also flattens some of the more interesting features of these statistics, such as the disproportionate representation of women from Nigeria (85, compared with 45 Jamaican nationals, the second largest population).

Theory and Structure

Structurally this study has three parts: it proceeds from a critique of prison studies, to an ethnographic account of prison life, to a series of questions about the purpose of prison scholarship. As a whole, the thesis explores the relationship between identity and imprisonment. Ideas about identity are infused in every aspect of prison life. Beliefs about who we are (and who we should be) shape penal policy; they also become the basis for inequalities and discrimination. When the penal institution becomes an apparatus for border control, normative assumptions about identity—about what Britishness and foreignness look like, or what a British citizen should be—become more entrenched in the practice of punishment. In a year of fieldwork, I observed that presumptions about identity often worked as structural principles of incarceration, particularly when it came to the treatment of foreign nationals. These assumptions will only become more important as the integration of migration and crime control continues in the 21st Century. Identity will, in this sense, be a growing and defining theme of late modern punishment regimes.

Yet studies of identity—of race, gender, class, ethnicity, nationality, sexuality—are relatively absent from the field of prison studies (See Bosworth and Kaufman 2012; Hannah-Moffat 2001) To date, criminological discussions of these topics is limited, or rather, is limited to a subset of feminists and critical race theorists who write explicitly about the relationship between punishment practices and identity norms (See, e.g., Carrabine 2004; Hannah-Moffat 2001; Phillips and Earle 2010, 2011).¹³ This thesis begins from the claim that overlooking identity is a real mistake. Issues like race, gender, sexuality and class are central to the practice of punishment. Ideas about identity

¹³ Chapter five examines the criminological account of identity in more detail. I have also written about the relative absence of gender in sociological accounts of punishment in a forthcoming article co-authored with Mary Bosworth (Bosworth and Kaufman 2012).

surface and interact in the machinery of criminal justice. Without an account of these interactions, criminologists cannot fully understand, critique, or attempt to change the penal institution. Accordingly, this thesis argues that concerns about identity should be brought to the centre rather than the periphery of criminological thought (Bosworth and Kaufman 2012).

That argument unfolds over the course of seven chapters, each of which asks a slightly different question about the treatment and experiences of foreign nationals in the British penal estate. Chapter one begins on a theoretical note, with an account of prison studies as it stands today. Building from a review of prison scholarship, I trace contemporary writing on the penal institution to its roots in Weberian, Marxist, and Foucauldian visions of the social world (Foucault 1977; Marx 1992; Weber 1958, 1964). I argue that these different philosophies of punishment have shaped theoretical divisions within the field. Those divisions have in turn have left criminologists with an outmoded understanding of the nation-state. In particular, I claim that most prison scholarship either presents the state as an overly coherent force or fails to critique the nation-state at all. Both approaches overlook the effects of globalisation.¹⁴

The chapters that proceed from the first one explore what a more ‘global’ approach to prisons research might look like. Chapter two asks whether the shortcomings of prison theory can be understood as a problem of method—and specifically, as a case of ‘methodological nationalism’ in prison studies (Chernilo 2011; See also Calhoun 1999; Gille and Riain 2002; Smelser 1997; Wagner 1994). In recent years, scholars have critiqued the tendency to view the nation-state ‘as the natural and necessary representation of modern society’ (Chernilo 2011: 99). This chapter asks whether the practice of prison ethnography can offer a ‘global’ alternative to such

¹⁴ The first chapter considers what it means to invoke the concept of globalisation and say that we are living in a ‘global’ world. See Bauman (1998) for a discussion of these fraught terms.

‘nationalist’ methodologies (Gille and Riain 2002). Borrowing terms from history and literary criticism, I explore the promise of ethnographic theories based on the concept of ‘witnessing’ (Assmann 2006; Minow 1998; Wieviorka 2006). The second chapter also introduces my own fieldwork, which consisted of more than 200 interviews with the prisoners, prison and immigration staff in five men’s prisons.

Chapter three contextualises my ethnographic study of the ‘foreigners’ behind bars. The current policy on foreign nationals in the prison estate developed in response to a political scandal that began in April of 2006. That scandal cost Home Secretary Charles Clarke his job and prompted a wide scale restructuring of both the Prison Service and the UK Border Agency (UKBA). Chapter three asks how such a ‘crisis’ came to pass and what it can tell scholars about the relationship between migration and crime control. On a practical level, this chapter introduces readers to the politics and new policies that govern foreign nationals in England and Wales. On a theoretical level, it explores some of the more pressing questions about the relationship between immigration and imprisonment. If prisons detain ex-prisoners under immigration powers, what is the difference between a prison and a detention centre? Are penal and migration policies working toward the same aims? Can detention be called punishment? Many criminologists and legal scholars have asked these questions (See, e.g., Ashworth 2006; Bosworth 2011a, 2011b, Bosworth and Kaufman 2011; Cole 2003; Duff 2010; Duff and Garland 1994; Harcourt 2007; Leerkes and Broeder 2010; Simon 1998; Stevens 2009; Zedner 2009). This chapter poses them in the context of recent shifts in British penal policy.

Chapter four provides an empirical perspective on debates about the purpose of the prison. At the end of the third chapter, I argue, as other criminologists have, that the practice of imprisonment reaffirms the power of the nation-state (Bosworth and Guild

2008; Simon 1998; Zedner 2010). Both borders and sovereignty are less clear in a globalising world (Bauman 1998; Brown 2010; Fraser 2010). Prisons often work to counteract that lack of clarity by ‘writing the nation-state’ and by reifying its boundaries (Bosworth and Guild 2008: 715). Chapter four examines what it means, in practice, for the prison to determine the boundaries of the polity. Building from observations of immigration proceedings and interviews with prisoners, I report that prisons often become sites for the construction of British citizenship. I argue that today’s prisons are being used not only to divide citizens from ‘foreigners’, but also to establish what ‘being British’ really means.

Chapter five examines the role that race and gender play in the process of making citizens in the prison. There is a rich history of criminological writing about the relationship between race and incarceration in the UK (See, e.g., Agozino 1997; Alfred 1992; Bosworth *et al* 2008; Bowling 1999; Budd *et al* 1999; Edgar and Martin 2004; Gelsthorpe 2005; Genders and Player 1989; Gordon 1983; McDermott 1990; Phillips 2012; Phillips and Bowling 2003, 2007; Phillips and Earle 2008, 2010; Wilson 2003). This chapter puts that body of work into conversation with feminist accounts of gender (Butler 1993, 1999; Sedgwick 2004; Warner 1999) and with my own observations of prison life. Drawing on interviews with both prisoners and prison staff, I argue that process of identifying foreign nationals is often based on racialised assumptions about what ‘foreignness’ looks, sounds, and seems like to prison staff members. I contrast these racialised assumptions with the more nuanced accounts of race and nation that circulate among prisoners, and then compare them with the sexist and homophobic beliefs that I encountered during my fieldwork. Ultimately, this chapter explores how ideas about race, nation, and gender intersect and reinforce each other behind bars, particularly in light of new penal policies on nationality (MoJ and UKBA 2009).

In examining the meaning of race behind bars, chapter five attempts to come to terms with two related sets of ideas: on the one hand, the now classic readings of race in Stuart Hall's *Policing the Crisis* (Hall et al 1978) and Paul Gilroy's *There Ain't No Black in the Union Jack* (1987); and on the other hand, both author's more recent writing on race in 21st Century Britain (Hall 2001; Gilroy 2002, 2006). In their earlier incarnations, Hall and Gilroy illustrated that the 'problems' of criminal justice are produced and racialised by social responses to crime (ibid.). More recently, both theorists have noted the changing and perhaps diminishing degree to which their landmark critiques of race resonate in an increasingly 'global' and 'multicultural' Britain (ibid.; See also Phillips 2008, 2012; Phillips and Earle 2010, 2011). Chapter five asks how the history of British racism relates to the contemporary British prison.

Chapter six extends that conversation into the context of British colonial history. This chapter examines the legacies of colonialism within the prison, both in terms of statistical trends and as a question of how prisoners understand and view themselves. Prisoners like Patrick and Noishime often struggle to understand why they can be identified as 'foreign' and deported from the UK when the British government once colonised their 'home' countries. Many of the prisoners I interviewed were educated in British colonial schools; others migrated with parents and grandparents who were legal subjects of the British state. These people's testimonies challenge scholars to explain the prison's part in producing a 'post-colonial' reality (Gregory 2004; Hall 2001). Drawing on theoretical writing about the 'postcolonial condition' (Hall 2001: 219), I contend that the effort to identify and 'manage' foreign national prisoners can be understood as a systemic exercise of what Stuart Hall calls colonial 'amnesia' (ibid.). I then develop Hall's claims into a broader argument about nature of memory and memory loss behind

bars. In the end, chapter six argues that the prison is defined by political amnesia—that is, by a willful dissociation of the politics and the daily practices of punishment.

Chapter seven asserts that prison scholars should be working to return politics, and particularly the politics of identity, to discussions of the prison. Invoking feminist theories of embodiment, this chapter argues that scholars ought to emphasise the links between identity and imprisonment by turning to what Judith Butler calls ‘the bodily remainder’ (1997b: 92). Alongside theorists like Elaine Scarry (1985) and Eve Sedgwick (2004), Butler contends that there is a physical, affective aftermath to the operation of any power regime (1997b). Chapter seven explores what this ‘remainder’ can tell critical scholars about the practice of punishment. I contend that the ‘foreigners’ held behind bars constitute the ‘bodily remainder’ of penal policy and law. I then argue that examining ‘foreign’ prisoners’ experiences can ground a more critical account of state power and a more ‘global’ approach to the penal institution. Chapter seven thus returns to the questions of method and theory from which the thesis began.

This methodological turn is intentional. If this thesis has one clarion theme, it is that scholars should be thinking more explicitly and critically about how and why we study penal institutions. What is the relationship between prison scholarship and the prison itself? What is the goal of recounting the stories told by Noishime, Patrick, and Said? Many criminologists have considered these issues—just last year, Mary Bosworth and Carolyn Hoyle published a collection that asked: what is criminology? (Bosworth and Hoyle 2011; See also Hannah-Moffat 2011; Jacobson 2004; Loader 2010; Richie 2011). Responding to that query, this thesis argues that criminology can be a form of advocacy. To be sure, serious barriers to academic research on the prison exist (Hannah-Moffat 2011; Richie 2005; Schlosser 2008). Criminologists actively debate whether the

‘politicisation of crime policy’ over the past several decades has diminished the relevance of criminological scholarship (2004: 211; See also Jacobson 2004).¹⁵

Yet the fact remains that in writing about the prison, scholars constitute its role and place in society (Phillips and Earle 2010). Not everyone knows what it feels like to be inside a prison. Both prisoners and prison staff members are rarely heard on their own terms. Prisons are by definition set apart from free society; they are presented more often as metaphors and imagined worlds than as concrete spaces where thousands of people live and work. Prison scholars have an opportunity to counteract this trend. By writing about prison life—and in particular, about the contradictions and inherent tensions inside the penal institution—scholars can explore what it means to punish and detain people in a late modern world. Prison research can illuminate the personal and often unexpected dimensions of incarceration. In doing so, it can push people to reflect more critically on the prison’s place in a global world.

¹⁵ See Jacobson (2004) for a rejoinder to Haggerty’s (2004) claims about the diminishing relevance of criminological ‘expertise’.

Chapter One: The Prison and The State

Prison studies has reached an impasse. Roughly divided between empirical (e.g., Crewe 2009; Genders 1995; Liebling 1992, 2004) and theoretical (e.g., Barker 2009; Garland 2001; Wacquant 2001) work, contemporary scholarship on imprisonment often seems to have cohered around an entrenched set of questions and methodologies. At the same time, the concepts which have motivated critical writing about prisons over the last three decades—legitimacy, governmentality, discipline—today seem less compelling than they once did, somehow less applicable to the social world they seek to explain. Globalisation has much to do with this predicament.

As the shape and import of the nation-state has shifted over the last thirty years, academic paradigms for understanding punishment and state power have often struggled to follow suit. While criminologists have faithfully and insightfully documented the Anglo-American ‘punitive turn’ and the rise of the ‘penal state’ (Loader 2010: 350; See also Garland 2001; O’Malley 1999; Wacquant 2009), scholars have given less thought to the new theories and methods that such a ‘new’ state demands. The phenomena commonly collected under the heading globalisation—the increased movement of (some) people, information, and capital; the introduction of worldwide forms of communication, trade, and travel; the related displacement of the nation-state—have certainly changed what criminologists study.¹⁶ But they have not always changed the way we go about ‘doing social science’. Criminologists have spent less time than we might considering how the challenges of globalisation go all the way down to the basic

¹⁶ Contemporary criminology is distinctly more ‘global’ than in decades past. Today, the field encompasses everything from transnational policing (Bowling 2009, 2011) and border control (Aas 2007; Bosworth and Guild 2008; Malloch and Stanley 2005) to environmental crime (Walters 2010) and human trafficking (Lee 2005). For more on the definition of globalisation, a broad and often fraught term, see Zygmunt Bauman’s *Globalization: The Human Consequences* (1998).

questions of sociological enquiry: What are the boundaries of our project? How are we studying the social world? And perhaps most importantly, why?

These questions are particularly pressing within prison studies, for globalisation has had a deep effect on the practice of imprisonment. Examining those effects is one of the principal goals of this thesis as a whole. The next seven chapters explore what it means to be incarcerated in a global world, how the breakdown of national borders has changed the prison, and why those changes should in turn affect prison scholarship. In sum, this thesis asks how globalisation alters our understanding of the prison.

Ultimately, I argue that transformations in the shape of state power affect both the penal institution and the purpose of prison studies. That argument begins in this chapter with a critical survey of contemporary prisons theory. Specifically, the chapter examines how existing theories of punishment work—or fail—to explain the prison's role in an increasingly globalised society. I claim that the dominant modes of understanding incarceration warp and stall in the face of a newly global state of affairs.

This claim builds over three sections. The first two sections of the chapter are dedicated to mapping the intellectual terrain of prison studies as it stands today. I begin by tracing the development of prison sociology from the abolitionist movements of the 1970s to the empirical research of scholars like Pat Carlen (1983), Ben Crewe (2009), Alison Liebling (1992, 2004) and Elaine Genders (1995). This section examines some of the most influential writing on the prison's legitimacy (Sparks 1994; Cavadino and Dignan 1992; Genders 2002), as well as the now classic work on 'the problem of order' that evolved from British prison riots during the 1990s (*ibid.*; Carrabine 2005; Player and Jenkins 1994; Sparks *et al* 1996; See also Woolf 1991). The next section of the chapter compares that body of writing to the critical work on penality and penal power (See, eg, Barker 2006; Garland 2001; Hannah-Moffat 2001; Howe 1996; Sim 2009;

Simon 2007; Wacquant 2009). This line of thought is often called the sociology of punishment, or more broadly, the field of punishment and society (Simon and Sparks 2012). This branch of criminology differs from prison sociology in its focus on the wider social and cultural effects of imprisonment. Influential contributors to the sociology of punishment include Loïc Wacquant (2001, 2009), Jonathan Simon (2007), and David Garland (1996, 2001).

There are, of course, many points of overlap between prison sociology and critical studies of punishment and society. Often, it is problematic to draw such intellectual boundaries. Scholars concerned with the riots or the legitimacy of penal institutions are in many cases highly attuned to the prison's part in reproducing social inequities, while those focused on penality are, I would wager, all committed to less violent and more humane prisons. The point of this distinction is neither to stereotype the field nor to overstate our differences. Rather, my goal is to connect the questions that underpin prison research to the ways academics end up talking about the prison.

My suggestion, in other words, is that there is an important link between the underlying concerns of prison scholarship and the picture of the prison that academics produce. Emphasising that link, I chart the trajectory from thinkers like Emile Durkheim (1961, 1964), Max Weber (1958, 1964), Jürgen Habermas (1976), and Michel Foucault (1977) through to contemporary accounts of the penal institution. I confine this analysis to the Anglo-American context not because it is the only one relevant to prison studies—indeed, I argue to the contrary throughout the thesis—but because criminological writing on imprisonment is heavily Anglo-American. These sections of the chapter aim to document the dominant modes of understanding the prison and to explore their roots in political philosophy and social theory.

That survey situates the final section, which examines the limitations of the prisons literature. While there are notable distinctions between prison sociology and the critical study of punishment and society, these two modes of prison scholarship share an attitude toward the state. In particular, I argue, they share an outmoded outlook in which the nation-state is an assumed concept at the background of prison analysis. Both strands of prison theory rely upon the concept of the state: theorists who write about the ‘interior life’ of the prison (Cavadino and Dignan 1992; Crewe 2009; Liebling 2004; Sparks *et al* 1994) imagine more legitimate state institutions, while those who critique penal power (Di Giorgi 2006; Garland 1990b; Wacquant 2009) track the oppressive tendencies of the state. In both iterations of prison theory, the state is a key idea around which accounts of incarceration develop.

Yet neither branch of prison theory explains what exactly it means to discuss and critique ‘the state’. Is ‘the state’ synonymous with ‘the nation’? With state employees or penal policies? What exactly is ‘the carceral state’ (Sim 2009)? ‘The late modern state’ (Garland 2001)? ‘The state’ in whose name penal institutions are run? These, it seems, are relatively unexplored questions at the ground level of prison theory. Moreover, they are questions that the existing theories of imprisonment may not be *able* to answer. Building from my survey of prison scholarship, I contend that neither prison sociologies nor studies of punishment and society are equipped, in their current form, to think outside the state. Instead, both fields operate with a limited view of the nation-state, one that creates a ‘blindspot’ about the effects of globalisation (Fraser 2010). Alongside other scholarship (Bosworth 2008b; Stumpf 2007; Zedner 2010), this thesis fills in that blindspot by foregrounding questions about nationality, citizenship, and globalisation within the prison.

The last decade has witnessed an immense amount of writing on transnationalism and migration control (See Bosworth *et al* 2008; Loader and Sparks 2007 on this trend); the ethnography of the prison is, at least in England, very much alive (Crewe 2009; Phillips 2007; Phillips and Earle 2010); and the sociology of punishment has grown into a broad and compelling subfield of criminology (See, e.g., Simon and Sparks 2012). Yet, as Ian Loader and Mary Bosworth have both noted in their recent work, there remains the vague feeling that critical writing on prisons and punishment has reached a stagnant moment (Bosworth 2010; Loader 2010). My sense is that this lull is related to the way we theorise the state, the way we approach globalisation, and the way we understand the prison's role within both. My suggestion, in sum, is that scholars have not gone deep enough into the theoretical challenge that globalisation poses to criminological thought. This chapter responds to that intuition.

Prison Sociology

It is difficult to divide academic writing about the prison into clearly defined camps. Many, many people have written about the practice of imprisonment; as a result, the corpus of contemporary prison studies is broad and extremely varied. However, without reducing that body of work, it can be helpful to explore the motivating concerns and philosophical origins of contemporary prison scholarship. In general terms, current writing about the prison tends to focus either on the internal workings of the penal institution or on a systematic critique of penal power. These two ways of thinking about the prison spring from slightly different beliefs, goals, and assumptions about the purpose of academia.

Typically, prison sociologists spend their intellectual time exploring the possibility and particulars of creating a legitimate penal institution. The guiding question in this enquiry is twofold: what are justice and legitimacy? How do those concepts relate to the prison? Of course, concerns about the nature of justice in political regimes date back (at least) to Plato (1955) in the Western canon. Criminologists might, in a different study, explore that long genealogy. This chapter is concerned with a much more recent attempt to imagine and critique the penal institution through the notion of justice. In particular, I am interested in an ongoing discussion that grew from the prison riots and reform movements of the 1970s.

The contemporary academic discussion of prison justice began to crystallise in 1974, when Thomas Mathieson (1974) published *The Politics of Abolition* (See also Davis and Rodriguez 2004).¹⁷ Written in response to the Attica prison riots in New York and other prison uprisings across Europe, Mathieson's text argued for the abolition of the prison system on the grounds that incarceration is a fundamentally unjust exercise—or rather, a practice incompatible with the very idea of justice (ibid.). Mathieson asserted that theories of abolitionism must 'compete with traditional paradigms of justice', since, as he later wrote, the 'prison...does not in a defence in justice' (Immarigeon 2002: 3; Mathieson 1990: 138). That is to say, he invoked the concept of justice to advance a systematic critique of incarceration. This approach to the prison defined academic and activist writing during the 1970s and into the 1980s, when books like *Instead of Prison* (Knopp *et al* 1976) dovetailed with wider social movements for gender and racial equality (Davis and Rodriguez 2004). Like its feminist

¹⁷ For brevity and focus, I have chosen to emphasise the academic debates about imprisonment in this section. There is a significant body of work on the prison written by prisoners and other activists (See, e.g., Davis 1974; Jackson 1994; Shakur 1987). George Jackson's *Soledad Brother* is one of the most influential examples of such writing (1994). For one compilation of prison writings from the United States, see Bruce Franklin's (1998) edited collection *Prison Writings in 20th Century America*. Those activist writings informed and intersected with the abolitionist movement in academia.

and black liberationist counterparts, the abolitionist movement of this period set existing social conditions against the promise of justice in an ‘enlightened, free society’ (ibid.; See also Davis 1974; Jackson 1994; Knopp *et al* 1976; Shakur 1987). Building from the ideas of the feminist movement, the 1980s also witnessed the publication of several prison ethnographies focused on women’s experiences of the penal institution (Carlen 1983; Mandaraka-Sheppard 1986).¹⁸

This conversation took a turn toward political theory in the early 1990s, when British criminologists recast questions of prison justice around the concept of legitimacy (Sparks 1994; Sparks and Bottoms 1995; Sparks *et al* 1996). As with the abolitionist critique, this line of thought developed in response to prison riots—in this case, a string of high-profile ‘disturbances’ in British prisons that began with the twenty-five day riot at Manchester (Strangeways) Prison in April 1990 (Woolf 1991). The Strangeways riot and those that followed in its wake were, according to some witnesses, ‘the worst series of prison riots in the history of the British penal system’ (Simon 1999: 12). Prisoners at HMP Strangeways took control of the remand prison within that penal complex for nearly a month, climbing atop the roof to demand, among other things, time for exercise, better visiting facilities, and the abolition of 23-hour lockdown (Jameson and Allison 1995: 40-41; See also Carrabine 2004; Woolf 1991). At the conclusion of the riot, the longest in British penal history, 147 prison officers and 47 prisoners had been injured (Player and Jenkins 1994: 2). Over the next month, Strangeways sparked ‘copycat riots’—or ‘solidarity uprisings’, depending on one’s perspective—at 23 prisons across the British penal estate (ibid). Prisoners in those different facilities staged sit-downs, destroyed their cells, and flew banners that read ‘Strangeways, we are with you’ (ibid.: 96-7).

¹⁸ See Bosworth and Kaufman (2012) for a genealogy of gender issues in criminology.

This unprecedented wave of unrest within the British prison system prompted a formal inquiry into the causes and consequences of penal ‘disorder’.¹⁹ In June 1990, Lord Justice Woolf joined with Stephen Tumim, the Chief Inspector of Prisons, to launch a four-month study of the riots at Strangeways and other prisons. During the course of that study, Lord Woolf sent letters to every prisoner and prison officer in the penal estate. He received over 1,700 replies, and in February of the following year published *The Woolf Report* (1991). That report not only explored the ‘breakdown of order’ at HMP Strangeways, but also ventured into broader questions about the origins of order in penal institutions. On the basis of his interviews, Woolf concluded that prison riots were at least in part the result of prisoners’ collective feelings about their treatment. He claimed that riots were related to prisoners’ perceptions of their environment, and specifically, to their sense of injustice at the conditions of incarceration. Accordingly, Lord Woolf argued that the Prison Service had ‘a responsibility to act with justice’ (ibid.: 226). He warned that failing to do so would create ‘serious difficulty in maintaining security and control in prisons’ (ibid.)

This conclusion had a significant effect on both prison management and criminological research. Within the penal system, Lord Woolf’s recommendations led to a sweeping series of reforms, including the appointment of a Prison Ombudsman, revised grievance procedures, and better sanitation (Liebling 2004: 10). At the time, commentators hailed these changes as the introduction of ‘decency and justice into jails where conditions had become intolerable’ (Jameson and Allison 1995: 138). In such accounts, the concept of justice served as a way to understand improvements in prison conditions. For criminologists, meanwhile, the potential of the Woolf report lay in Lord

¹⁹ Calling the Strangeways uprising an instance of ‘disorder’ is a political decision. That language suggests that prison riots are the result of a breakdown in proper prison structure rather than, for instance, evidence of prisoners’ agency or examples of their attempt to communicate a legitimate message. For more on the politics and semantics of prison riots (and on the Strangeways riot in particular) see Eamonn Carrabine’s (2004, 2005) writing on the topic.

Woolf's suggestion that prison security is linked to prisoners' perceptions of justice. This claim prompted scholars to rethink the theoretical relationship between order, justice, and belief. Motivated by Lord Woolf's conclusions, British criminologists argued that prison security might best be understood through legitimacy, a paradigm from political theory (Cavadino and Dignan 1992; Sparks 1994; Sparks and Bottoms 1995). These criminologists asserted that prisoners' compliance with authority—and hence, prison security—was a function of the legitimacy of a penal regime. They argued, in other words, that order flows from legitimacy.

Richard Sparks was a central voice in this discussion (Sparks 1994; Sparks and Bottoms 1995; Sparks *et al* 1996). In 'Can Prisons Be Legitimate?', now a classic text within the field, Sparks argued that the concept of legitimacy illuminated 'the problem of order' by distinguishing 'moral' from merely superficial compliance with authority (1994: 15). As Sparks explained it, 'only legitimate social arrangements generate commitments towards compliance on moral rather than just expedient grounds' (1994: 15). Legitimacy, in other words, describes a system of power in which compliance with authority is 'real' rather than simply expedient. It is the difference between following the rules because of a moral commitment to them and obeying the rules as a consequence of coercion. This distinction matters: according to Sparks, the need for legitimacy constantly 'constrains the actions of the powerful' because those in power want—or rather, need—a stable regime. Power structures based in superficial compliance break down more easily than those based on a shared commitment to the rules. The powerful thus have a vested interest in the real and deep (rather than coerced and superficial) compliance of their subjects. They *need* legitimacy to make a regime run. This need checks the actions of the powerful, which in turn affects the behavior of those subjected to power.

Sparks thus concluded that, ‘the presence or absence of legitimacy carries large consequences for all parties in a system of power relations’ (ibid.). This conclusion situated his work within a debate about the nature of just political systems that extends back to Max Weber (1958, 1964), Jurgen Habermas (1976) and David Beetham (1991). Weber, the first of these theorists, asserted that legitimacy stems from peoples’ beliefs (1964). As he put it, ‘the basis of every system of authority, and correspondingly every kind of willingness to obey, is a belief, a belief by which persons exercising authority are lent prestige (ibid.: 382; See also Peter 2010: 3; Weber 1958). Weber argued that people’s beliefs in the authority of a political system are what make that system legitimate, and hence just (ibid.). In his view, when people believe in a regime, they lend it authority; and when a regime is based on those beliefs, that regime is legitimate. The concept of legitimacy thus uncovers the basic, underlying beliefs that confer power upon a political system.

As philosophers have noted, Weber’s writing framed legitimacy as ‘an important explanatory category for social science’ (Peter 2010: 3). Problems arose, though, when social scientists began applying this concept to their own work. According to political philosopher David Beetham, theorists after Weber tended to reduce the account of legitimacy to ‘a report on people’s beliefs’ (Beetham 1991: 11; See also Habermas 1976). In such writing, legitimacy became the measure for a kind of public opinion poll—that is, the focus of legitimacy studies morphed from whether a regime was based in belief to whether people liked or disliked their government. These are two very different questions. The first interrogates the basis for authority, while the second simply describes what people believe about a given political system. As Beetham points out, it is the first (and not just the second) question that Weber sought to answer (1991). Weber’s writing on legitimacy is not solely descriptive; it is also a crucially normative

reflection on how power *ought* to work in a political regime (Weber 1958; See also Habermas 1976). To put it another way, the concept of legitimacy is closely related to concerns about justice, and framing legitimacy as a mere ‘report on beliefs’ obscures this connection (Beetham 1991).

Following Jürgen Habermas before him, David Beetham thus asserted that legitimacy has an underlying normative component (Beetham 1991; Habermas 1976).²⁰ He then suggested a revision that would clarify this point. Aiming to redress the common misreading of Weber, Beetham redefined legitimacy as ‘congruence between a given system of power and the beliefs, values, and expectations that provide it justification’ (Beetham 1991: 11). In this new formulation, legitimacy reveals whether power can be ‘justified in terms of belief’—that is, whether belief is the source of political power, not whether shared beliefs (about a regime being good or bad, fair or unfair) in fact exist. Where belief *is* the source for power, a regime can be called legitimate. Where it is not, that regime suffers from a ‘legitimacy deficit’ (ibid.: 20). Beetham thus presented the concept of legitimacy as a means to judge the justice of power regimes.

This presentation of legitimacy inspired Sparks’ work on the prison (Sparks 1994; Sparks and Bottoms 1995). Writing with an emphasis on the foundations of power, Sparks argued that the prison faces a serious legitimacy dilemma as an intrinsically hierarchical and coercive institution (ibid.). For Sparks, the problem was a definitional one: the prison does not run by consent. There is some consent involved in imprisonment, as scholars of resistance and agency have demonstrated (Bosworth 1999; Carrabine 2004). But the prison is not premised upon consent; it is not an institution in which power springs from consent between its participating members. Indeed, the very

²⁰ Habermas (1976) argues that legitimacy is both normative and contextual. In his view, while legitimacy captures how power ought to work in a normative sense, the concept also describes power relations within political systems that are historically contingent.

nature of imprisonment creates a gap between the sources and justification of power. Prisons, precisely because they are prisons, are then basically illegitimate institutions. As Alison Liebling puts it, ‘prisoners are generally held against their will. In this sense, but also in others, prisons suffer from an inherent legitimacy deficit’ (2004: 462).

In Sparks’ early work, this legitimacy deficit grounded a broad critique of incarceration (Sparks 1994). He argued that the legitimacy gap inherent to the structure of the penal institution becomes a recurring barrier to achieving justice behind bars (ibid.). As a result, it is difficult to judge the justice of penal institutions, for justice no longer seems like an appropriate barometer for evaluating the prison. In this sense, the ‘crisis’ of legitimacy can motivate a fully abolitionist argument. Sparks saw this; he read Thomas Mathiesen’s abolitionism as a claim about the illegitimacy of the penal institution (Sparks 1994: 17; Mathiesen 1974). But if Sparks acknowledged Mathiesen’s abolitionism, he also viewed legitimacy as a measure for reform.

While it reads and was widely received within criminology as a deep critique of the penal system, the work on legitimacy during the early and mid-1990s contains a subtle but definite impulse toward practical improvement in the conditions of incarceration. Though highly theoretical, Sparks’ line of enquiry was borne of an interest in reform. His writing in ‘Can Prisons Be Legitimate?’ was closely related to the findings in the Woolf Report, and through them, to Woolf’s agenda (Sparks 1994; Woolf 1991). Sparks explains:

The concept of legitimacy carries and open and dialectical awareness of change, such that every time an attempt at legitimation...appears to promise a new settlement one can begin to discern within it the outlines of another emergent set of issues and possibility and to reach towards them. [Sparks 1994: 26]

In this passage, Sparks explores the relationship between legitimacy and reform through the notion of ‘legitimation attempts’ (ibid.). He implies that ‘legitimacy deficits’ can be

isolated and ameliorated, leading to improved penal institutions (ibid.). Within his broader critique, Sparks thus presents legitimacy as a principle for identifying particular penal problems. This reading opens space for a more localised and reform-minded discussion of penal justice—which is exactly what Alison Liebling has developed over the past decade (See, e.g., Liebling 1996, 1998, 2004).

Published in 2004, Alison Liebling's *Prisons and Their Moral Performance* diverges from the abolitionist critique to frame legitimacy as the basis for improving the prison system. Liebling argues that legitimacy can, with several revisions, ground a 'comparative moral evaluation of prisons' (2004: 261-340, 482). To use her diction, the concept of legitimacy enables scholars to assess and affect the 'moral performance' of the prison (ibid.). At first glance, it is not entirely clear how the idea of 'moral performance' connects to debates about legitimacy and penal justice. Liebling repeatedly distances herself from the term legitimacy, asserting that criminologists need 'a slightly more complex and relational model of what matters in prison' (ibid.: 474). She calls for increased scholarly attention to 'broader questions of personal development' than have been asked in the past, and she highlights the import of 'psychological well-being, the delivery of pain' and trust within the prison (ibid.: 475). At times, her model for evaluating 'moral performance', a complex poll of staff and inmate perceptions of the prison environment, sounds like the misreading of Weber that Beetham sought to correct.

Liebling's focus on psychological development and pain sets her apart from Sparks and aligns her work with earlier sociological accounts of 'the pains of imprisonment' (Sykes 1958). Her aim, though, is straightforwardly related to the writing on legitimacy that developed in the nineties. As Liebling articulates it, her work is an 'operationalisation of legitimacy' that introduces 'moral concerns' into the conversation

begun a decade before by Richard Sparks (Liebling 2004: 475; Sparks 1994). Specifically, Liebling wants to integrate moral questions, which she defines as ‘questions about trust, respect, and well-being’, into debates about order and authority in the prison (ibid.: xviii). To uncover these aspects of incarceration, Liebling develops the term ‘moral performance’, which she describes as a way to measure ‘the practice of values in prison’ (ibid.). By asking those within prisons about their senses of trust and respect for one another, Liebling hopes to introduce morality and ethics into discussions about what makes the prison an illegitimate or legitimate place (ibid.).

Liebling’s move toward the concept of performance bridges a divide between the academic and official discourses on prison justice. Since 1999, the Prison Service has focused with increasing intensity on the use of ‘key performance indicators’ that measure the ‘success’ of penal institutions (Liebling 2004: 30). This focus on quantifiable success—and in particular, on the term performance—was the cornerstone of the New Labour approach to prison management (and other parts of government) (ibid.; See also Zedner 2002, 2010). Liebling’s goal, then, is to translate the critical discussion about prison justice and legitimacy into a localised debate about particular prisons, one that asks questions about fairness and trust and frames their answers in a language familiar to the Prison Service. This approach has had notable traction within the Prison Service, where Liebling’s model has (more than other academic critiques) succeeded in introducing ethical language into prison practices. Liebling’s method has been adopted by the Prison Service in its own internal evaluations.²¹ Her writing has also had a wide effect on prison scholarship. Simply put, it is the prevailing model for contemporary prisons research.

²¹ The Prison Service uses Liebling’s questionnaire to evaluate each prison every two years.

From its origins in Weber's political theory and Mathiesen's abolitionism, the discussion of penal justice has thus taken a pragmatic turn toward the government's own language for reform.²² Concerns about the impossibility of justice within the prison have shifted toward debates about practical improvements in particular prisons. As a result, the scholarship on prison justice looks different than in the past—it is more empirical, more local, and less abolitionist than the writing on justice and legitimacy from the 1970s and 80s. There is an historical context for this trajectory (Zedner 2002). Prison sociology has, it seems, changed with the times, from the holistic and radical critiques of the seventies toward the more flexible, managerial emphasis on 'what works' that took root under New Labour (ibid.). To be fair, Liebling (2004) does not embrace this managerialist project wholesale—her work is in many respects a reminder that broad moral concerns matter to an otherwise 'value-free' discussion of imprisonment (See also Liebling 1992, 1998; Liebling and Maruna 2005). What is clear, though, is that Liebling's writing on legitimacy marks a moment in prison sociology in which the (implicitly achievable) goal is to work within the state's framework to improve its penal institutions. This goal sets prison sociology apart from the body of scholarship that maps and critiques penal power.

Punishment and Society

From the start, academic writing on the relationship between punishment and society has styled itself in contrast to official prison discourses (Braithwaite 2003; McLaughlin 2011; Zedner 2002). Rather than interrogating the legitimacy of penal regimes or

²² To some degree, penology has always been a pragmatic project. Early prison reformers such as John Howard (1789) and Elizabeth Fry (1827) sought to ameliorate harsh prison conditions, as did later ethnographers like Donald Clemmer (1940) and Gresham Skyes (1958). This claim refers to a shift in the tone and goals of prison sociology over the last thirty years. See Lucia Zedner (2002) and Eugene McLaughlin (2011) on the historical trend toward less holistic and less abolitionist penal theory.

attempting to improve specific penal institutions, theorists of penal power aim to locate the prison within a social world ‘lacerated’ by divisions of race, gender, and class (Sim 2009: 8; See also Britton 2003; Daly 1994; Garland 2001; Gottschalk 2006; Hannah-Moffat 1995; Howe 1996; Sim 1995; Simon 2007; Wacquant 2009; Western 2006). Sociologists of punishment situate the prison within a wider state apparatus, one that systematically perpetuates inequality (ibid.). They ask how and why the penal institution (in particular) reproduces an unequal social order—how, in other words, *penal* power becomes an oppressive expression of *state* power.

The immense body of scholarship on the relationship between state power and imprisonment is daunting and intellectually dangerous to summarise. In its current form, this work ranges from statistical accounts of felon disenfranchisement in the United States (Manza and Uggen 2006) to theoretical writing on sex offender notification laws (Simon 2001), from Foucauldian assessments of British crime control (Stenson 2005) to longitudinal analyses of the American civil rights movement (Western 2006). There are obvious perils to generalizing about such research. But there are merits in doing so, too. The benefits of assessing this writing as a coherent collection of ideas become clear once we return to the 1970s—and specifically, to the wave of critical scholarship that in retrospect can be called the emergence of poststructuralist or postmodern thought.

Across academic disciplines, the 1970s was a period of radical revision. Motivated by the same social movements that propelled prison abolitionism, academics of this era began to question the terms that defined their respective fields. In the humanities, Frederic Jameson (1972) contested classic formalist accounts of literature; in the social sciences, thinkers like Michel Foucault (1970) and Jean-François Lyotard (1984) questioned both the notion of universal truth and the ‘scientific’ attempt to uncover it. Similarly, feminist theorists of the seventies and early eighties pushed

scholars to recognise how race, gender, and other aspects of identity inform subjectivity (See, e.g., Cade Bambara 1970; Firestone 1970; Rowbotham 1973; Wilson 1978).²³

Taken together, these critiques constituted a significant challenge to positivism, and hence, to the established orthodoxy of criminological thought. Long tied to causal questions about crime (and in Great Britain, to the Home Office), criminology began to unmoor itself from the positivist project during this period (McLaughlin 2011). Scholars started to explore how deviance and punishment are constructed through social responses to crime and the practice of imprisonment (See, e.g., Hall *et al* 1978; Foucault 1977). In Britain, criminologists gathered at the National Deviancy Conference to call for a 'New Criminology', one equipped with a 'fully social' theory of deviance and a more explicit stance on the politics of crime control (Taylor *et al* 1973).

There was, in sum, a burgeoning movement for a more sociological and politicised criminology during the 1970s. This movement developed in several different ways. In the UK, the constructionist critiques of the seventies grew into Critical Criminology (Carrington and Hogg 2002; McLaughlin 2011). Following the American sociologist Howard Becker, who famously asked academics 'whose side are we on?', British criminologists voiced concerns about the political position of their field (Becker 1967; See also Cohen 1998). They noted a shift toward a less democratic, more authoritarian state and began asking where criminology sat in relation to those trends.²⁴ This question prompted a series of enquiries into the production of knowledge about crime. Writing 'against criminology', Stan Cohen (1998) demonstrated the academy's complicity in creating notions of deviance. Stuart Hall and his contemporaries at the Birmingham Centre for Contemporary Cultural Studies took a similar approach,

²³ See Bosworth and Kaufman (2012) for a fuller history of this feminist scholarship as it relates to criminology (to studies of imprisonment in particular).

²⁴ See Eugene McLaughlin (2011) on the history of Critical Criminology in Britain.

exploring how the media creates crime ‘crises’ that, in turn, construct a class of deviants from young black men (Hall *et al* 1978). As Eugene McLaughlin notes, Hall’s *Policing the Crisis* connected social responses to ‘crime’ to the evolution of the ‘authoritarian state’ (ibid.; See also McLaughlin 2011: 50). Along with his co-authors, Hall deftly linked the construction of crime to the expansion of state power. These theorists situated criminal justice institutions—in this case, the police—within a wider network of social control that systematically reproduced disparities of race and class.

Hall’s vision of state power became, as McLaughlin puts it, ‘embedded in the neural wiring of Critical Criminology’ (McLaughlin 2011: 50). Over the decades after it was published, *Policing the Crisis* set the agenda for critical accounts of law and order: the ‘primary task’ was to identify and unravel the ‘practices that emanated from and assisted the “authoritarian state” in its management of structural conditions’ (ibid.: 51).²⁵ The goal of critical criminology, in other words, was to link criminal justice practices to a hierarchical social order through a critique of the state. Studies of imprisonment reflected this critical approach.²⁶ Echoing Hall’s tone, penal theorists of the eighties emphasised the prison’s part in producing and ‘warehousing’ the ‘dangerous classes’, in (further) stigmatising minorities, and in (further) entrenching poverty (ibid.: 52; See also, e.g., Ignatieff 1995; King and Morgan 1980; Melossi and Pavarini 1981; Scraton 1987). Behind each of these trends, they identified an expanding state

²⁵ This enquiry—and this vision of academia—has roots in Marxist theory, and in particular, in the ‘Marxist conceptualization of the state’ as a more-or-less autonomous force for class inequity (McLaughlin 2011: 50; See also Marx 1992; Resch 1992; Weldes 1989). That is not to say that class is the only site of analysis for Critical Criminologists. Critical scholars like Mary Bosworth, Jeanne Flavin, and Eamonn Carrabine have written extensively about how race and gender relate to imprisonment (Bosworth and Flavin 2007; Carrabine and Bosworth 2001). Nonetheless, the Marxist approach to the state as a relatively coherent force and as a unique object of critical analysis clearly informed the development of critical criminology (See McLaughlin 2011).

²⁶ To be clear, my claim is not that there was an abundance of critical prisons research in the UK during this period. To the contrary, access to British prisons seems to have become more difficult in the years immediately after the publication of *Psychological Survival* (Cohen and Taylor 1974). The point is that theories of imprisonment, like theories of crime and deviance of the same time period, took on a critical tone and a skeptical approach to state power during the late 1970s and 1980s.

‘grounded in the interests’ of the powerful (McLaughlin 2011: 51). Such accounts situated the prison not so much as a site for justice as the mechanism of an increasingly oppressive state. In this writing (e.g., Taylor *et al* 1973; Cohen and Taylor 1974), the prison is one piece of a broadly unequal power structure, and the academic works as a counter-hegemonic force.

The study of penal power took a slightly different form in the body of writing that emerged from the work of Michel Foucault (1977). Like the neo-Marxist Critical Criminologists of the 1970s and 1980s, Foucault was interested in historical conditions and power relations (ibid.; See also McLaughlin 2011).²⁷ His seventh book, *Discipline and Punish*, traced the ‘the birth of the prison’ to its early 19th century origins and connected that genealogy to the emergence of the modern state (ibid.). Foucault distinguished himself from other (more Marxist) theorists, however, in his focus on the modes—or ‘technologies’—through which state power gets expressed (ibid.; See also Valverde 2010). Famously, he argued that the prison is a site for ‘discipline’, a particularly modern form of social control that stakes its power on the minutia of daily life (ibid.). Turning to the exercise routines and architecture of imprisonment, Foucault portrayed punishment as a practice that constructs and reifies social norms. In doing so, he explored the prison as a prism for modernity—that is, he used the penal institution to advance a thesis about the nature of power, subjectivity, and social control in post-Enlightenment society.

David Garland points out that this Foucauldian approach to incarceration echoed the functionalist account of crime and deviance that Emile Durkheim laid out at the end of 19th century (Garland 1990a; See also Durkheim 1961, 1964). While Foucault differs from Durkheim in important (and sometimes diametric) ways, both thinkers are attuned

²⁷ See note 25 on the links between the development of critical criminology and a Marxist conception of the nation-state.

to the sociological effects of criminal justice practices. For Durkheim, crime and crime control serve a key social function, providing the deviant example against which a common morality becomes clear (Durkheim 1961, 1964). Foucault is less explicitly functionalist and is certainly less optimistic about the role that punishment plays in society. He does, however, contend that punishment reproduces far-reaching social norms that establish the boundaries of human subjectivity (1977). Foucault can thus be read as a neo-functionalist, the post-modern answer to Durkheim's classic sociology of crime.²⁸

This 'new' functionalism was immensely influential during the seventies, and indeed has been ever since (See, e.g., Britton 2003; Carrabine 2000; Howe 1996; Sim 2009; Simon 2007; Wacquant 2009). Scholars concerned with the prison saw in Foucault's writing 'a more powerful set of tools for the analysis of state control' (Garland 1990a: 2). As Garland explains, Foucault's work on the prison 'demonstrated ...the far-reaching sociological significance of punishment and the kinds of insights which might be gained from a close examination of its practices' (ibid.). These insights fit well into the critical project of the period. Alongside *Policing the Crisis, Discipline and Punish* provided a model for moving beyond 'the workings of penal policy' to more structural questions about state power (ibid.: 1-2; Hall 1978; Foucault 1977). Foucault foregrounded the links between the practice of imprisonment and the constitution of the polity. He inspired criminologists to think about the sociological effects of punishment. In short, he framed punishment 'as a social phenomenon' (Garland 1990a).

Some scholars have interpreted Foucault's work directly, employing concepts like 'governmentality' and 'biopower' to revisit questions about the purpose of

²⁸ There are heated debates about whether it is appropriate to call Foucault a functionalist (Brenner 1994; Graaff 2006). This is certainly not the only interpretation of Foucault's work. Some scholars argue that calling Foucault a neo-functionalist suggests a determinism that his work does not actually endorse (Brenner 1994). For more on Foucault's theoretical perspective see Graaff (2006). For a review of how these issues apply to criminology, see Garland (1990a) and Howe (1996).

imprisonment (See, e.g., Carrabine 2000; Garland 1996; Stenson 2005). These terms are related attempts to understand how the state creates and regulates its subjects (See Foucault 1978, 1991). ‘Governmentality’ describes the wide-ranging techniques, from state politics to the production of medical knowledge, that the state uses to control its citizens—or more to the point, to encourage citizens to govern themselves (Foucault 1991). ‘Bio-power’, on the other hand, captures how such techniques of government operate on and through the ‘docile’ human body (Foucault 1978). Inspired by these concepts, criminologists have developed governmentality into a ‘social theory of imprisonment’ (Carrabine 2000) and have used biopolitics to explain everything from local prison policies (Stenson 2005) to ‘neoliberal discourses of crime control’ (Monahan 2009). These accounts borrow Foucault’s terminology to cast imprisonment as a technique of state power.

Other scholars have a less explicit but no less important relationship to Foucault’s work. Thinkers like David Garland (2001), Kelly Hannah-Moffat (2001) (1981), Marianna Valverde (2010), Adrian Howe (1996), Jonathan Simon (2007), Loïc Wacquant (2009), and Joe Sim (2009) have all drawn on Foucauldian ideas about state power to link punitive penal policies to the expansion of social control. Of course, it is problematic to ascribe Foucault’s influence to all of this work. Some critical scholars bristle at being labeled Foucauldian and others—among those I just mentioned, David Garland for one (1990a)—purposefully distinguish their theories from Foucault’s.²⁹ In prison studies and many other fields, citing Foucault has become a way of saying that scholars are critical of the state and interested in power. There is more, both to Foucault and to contemporary scholarship, than that. The latent point remains intact though, and is worth exploring further.

²⁹ Adrian Howe’s (1996) account of penalty also entails an explicit critique of Foucault.

While the most famous writing in criminology—Garland’s *The Culture of Control* (2001), Simon’s *Governing Through Crime* (2007), Wacquant’s *Punishing the Poor* (2009)—cannot be called Foucauldian without caveats, there is no doubt that this work has been shaped by Foucault’s ideas, and particularly by his method. *Discipline and Punish* introduced a new way of approaching the prison, one in which punishment is an independent and sociologically rich object of analysis. This approach opened space for scholars to write about imprisonment (especially mass imprisonment in the United States) as a defining feature of late modern society (See, e.g., Garland 1990b; Western 2009; Tonry 1996). For Foucault, punishment is a power-laden exchange between the disciplinary practices within a prison and a much wider social space. Scholars following Foucault have called this sociological exchange penalty (Britton 2003; Barker 2009; Carlen 2008; Garland 2001; Hannah-Moffat 2001; Simon 2007; Sim 2009; Wacquant 2009). They have sought, as Foucault did, to think broadly about the relationship between penal institutions and the character of contemporary society. This perspective on the prison—as a lens into the nature of power and a metonym for modern society—defines much of today’s writing on punishment and owes much to Foucault’s work.

Contemporary scholars have also embraced Foucault’s descriptive vantage point on ‘the carceral state’. Following Nietzsche, Foucault took an explicitly critical attitude toward state power, tracing its expressions and variations over time as a means to critique modern social control (Foucault 1970, 1977; See Fraser 1989: 19; Nietzsche 1989). Foucault calls this method genealogy (ibid.). Its main premise is that scholars might distance themselves from their object of study, and in doing so, can comment on the processes whereby knowledge is produced. This method has been key to the development of a sociology of punishment. Indeed, writing on penal power is defined by its descriptive methodology. The body of critical writing on punishment and

society—whether it be ‘orthodox’ Critical Criminology (McLaughlin 2011) or more Foucauldian critical writing—adopts a skeptical attitude toward state power, positioning the academic as a commentator on the machinations of the authoritarian state. The goal for scholars of punishment and society is to trace the constitutive role that the prison plays in an unequal social system. Often, that goal gives rise to what Lucia Zedner (2002) has called ‘grand narratives’, sweeping accounts that describe the prison—or better, the phenomenon of imprisonment—in wide-ranging and metaphorical terms. Such ‘grand’ accounts of incarceration aim to situate the prison within a bigger story, one attuned primarily, though not only, to questions of power (ibid.).

Scholarship on penalty thus ends up looking very different than contemporary prison sociology. Since the mid-nineties, and particularly since the publication of Liebling’s (2004) recent work, academic writing on prison life has veered toward local, policy-oriented, and empirical research (See, e.g., Burton-Rose *et al* 1998; Comfort 2003; Crewe 2009; Early 1995; Liebling and Maruna 1999). This work coheres around the concept of legitimacy and culminates in an attempt to envision better prisons. As a result, prison sociology tends toward what Zedner describes as ‘the production of miniatures... accurately drawn and intentionally narrowly focused’ (2002: 347). In contrast, theoretical accounts of penal power frame imprisonment as a cultural practice and position the academic as a social critic. These stylistic differences in prison research track deeper theoretical distinctions in the field of prison studies. Ultimately, we can discern two distinct ways of talking, thinking, and writing about the prison—one focused on the possibility of legitimate penal institutions, the other on the prison’s part in a fundamentally stratified society.

Westphalian Blindspots

Both of these approaches to the prison tend to overlook the effects of globalisation. Despite their many strengths, neither contemporary prison sociologies (e.g. Crewe 2009; Liebling 2004) nor critical accounts of penality (e.g. Garland 2001; Simon 2007) fully engage with questions about the changing shape of the nation-state or the relationship between border control and imprisonment.³⁰ Almost across the board, prison scholars invoke the idea of state power. Prison sociologists like Alison Liebling (2004) and Ben Crewe (2009) attempt to improve state institutions and to make them more legitimate. They aim to reform prisons, and in doing so, to increase the legitimacy of the state. Penal theorists like Adrienne Howe (1996), Loïc Wacquant (2009) and David Garland (2001), on the other hand, track the oppressive tendencies of an expanding and increasingly authoritarian state. The state is an important term of analysis for all of these thinkers. Yet in both branches of prison studies, the concept of the state remains under-theorised.

This problem is most apparent in Alison Liebling's writing (2004). Liebling's work translates a concern for justice into the language of 'moral performance' (ibid.). The notion of monitoring a prison's performance percolated in internal Prison Service discussions and documents from the late 1980s until 1999, when Martin Narey, then Director General of the Prison Service, unveiled the 'Decency Agenda' for prison reform (ibid.:30). While the precise meaning of this agenda is not clear, it seems to entail an explicit endorsement of prison performance metrics. Within the penal estate, the implementation of the 'Decency Agenda' has involved an increased focus on

³⁰ I argue later in the thesis that these omissions are linked to the general oversight of identity in prison studies. I have written about these trends elsewhere (Bosworth and Kaufman 2012); so too have Coretta Phillips (Phillips and Earle 2010), Kelly Hannah-Moffat (2011), Mary Bosworth and Jeanne Flavin (Bosworth and Flavin 2007).

already existing managerialist practices such as the system-wide policy of ‘incentives and earned privileges’ (IEP) for prisoners and ‘key performance indicators’ (KPIs) for measuring ‘success’ and allocating Prison Service funds (ibid.). The concept of performance—whether it describes prisoners performing to earn privileges or prisons performing to earn funding—has thus been key to the government’s approach to prison management in the last decade. As recently as 2010, the Prison Service Director General Phil Wheatley credited performance metrics for both suicide reduction and improvements in race relations (Darby and Wheatley 2010).³¹

Liebling’s use of this term raises concerns about her critique. While it contributes to her impact on the prison system, the language Liebling adopts is also fundamentally linked to the problem she wants to solve. Pat Carlen explores this link in her writing on prison governance (Carlen 2002a, 2002b). According to Carlen, the ambiguity of the government’s Decency Agenda enables (and eventually gets subsumed by) managerialist measures such as ‘key performance indicators’ (ibid). These measures obscure the prison’s illegitimacy and justify prison expansion and privatisation (ibid). Carlen suggests, in other words, that managerialism and illegitimacy are interrelated. In her view, the recent emphasis on prison ‘performance’ and measurable ‘success’ is precisely what allows deeper and more difficult philosophical questions about prison justice to be ignored. The language of performance thus reinforces the prison’s legitimacy deficit; it is part and parcel of the problem. From this perspective, Liebling’s terminology is directly at odds with her motivating concerns about justice, ethics, and morality. Ultimately, Liebling cannot overcome the wider implications of her chosen framework.

³¹ Wheatley retired from the civil service in June 2010 to take a position with G4S, a private security company that operates prisons and immigration ‘removal’ centres in the UK and abroad. He was replaced at the National Offender Management Service (NOMS), the agency that runs prisons and probation, by Michael Spurr.

This reading of ‘moral performance’ is noteworthy given the influence of Liebling’s work. On a deeper and perhaps more pressing level, it also serves as the beginning of a systematic critique of legitimacy scholarship. The real question is not what is wrong with ‘moral performance’ in particular, but rather, what the shortcomings of this framework can tell scholars about prison scholarship more broadly. Can an account of the prison’s legitimacy, whether from Liebling or anyone else, allow for a critical discussion of the state? What role is the state playing in analyses of the interior life of the penal institution? In Liebling’s writing, it is relatively clear that the state is under-critiqued—it is the geographical container for the penal institutions she evaluates. Liebling does not aim to problematise the nation-state. Instead, as she makes clear at the outset of her book, her goal is an ‘internal’ and ‘practical’ model for prison reform (Liebling 2004: xix).

This local, ‘internal’ goal is not shared across all legitimacy scholarship. Richard Sparks, for instance, underscored the ‘centrally important “external” issue’ of the conditions under which prison sentences are appropriate (Sparks 1994: 10). From the start, Sparks was concerned with the wider ‘external’ issues that inform prison practices (ibid). There was a latent sociological focus to his enquiry and there is no question that Sparks, who in many ways initiated the criminological discussion of legitimacy, was invested in a broad critique of imprisonment. But in his writing on legitimacy, Sparks’ emphasis remained on the justification for imprisonment rather than on the prison’s position in a wider state apparatus (ibid.). Sparks’ critical question was when the state is using its power to incarcerate legitimately, not what the use of incarceration says about the (changing) nature of the state. That is to say, Sparks interrogated the basis for state institutions. He did not take the state to be a malleable product of institutional practices.

This uni-directional understanding of the state is characteristic of this strand of penal scholarship. As a result, studies of the prison's legitimacy tend to be tied to the internal workings of state institutions and to a conception of the state as the origin of those institutions. For both Sparks and Liebling, the study of legitimacy promises to link the 'interior life' of the prison to deeper questions about the justification of incarceration (Liebling 2004: xix; Sparks 1994: 10). Legitimacy moves from inside the prison to wider questions about how and whether the state's use of incarceration can be just (and for Liebling, moral). In theory, this shift makes sense. But what if the 'interior life' of the prison takes us beyond the boundaries of the state? What becomes of legitimacy if the daily life of the prison is connected not just to British society, but to a globalising world?

These questions do not typically get asked in prison studies, or at least in accounts of the prison's legitimacy. Despite the emergence of a body of criminological writing on borders and migration control (See, e.g., Aas 2007; Bosworth 2008b; Stumpf 2007; Weber and Bowling 2004; Zedner 2010), prison sociology remains more-or-less bound to the concept of the nation-state (and to the philosophical assumptions that come with it). This is in part due to academic habit. Prison sociology has from its inception been shaped by the spaces it explores. The prison is traditionally understood as a domestic institution, one that along with the police and the courts constitutes a country's criminal justice system. Scholars have long approached these institutions as national in both remit and scope. Accordingly, the study of legitimacy has been a state-centred, nation-focused project. The 'external' world to which legitimacy scholarship refers has, at least implicitly, always been the nation-state.

Contemporary prisons, in contrast, are distinctly global institutions (Bosworth and Kaufman 2011; Simon 1998). The 'interior life' of the British prison flows well

beyond national borders. Many of the people held in British prisons are foreign nationals and in the last two decades the prison has become a key part of the government's effort at migration control (ibid.; See also Bosworth 2008a; Bosworth and Guild 2008; Weber and Bowling 2004).³² Today's prisons operate along the distinction between 'foreign' and 'domestic' spheres, and in the process, work to establish the nation-state as a concrete force in people's lives (ibid.). The link between the nation and the state is thus forged within the prison. The 21st Century prison creates the boundaries of the nation-state and infuses that bounded space with meaning. This global reality makes it difficult to debate the prison's legitimacy or to talk about justice behind bars. What kind of justice is at issue inside the prison? Is the concept of legitimacy confined to the relationship between the British nation-state and British citizens? What about Britain's relationship to its immigrants, or to the countries from which those 'foreigners' have migrated? Does legitimacy encompass those global power dynamics?

Thus far, prison sociologists have been ill equipped to answer, or even to ask, these types of questions. This conceptual problem stems not only from the intellectual habits of criminology, but also, on a deeper level, from the terms scholars are using to examine the prison. The concept of legitimacy derives from democratic theory, and like those theories, is connected to the classic conception of the state as a bordered and coherent space (Anderson 2006; Chernilo 2011; Fraser 2010). As a result, academic scholarship on the prison's legitimacy tends to stay within the confines of the nation-state rather than interrogating the limits of sovereignty or the effects of globalisation (Brown 2010). That is to say, the study of legitimacy finds its roots in a political philosophy that is at odds with the current social world. This scholarship most often sidesteps questions about shifting borders, the emergence of new forms of social

³² See Bosworth and Kaufman (2011) and Simon (1998) for more on these trends in the United States.

organisation, and the transformation of late modern political membership. In this sense, prison sociology exemplifies what Nancy Fraser calls ‘the Westphalian blindspot of public-sphere theory’ (ibid.: 85).

Fraser’s turn of phrase captures how the limits of prison scholarship relate to an underlying vision of the state. According to Fraser, the legitimacy theories that stem from Jurgen Habermas’ work rest upon ‘a national subtext’ (ibid.: 80). As she describes it, these theories ‘take for granted the Westphalian framing of political space’ (ibid.). They also ‘fuse’ the ‘Westphalian territorial state’ with ‘the imagined community of the nation’ (ibid.).³³ In other words, these theories assume that the world is organised into a series of bounded, discrete, and relatively autonomous states and that those states correspond with the communities we call nations. This is an increasingly inaccurate assumption. Over the past thirty or so years, the process of globalisation has challenged the Westphalian framework, and particularly the notion of a ‘fused’ nation-state (ibid.; See also Bauman 1998; Beck and Grande 2007; Butler and Spivak 2007). In today’s world, policing, banking, health and environmental regulations regularly operate across national borders. Immigration detention centres have sprung up at a rapid clip. Prisons, security provision, and other public utilities have been privatised and placed in the hands of multi-national corporations. As Fraser puts it, ‘the problems debated are inherently transnational and can neither be located within Westphalian space nor resolved by a Westphalian state’ (2010: 85-6).³⁴

Within this global context, legitimacy theory begins to look dated. This body of work also appears to miss a first and foundational step—namely, the one in which

³³ In making this claim, Fraser alludes to Benedict Anderson’s assertion that nations are ‘imagined communities’ (Anderson 2006; Fraser 2010).

³⁴ Fraser’s claim is strong. Others scholars have questioned whether some late modern social problems may in fact belong within the Westphalian frame (Chernilo 2011). In either case, the general point remains relevant: many of the issues debated as national matters within prison scholarship are not actually bounded by (or solved within) the nation-state.

scholars interrogate the assumptions of their enquiry. The lurking assumption behind much prison sociology is that researchers can talk about justice in penal institutions without a critical account of the nation-state. Building from this ‘Westphalian blindspot’, many sociological accounts of prison life present the state as a static idea, the source rather than the effect of institutions like the prison. This presentation of the prison encourages what Fraser calls ‘misframing’, a situation in which ‘actually transnational’ questions about justice and punishment are presented as ‘national matters’ (2010: 6; See also Hudson 2003). To extend Fraser’s diction to the field of prison studies, it appears that the existing body of writing on prison legitimacy is largely ‘misframed’. This scholarship tends to reinforce an outmoded view of the world, and of the prison’s place within it.

At first glance, theories of power and penalty seem equipped to avoid (and even to ameliorate) these conceptual problems. From Garland’s (2001) writing on ‘the culture of control’ to Barker’s (2009) commentary on ‘the politics of imprisonment’ and Wacquant’s (2001) thesis on ‘the prison and the ghetto’, theoretical work on the relationship between punishment and society situates itself in an explicitly critical relationship to both the state and the traditional institutions of criminal justice. Sociologists of punishment adopt their own versions of what Paul Ricoeur (1969) called a ‘hermeneutic of suspicion’, tracking the expanding state and its various incarnations of social control (See also Simon and Sparks 2012; Braithwaite 2003; Zedner 2002). Such accounts place the academic at a remove from the state, in a position to comment on its shifting forms—and at least in theory, on its tenuous and politicised relationship to ideas about the nation.

Much of this critical distance comes from a purposeful rejection of the concept of legitimacy. As Fraser points out in her early work, Michel Foucault’s unique

contribution to political thought lay in his ‘suspension of the problematic of legitimacy’ as a paradigm for critical analysis (Fraser 1989: 17-34). Bracketing the concerns that shape modern liberal theory, and in particular concerns about ‘the legitimate and illegitimate exercise of power’, Foucault instead attempted to provide a descriptive account of power in the present (ibid: 18; See Foucault 1977). Criminologists following Foucault have, as I suggested earlier, continued this line of thought into the 21st century. With more and less fidelity to the Foucauldian method, sociologists of punishment have sought to reveal, expose, and describe where the state is at work.

This descriptive project seems like it would enable and even encourage a nuanced critique of the nation-state. Theories of penalty frame the state as a flexible and fallible social phenomenon. The perspective positions criminologists to deliver an account of the prison less tied to a Westphalian frame, which in some cases they have done. Over the past decade, scholars interested in the relationship between punishment and society have turned with insight and increasing frequency to the study of transnational crimes (Bowling 2009; Lee 2005), border control (Murdolo 2002), and the global spread of concepts like ‘risk’ and ‘security’ (Garland 2003; Hudson 2003; Loader and Sparks 2007). Academics concerned with penal power have also been attuned to changes in the shape of the state. David Garland, for instance, situates the ‘culture of control’ within a wider process of ‘responsibilization’ in which the state devolves criminal justice responsibilities to its citizens (2001; See also Garland 1996). According to Garland, ‘responsibilization’ spreads the burden of criminal justice across the polity, flattening the state while extending its reach (ibid.). In a similar vein, Jonathan Simon (2007) argues that the imagery of imprisonment has enabled American politicians to ‘govern through crime’, and in doing so, has warped the practice of democracy. Across

the Atlantic, Mary Bosworth and Mhairi Guild contend that British border control policies work to ‘write the nation-state’ as its relevance declines (2008: 715).

There is, in other words, a creative and conceptual approach to the state within the body of scholarship on penal power. However, like classic prison sociologies, much of the writing on punishment and society fails to problematise the concept of the nation-state. This oversight surfaces in two different ways. First and perhaps foremost, critical scholarship on punishment and society often operates with its own ‘Westphalian blindspot’ about the construction of the contemporary nation-state (Fraser 2010). With notable exceptions—such as Bosworth and Guild’s (2008) writing on border control, and Ben Bowling’s (2009) work on global policing—this body of writing does not draw a clear distinction between the state and the nation. While sociologists of punishment acknowledge that the state is a nuanced product of institutional practices, they rarely extend such critical analysis to the relationship between the state and ideas about national (or transnational) belonging. Instead, the writing on punishment and society tends to merge state with nation, or at least to ignore the fissures between the two (Fraser 2010).

For example, prison theorists have documented the rise of the ‘punitive state’ (Garland 2001), the expansion of the ‘carceral state’ (Sim 2009), and the emergence of a ‘neo-liberal state’ keen to punish the poor (Wacquant 2001, 2009). They have not, however, fully explained the boundaries of the ‘carceral state’ and the ‘punitive state’. Are these scholars critiquing domestic prison policies and a domestic polity? Or is the reach of the ‘carceral’ wider than that? When we write about the relationship between punishment and society, what—and *who*—is the society in question? Katja Aas articulates this question in slightly different terms:

We seldom seem to be aware of the fact that the objects of our research—often referred to as ‘British society’, ‘American society’, the EU, etc.—are the result of intense and strict social control and exclusion’. [2007: 283]

According to Aas, the first ‘blindspot’ of critical theories of punishment is that they tend to suppress the role that border controls play in shaping society (ibid.).³⁵

A second and related problem is that theories of penalty often overstate the coherence of ‘the state’. Critical accounts of punishment and society depict an expansive and increasingly authoritarian state behind penal policies and prison practices. Over and over again, theorists have demonstrated how late modern penalty—realised in practices like mass imprisonment and electronic tagging—expresses and extends state power (See, e.g., Garland 2001; O’Malley 1999; Sim 2009; Simon 2007). In each of these accounts, the critical goal is to find ‘the state’ at work behind the scenes, to reveal and expose ‘the state’ latent within penal practices. As Eugene McLaughlin puts it, ‘Critical Criminology seeks to unmask the “authoritarian state” in all its guises—the “carceral state”; the “punitive state”; the “coercive state”; the “garrison state”; the “surveillance state”; the “national security state”; the “exceptional state”—etc.’ (2011: 56). The goal, in sum, is to ‘eke out the repressive workings of state power wherever they exist’ (Bosworth and Kaufman 2012).³⁶

This goal has given rise to incisive accounts of a wide range of social phenomena and has enabled scholars to see parallels between criminal justice practices (such as the use of CCTV and the creation of sex offender registries) that might

³⁵ Katja Aas’ work on surveillance and mobility (2007), Alessandro di Giorgi’s writing on migration (2011), and Mary Bosworth’s (2008) account of border control provide noteworthy counterpoints to this claim. Dario Melossi’s (2013) forthcoming book *Crime and Migration* promises to do the same. On the whole, the criminological writing on migration does not suffer from the same ‘Westphalian blindspot’ that much of the critical writing on punishment seems to have (Fraser 2010). The concern, then, is that theoretical scholars of punishment have not acknowledged globalisation in the same way that criminologists concerned with migration control have in recent years.

³⁶ This article written with Mary Bosworth does not yet have page numbers, as it is forthcoming in the *Handbook of Punishment and Society* (Simon and Sparks 2012).

otherwise have seemed distinct.³⁷ But it has also encouraged an overly coherent picture of the state. Taken as a whole, the literature on penal power suggests that the state is a real and identifiable thing, the lurking force ‘behind’ and ‘beneath’ oppressive policies and practices. The next six chapters present a very different story. Drawing on observations and interviews, I depict a varied and often deeply incoherent state, one in which penal policies look different than prison practices and prisons look different from one another. I also describe a sharp contrast between bureaucratic life within prisons and harsh penal policies. These contrasts beg a series of questions about our search for ‘the state’. Again, we are left wondering whether the state is policy, prison practice, or both. We are also compelled to ask what gets lost when criminologists aim to expose the authoritarian state—whether, for instance, the ‘state-centred analysis’ that defines studies of punishment and society leaves enough room to explain the simultaneous banality and punitiveness of the contemporary prison (McLaughlin 2011: 56). The concern, in short, is that critical theories of penality and state power exaggerate the state at the expense of a more thoughtful analysis of its internal ‘contradictions, dilemmas, and tensions’ (ibid.).

As with legitimacy critiques, this concern brings us back to basic questions about how theorists understand and go about studying the prison. In the case of legitimacy theories, scholars appeared too tied to the boundaries of penal institutions to advance a real critique of the state. In contrast, the problem with studies of punishment and society seems to be that the main goal of critical scholarship is to unveil the state. This goal is shared by critical criminologists of all stripes. Neo-Marxists (or as McLaughlin calls them, ‘orthodox Critical Criminologists’) want to ‘expose the existence of the authoritarian state’ that manages class conditions, while neo-

³⁷ See Jonathan Simon (2001) on the passage of Megan’s Law and the creation of sex offender registries in the United States and Ben Goold (2008) on the implications of European surveillance strategies such as CCTV. Both scholars depict an expanding apparatus for social control.

Foucauldians want to trace the genealogy of a state that disciplines its citizens (McLaughlin 2011: 56). In both lines of thought, the purpose of academic enquiry is to locate and ‘out’ the state. The concept of the state occupies a privileged position in these analyses—it works both as an assumed backdrop for critical enquiry, and as the final end of critical scholarship. As a result, theories of punishment often conclude once the state is revealed, leaving unanswered a whole field of questions about how the nation-state comes to be, fails to work in practice, and yet continues to structure social inequality.

Conclusion: A Problem of Method

Up until this point, I have characterised the differences within the field of prison studies in theoretical terms, as the outgrowth of an underlying tension between liberal and critical approaches to the state. I want to conclude by casting that debate in a slightly different way—specifically, as a problem of method. Earlier in the chapter, I mentioned that critiques of penalty tend to take the form of ‘grand narratives’, while sociological accounts of legitimacy typically become detailed ‘miniatures’ of the penal institution (Zedner 2002; See, e.g., Jackson *et al* 2010). These stylistic differences spring from distinct methodological approaches.

Particularly since the mid-nineties, prison sociology has become an empirical project. Criminologists like Coretta Phillips, Ben Crewe, and Alison Liebling, among others, have led the way in producing ethnographic accounts of life behind bars (Phillips 2007; Crewe 2007, 2009; Liebling 2004; See also Burton-Rose *et al* 1998; Comfort 2003; Earle and Phillips 2009; Early 1995; Genders and Player 1995; Liebling and Maruna 1999; Phillips 2007, 2012). These thinkers have delivered some of the most

comprehensive empirical studies of the contemporary penal institution (ibid.). Academic questions about penalty, on the other hand, have contributed to a wide-ranging and well-known body of theoretical writing on the ‘rise of risk’ and the ‘culture of control’ (Carlen 2005, 2008; Garland 2001, 2003; Gottschalk 2006; Hannah-Moffat 2001; Sim 2009; Western 2006). In sum, the originally philosophical differences between the branches of prison scholarship have developed into a methodological divide between empirical and theoretical work.

This is not the necessary trajectory of criminological thought. Legitimacy is not an inherently empirical idea, any more than punishment is essentially theoretical. These two concepts do not track neatly to an empirical-theoretical divide. To the contrary, power is a deeply empirical notion for Marx (1992), as is punishment for Foucault (1977, 1978). Legitimacy receives highly theoretical treatment in Weber’s (1958) work and even in Sparks’ writing from the mid-1990s (Sparks 1994; Sparks and Bottoms 1995). It was not until Liebling’s revision of Sparks that legitimacy scholarship took its more empirical turn within criminology (Liebling 2004). The point is not that the field of prison studies had to develop as it did given its conceptual roots, but rather that there happens to be a lineage from particular political theories of the state to distinct ways of doing prisons research.

To be fair, the influence of social theorists like Durkheim, Foucault, Marx, and Weber is not the sole (nor even the primary) cause of the gap between empirical and theoretical writing on the prison. There are a whole series of reasons for this divide, many of which are entrenched in the structure of academia. Professional pressures are relevant to the state of prison studies. The push to publish deters long-term empirical projects and people’s time and interests naturally divide the field into different kinds of academic projects. Not everyone wants to go inside prisons and speak with prisoners

and not everyone who wants to go inside prisons can get into them (See Hannah-Moffat 2011; Wacquant 2002 on this problem). I explore the barriers to empirical prisons research in more detail in the next chapter.

For the moment, my claim is a limited and largely genealogical one: there is an obvious gap between theory and practice in prison studies, and it worth thinking about how that gap relates to the field's origins in classic liberal theories of the state on one hand and neo-functionalist critical theories on the other. Could we benefit from thinking more about how our different theoretical approaches encourage methodological assumptions (and vice versa)? What is the connection between the 'Westphalian blindspots' of prison theory and our allegiance to particular methodological practices (Fraser 2010)? Scholars have pointed out that, in planning our research, many social scientists treat the nation-state 'as the natural and necessary representation of modern society' (Chernilo 2011: 99; See also Calhoun 1999; Smelser 1997; Wagner 1994). Does this tendency to overlook the construction of the nation-state spring from our academic practices? Is it possible what is going on in the field of prison studies is really widespread a case of 'methodological nationalism' (Chernilo 2011)?³⁸ Asking such questions is key to moving prison studies forward. For if the oversights and limitations of contemporary theories of imprisonment relate to our methods, then we can turn to questions of method to move the field in worthwhile new directions. The second chapter aims to do just that.

³⁸ Sociologist Daniel Chernilo's (2011) claims are worth examining in more detail. Chernilo argues that the problem of 'methodological nationalism', while real in social science, has also become a straw man for critical theorists in recent years. He notes that while many research studies assume a coherent nation-state, social scientists just as regularly lament 'methodological nationalism' without exploring the potential benefits of thinking within a national frame (ibid.). Chernilo's provocative account of social scientific methodology is relevant to this discussion, but can also lead prison scholars too far into the local debates of globalisation theory. For these purposes, Chernilo's description of 'methodological nationalism' as a problem in social science seems to apply and helps to link my concerns about prison theory with questions about the way we do prisons research.

Chapter Two: Bearing Witness

How we do research matters a great deal. The things scholars do not see (or say) about the prison are usually related to their research methods. A strictly empirical approach to imprisonment can suppress the highly political and racialised contexts in which punishment takes place.³⁹ Tied to the boundaries of penal institutions, quantitative and other empirical research on the prison sometimes ignores theoretical questions about who gets imprisoned, under what circumstances, and why. A purely theoretical perspective, on the other hand, can obscure important features of life inside the prison, such as its simultaneous banality and punitiveness or the substantive differences between prisoners. Theories of punishment often become grand in size and scope, leaving little room to think about the questions that arise from within the actual prison (Braithwaite 2003; Zedner 2002).

This chapter begins from the assertion that these methodological trends are a real problem for prison studies. Drawing on my previous experience visiting prisons, and on the lessons I learned in the year of research that went into this thesis, I argue that academics concerned with imprisonment need to be doing empirically-informed theoretical work. We need to be thinking both conceptually and practically, big and small, in order to understand the purpose of the late modern prison. But how do we think on both of those scales? How do we critique the nation-state without exaggerating its coherence (McLaughlin 2011)? What would it look like to write about daily prison life, even to reform the prison, without forgetting that power is constructed? These are questions that social theorists have asked in many forms and many criminologists have

³⁹ There is a great deal of research on the racialisation of punishment. For examples, see: Angel-Ajani 2003; Bosworth and Flavin 2007; Bosworth *et al* 2008; Bowling 1998; Phillips and Earle 2008; Sudbury 2002; Tonry 1996; Wacquant 2001; Western 2006. Chapter five examines the relationship between race and current British penal policies.

sought to answer (See, e.g., Bourdieu 1977; Bourdieu and Wacquant 1992; Carlen 1983; Corcoran 2006; Giddens 1986; Hannah-Moffat 1995; Matthews 2009; Loader 2010; Phillips and Earle 2008; Sudbury 2009). These are, in a sense, the same old questions about theory and empiricism, agency and structure within accounts of social systems and political regimes. Joining that discussion, this chapter examines the balance between theory and practice in the context of my study of foreign national prisoners incarcerated in England and Wales.

The chapter begins chronologically, with a brief account of the personal experiences and political beliefs that inspired this study. Academic reports on the prison do not usually entail such personal accounts. However, following feminist and critical race theorists (e.g. Phillips and Earle 2010; Richie 2004; Sedgwick 2004; Sudbury 2002; Visweswaran 1994), I argue that a researcher's subjective perspective, both before and during the research process, is a constitutive and noteworthy part of knowledge production. Accordingly, I recall the visits to American prisons that informed and shaped the question in this thesis. That exposition grounds a broader discussion of the promise and perils of prison ethnography. Adopted from anthropology, ethnography is the dominant model for qualitative prisons research (See, e.g., Crewe 2009; Ferrell and Hamm 1998; Phillips and Earle 2010). It is also, as many scholars have noted, a particularly difficult method to enact within the prison, which is by definition a highly controlled social space (ibid.; See also Bosworth *et al* 2005; Schlosser 2008). I explore some of the 'methodological landmines' of ethnographic prisons research in the first section of this chapter (Schlosser 2008; See also Ferrell and Hamm 1998; Spivak 1988; Visweswaran 1994).

The second section of the chapter attempts to acknowledge and address these 'landmines' through the concept of witnessing (Schlosser 2008). In the past several

years, literary theorists have explored the idea of ‘bearing witness’ to historical events (Assmann 2006; Hirsch and Spitzer 2010; Wieviorka 2006). These scholars argue that witnessing is a distinct form of narrative, one which privileges subjective and individual notions of ‘the truth’ (ibid.). Borrowing this term, I frame prison ethnography as an act of witnessing, and in my own work, as an effort to ‘witness’ the nation-state. This formulation places the emphasis of ethnography on the testimonies of those behind bars, and in doing so, avoids some of the more troublesome ethical dilemmas that arise in classic prison ethnography (See Richie 2005; Schlosser 2008). As critical prison scholars have noted, traditional ethnographies of the prison (e.g. Jacobs 1977; Skyes 1958, and more recently Crewe 2009) often entail tenuous claims to objectivity and tend to efface (or at least obscure) the subjects of academic analysis (Bosworth *et al* 2005; Cain 1990; Phillips and Earle 2010). Insisting on the humanity of our subjects—and on our own subjectivity—this chapter suggests that prison scholars employ the concept of witnessing to enrich our empirical work.

The final section of the chapter describes how the notion of witnessing influenced my own research. This section details the time I spent in and around five British prisons interviewing foreign national prisoners, as well the many other people involved with their imprisonment. I describe why I chose to interview these prisoners, what I asked them, and how their responses shaped my understanding of the late modern state. I also recount my experience interviewing ‘elite’ prison policymakers, prison reformers, and other people connected to the lives of incarcerated ‘foreigners’. In sum, I outline the goals and challenges of twelve months of research and over 200 interviews.

Prison Ethnography

My interest in studying prisons—and particularly in documenting the complex *human* dimensions of incarceration—developed from past experience visiting men’s prisons in New York State. The conditions in those American prisons are far worse than anything I encountered in the UK.⁴⁰ However, like their British counterparts, American prisons are often radically different from one another despite uniform and centralised governing policies. This kind of variety within a penal estate is familiar to any empirical prison researcher, correctional officer, or Prison Service manager. But when I first began going behind bars to examine prison conditions, I was surprised to find that a medium-security prison in Attica, New York could be so unlike a maximum-security facility just fifteen minutes down the road. That surprise saddled me with a series of critical questions about how academics talk and think about the state. I began to wonder why large state agencies such as prisons fail to function, and how there can be such distance between the messiness of prison life and the streamlined style of prison scholarship.

The concern, in other words, was that a purely theoretical account of the prison threatened to misrepresent the exchange between agency and structure behind bars.

Both mythical articulations of ‘the state’ and static visions of bureaucracy obscure the

⁴⁰ This comparison between British and American prisons should be contextualised. I made visits to American prisons while working at the Correctional Association of New York, an independent non-profit organisation that inspects prison conditions and advocates for prison reforms. During that time the Correctional Association inspected some of the more violent penal institutions in a state with the fourth largest prison population and the largest city in the country (Pew 2010; West 2010). I am comparing some of the harshest New York State prisons with British prisons here. Nonetheless, I would argue that the American and British prison systems operate on fundamentally different registers. The American penal apparatus is vast (with more than 2.2 million people currently incarcerated) and is plagued by violence and racial inequity (Glaze 2011; See also Barker 2006; Gottschalk 2006; Manza and Uggen 2006; Wacquant 2001; Western 2006). In Britain, problems of racism and violence exist, as do overcrowding and harsh sentencing. In recent years, critics have argued that the British prison system (and European criminal justice systems more broadly) have taken a ‘punitive turn’ toward punishment practices like those in the United States (Christie 1996; Feely and Simon 1992; Hallsworth 2000). While these debates are worth having, the problems in British prisons unfold against a discourse of human rights that simply has not gained traction in the United States. Even in the Category A (high-security) prisons I visited in England, I never encountered conditions as poor as those that I saw in New York.

local decisions and daily contingencies that give prisons their character (Zedner 2002). The actual people within prisons often fall into the footnotes of theoretical writing about incarceration. Those people include line staff, ‘civilian’ teachers and librarians, volunteers, visiting family members, and the many prisoners behind bars.⁴¹ The penal institution is constituted of and by these different people, each of whom has his or her own story. From within the prison, it also clear that penal policy is neither easy to make nor to implement, and that discussions of desert, retribution, racism, poverty, and power are far more complicated than they can seem from outside prison walls. In short, the nuances of prison life are themselves theoretically important. They demonstrate what the prison aims to do and what punishment really means.

In planning this project, I wanted academic accounts to depict the prison in all its complexity and I believed that in order to do so academics had to go inside the prison and write from there. That is to say, I saw the omissions and overstatements of theoretical writing on the prison as a methodological result of too little empirical work. However, I also saw the merits of the ‘grand narratives’ that seek to position the prison in its wider social and political context (Zedner 2002). The practice of imprisonment is always historically contingent (Alexander 2010; Bosworth and Flavin 2007; Bowling 2009; Cuneen 2011; Gottschalk 2006). In the US and UK, imprisonment intersects not only with contemporary politics, but also with the legacies of slavery and colonialism (ibid.; See also Barker 2009; Bowling 1998; Tonry 1996). Exploring these legacies is crucial to understanding the role of the contemporary penal institution.⁴²

⁴¹ The people who work inside prisons and are not uniformed officers—teachers, for example, or doctors and librarians—are typically referred to by those within the prison (and many outside it) as ‘civilians’. This language suggests that line officers are not civilians and sets the prison up as a militarised space. I examine other instances of militarisation, as well as the philosophical and ethical problems with this tendency, in chapter three.

⁴² Chapter six focuses on the legacies of colonialism within the contemporary British prison. For more on the American prison, see: Alexander 2010; Bosworth and Flavin 2007; Gottschalk 2006; Tonry 1996; Stuntz 2011; Sudbury 2004.

Examining the wider context for imprisonment is also a key way to acknowledge the relationship between incarceration and race.⁴³ The first thought I had upon entering an American prison was not that it was simultaneously banal and punitive, or managerial, or relevant to the study of late modernity. What I noticed first, and over again, was that too many of the faces behind bars in New York State were black. To use more academic terms, I was surprised, both emotionally and intellectually, by the vast overrepresentation of minorities within the American criminal justice system (Alexander 2010; Gottschalk 2006; Stuntz 2011; Tonry 1996.).⁴⁴ It was this surprise that propelled me toward academia, where I saw an opportunity to think holistically about the historical legacies and contemporary politics of punishment. Such ‘grand’ projects matter a great deal and academics are, it seems to me, uniquely positioned to undertake them.

This project thus began from a desire to do empirical prison research that engaged with—and perhaps even complicated—theoretical questions about the meaning of punishment. The most compelling model for that type of prison research is ethnography. This method of social enquiry employs long-term observation, interviews, and (at least in some cases) participation to depict the interior life of institutions. Ethnography seeks to find knowledge about a particular social space through firsthand experience of it and to describe that experience in terms that are neither categorical nor solely descriptive. An ethnography is very much ‘grounded’ in the site being studied, but it is also aimed toward the wider social world and interpreted from the perspective of a researcher coming from that ‘other’ world. As the anthropologist Clifford Geertz put it, ethnography aims ‘to see another form of life in the categories of our own’ (1977:

⁴³ Chapter five examines race and ethnicity in the British prison.

⁴⁴ Sharon Davies (2003) has written a comprehensive assessment of this issue in American criminal justice.

16-17). The goal is to paint a picture of life—in this case, prison life—that is attuned both to complexity and to the shared assumptions that shape a given social space. The account produced by ethnography is thus simultaneously personal and general; it emerges from the researchers' own experience, but extends beyond that firsthand experience into questions about the character of a culture and the meaning of social organisation.

This method is particularly difficult to enact within a prison (Schlosser 2008: 1501; See also Bosworth *et al* 2005; Phillips and Earle 2010). Traditional ethnographies enjoy wide, deep, and continued interaction between the researcher and the object of study (*ibid.*; See also Ferrell and Hamm 1998; Scholsser 2008). They also rely on standards of practice such as confidentiality, consent forms, audio recording, and transcription. Prison ethnography is less straightforward, for a number of different reasons. First and perhaps most importantly, access to prisons is often prohibitively difficult to obtain. Kelly Hannah-Moffat's (2011) research in Canada suggests that this is particularly true for critical criminologists, whose work is often deemed insufficiently 'practical' and policy-oriented—or too political—to warrant support from the government. Even where research access is granted, moreover, the length of time it takes to obtain that access often conflicts with professional pressure to find funding and publish results. Put simply, the timelines of the academic and penal worlds are at odds with one another. The cumulative result of this researcher's reality is a general reluctance to pursue empirical prisons research.

Many additional issues reveal themselves as soon as an ethnographer steps inside the prison gates. For one, the access granted by prison officials does not always allow the kind of sustained, confidential interaction a researcher might like. Access to prison wings, for instance, is often harder to obtain than entry into to public spaces such

as the chapel or the library. Security measures mean that researchers cannot always move freely in those spaces, nor can we always speak privately with prisoners and staff. There are also limits to which prisoners can be interviewed, when prisoners can be seen, and when, if it all, researchers can use recording equipment. In some prisons, for example, I was not allowed to meet with ‘vulnerable’ prisoners, which typically means those charged with sex offences. In none was I permitted to carry a digital recorder. These security provisions complicate an already transient research environment.

Despite their strictly controlled boundaries, prisons are in a constant state of transformation. Prisoners are regularly released, taken to court, or transferred between facilities, especially in remand institutions. This movement makes it difficult to sustain contact with prisoners and to follow-up with questions that arise from the ‘ground’. It also creates basic complications when planning and attempting to complete a research project. Several times during my fieldwork, for instance, I arrived at a particular prison only to find that the prisoner I had intended to interview had been moved the night before. Other times, prisoners were not available for the visits they had scheduled with me. In general, prisoner turnover meant that for every twenty people who agreed to speak with me I would get to meet approximately four. At times, this situation stalled my research—I would agree to meet with someone on Friday, and by Monday he had left the prison. In other cases, I ran into the same prisoners I had ‘lost’ in one prison in a different facility. These chance meetings expanded my vision of the penal estate, suggesting that an ethnography of ‘the prison’ should not confine itself to one prison’s walls.

In these and many other ways, the prison is an atypical place to attempt ethnography. It is also a place where truth and trust, two tenets of ethnographic research, are inherently unstable. This problem springs from the coercive structure of the penal

institution. As Alison Lieblich notes, prisoners ‘are generally held against their will’ (Lieblich 2004: 462). Some prisoners are especially eager to have their stories heard—whether to recount painful experiences, lodge complaints, speak with a young female researcher, or simply leave their cells for an hour. Some are traumatised; some are mentally ill. Others appear to be under the influence of drugs. No matter how faithfully the researcher explains consent, then, and no matter how closely a prisoner reads a consent form, the prison is a place where free and voluntary participation is difficult to judge. Ultimately that judgment falls upon the researcher, despite the fact that consent forms aim to ascribe agency to the subjects of research. As prison scholars have pointed out, this situation raises real ethical questions about the balance of power in prisons research, about how—and indeed whether—an ethnography of imprisonment should be done (Bosworth *et al* 2005; Phillips and Earle 2010).

One conclusion to draw from these critiques is that that the challenges of prison ethnography are inherent to the research method, and hence, are insurmountable (Spencer 1989; Spivak 1988; Thomas 1991). This argument is based in valid concerns about exploitative research. Yet the same concerns can also motivate prison ethnography. In a sense, the challenges of prison ethnography are exactly what make this academic practice worthwhile. The methodological limitations of a penal environment tell us something important about the way that the prison works, and more to the point, works precisely by being different than the ‘outside’ world. Every security check, sudden prisoner transfer, and difficult conversation about consent illustrates that prisons are purposefully styled in contrast to ‘free’ society. These differences between the prison and the outside world would exist whether or not ethnographers documented them. But when we do, we create an opportunity to reevaluate how societies express ideas about justice, punishment, and freedom.

Scholars have long used ethnography to engage in these social debates. In one form or another, researchers have been going past prison walls and documenting daily prison life for more than a century. The British penal reformer Elizabeth Fry began visiting prisons (sometimes spending the night) and writing about her experiences there as early as 1814 (Fry 1827; See also Rose 1980). In the United States, the practice of prison ethnography grew out of the ‘culturalist’ sociology of the 1930s and 1940s, which sought to describe daily life in the aftermath of the Great Depression (Clemmer 1940; Sykes 1958; See also Wacquant 2002: 383). Interestingly, this American strand of prison ethnography emerged from a founding analogy between prisoners and immigrants (ibid.). In 1940, Donald Clemmer published *The Prison Community*, one of the first ethnographic depictions of life in an American prison (1940). Through comparison to the migrant experience in the United States, Clemmer described a process in which prisoners at an Illinois state prison conformed to the cultural norms of incarceration (ibid.). He called this process ‘prisonization’ (ibid.).

Clemmer’s account paved the way for works like Gresham Skyes’ *The Society of Captives* (1958), which explored prisoners’ responses to maximum-security confinement (and coined the oft-cited term ‘pains of imprisonment’). These early ethnographies precipitated many others, including Erving Goffman’s *Asylums* (1961), John Irwin’s *The Felon* (1970), and James Jacobs’ *Stateville* (1977) (See Wacquant 2002: 383-384; See also Phillips 2012). Loïc Wacquant argues that partisan politics and mass media have contributed to the ‘eclipse’ of the American prison ethnography since the 1980s (Wacquant 2002). While ethnographies, particularly of men’s prisons, have indeed dwindled in the past several decades, there remains a robust body of writing on women’s imprisonment in the United States (Girshick 1999; O’Brien 2001; Owen 1998; Rafter 1985; Ross 1998; Stanford 2004; Sudbury 2002, 2004). In Britain, scholars like

Alison Liebling (1992, 2004), Ben Crewe (2009), Coretta Phillips (Phillips 2012; Phillips and Earle 2010, 2011), and Mary Bosworth (1996, 2011a) ensure that ethnographic work on imprisonment continues into the 21st century.

These contemporary versions of prison ethnography look much different than their predecessors. Many of the challenges of prisons research, such as barriers to audio recording or politicised ethics reviews, are relatively recent phenomena (Schlosser 2008). Ethnographers have had to adapt to these new technologies and politics as they have arisen; their ethnographies have changed accordingly. Contemporary scholars also approach and describe the prison in a fundamentally different way than their forbears. On the whole, ethnography is now a less 'objective' and more self-reflexive project than it was for Fry (1827), Clemmer (1940), or Sykes (1958). Today's scholars are much more likely to speak in the first person and to incorporate reflections on method into the body of their research.

This stylistic shift is a response to critiques of ethnographic practice that began to develop in the 1970s (ibid.; See also Bosworth *et al* 2005; Ferrell and Hamm 1998; Tilley 1998). During that period, scholars in many disciplines began to press for more self-conscious (and self-consciously political) academic writing (Carby 1982; Davis 1971; Firestone 1970; Hill Collins 1991). Following the Foucauldian line of thought I explored in chapter one, academics underscored the constructed nature of power and subjectivity, as well as researchers' complicity in the production of knowledge (ibid.; Foucault 1970, 1977, 1978). Within prison studies, these ideas prompted academics to challenge the claim, implicit in many ethnographies, that researchers can portray 'the prison' based on objective observation (Bosworth *et al* 2005; Ferrell and Hamm 1998; Schlosser 2008; See also Visweswaran 1994). In the context of poststructuralism, such

‘objective’ studies of the prison seemed to efface the interpretive role of the researcher and to advance an ahistorical view of academic scholarship (Schlosser 2008: 1501).

Race theorists and feminist criminologists were at the forefront of this critique (Bulmer and Solomos 2001; Cain 1990). Building from their foundational concern with the suppression of minority voices, these scholars argued that supposedly ‘value-free’ ethnographies often advance a paternalistic vision the prison and of the people within it (ibid.; Bosworth *et al* 2005; Richie 2004; Phillips and Earle 2010). In traditional prison ethnographies—from the work of Gresham Skyes (1958) to Ben Crewe (2009)—researchers often speak for prisoners and staff, translating those people’s individual claims into a general picture of imprisonment. As feminists note, the problem with this approach is that translation is never an objective act, and speaking for others is an intrinsically precarious exercise (Spivak 1988; Visweswaran 1994). Prison researchers *always* interpret and edit their observations; we are, in this important sense, fundamentally creative writers. ‘Objective’ ethnographies suppress this subjective reality. In doing so, they suppress the actual voices of people within the prison, as well as the researcher’s formative role in creating ‘the truth of prison life’. To borrow Gayatri Spivak’s apt phrase, ‘objective’ ethnographies often cast the prisoner as an ‘unfortunate marionette...in the service of the “truth”’ (Spivak 1988).

The result is a model of ethnography that denies prisoners’ agency, underemphasises the very real agency of the ethnographer, and flattens the complexities of consent and resistance within the penal institution. Rejecting this approach, feminist scholars insist on the multiplicity of truths within the prison and endorse a narrative, first-personal style of ethnographic writing (Bosworth *et al* 2005; Richie 2004; Phillips and Earle 2010; Schlosser 2008). In contrast to traditional ethnography, this narrative method foregrounds the researcher’s authorship and incorporates direct testimony from

prisoners and prison staff. It highlights the particular and often political ‘standpoint’ of the researcher and attempts to ‘share the burden of storytelling’ with research participants (Schlosser 2008: 1521).

This vision of ethnography has motivated a sea change in accounts of imprisonment. It can be counterproductive to overstate the impact of feminist (and more broadly poststructuralist) ideas within criminology given the field’s relatively widespread oversight of gender theory and identity politics (Bosworth and Kaufman 2012; Hannah-Moffat 2001). There is much more work to be done in these areas. Nonetheless, there has undoubtedly been a scale shift in the way empirical prison studies are conducted in recent years. The bias toward positivist methodology still shapes research proposals and funding streams in both the US and UK (Bosworth and Hoyle 2011; Hannah-Moffat 2011; Wilcox and Hoyle 2005). But the notion that researchers can or should be revealing the (singular) truth behind bars now looks ‘antiquated and constraining’ in the context of alternative qualitative methods (Schlosser 2008: 1501). Poststructuralist critiques have placed the assumptions of traditional ethnography into stark relief, demanding and encouraging new ways of studying imprisonment. One promising avenue for further research is to recast ethnography as an act of witnessing.

Ethnography as Witnessing

The concept of witnessing emerges from literary theory. Over the last three decades, thinkers like Gayatri Spivak (1988), Donald Spence (1984), Martha Minow (1998), and Aleida Assmann (Assmann 2006) have contributed to an engaging debate about what it means to construct a narrative and to speak ‘the truth’. These theorists argue that

‘witnessing’ is a unique form of speech, one that privileges the subjectivity of the speaker and his or her perspective on the world (ibid.). Their claims are worth examining in detail, for they could help criminologists theorise some of the ethical problems surrounding ethnographies of ‘vulnerable’ and marginalised populations (Richie 2005; Schlosser 2008). The concept of witnessing might also motivate a more ‘global’ approach to prison ethnography (Gille and Riain 2002).

The notion of witnessing draws on two related strands of literary theory. The first strand, which was most famously developed by Gayatri Spivak, focuses on the relationship between speech and subjectivity (Spivak 1988). In ‘Can the Subaltern Speak?’, a founding text of postcolonial theory, Spivak argued that silencing an individual’s voice is one of the most powerful forms of institutional oppression (ibid.). She connected the capacity to ‘speak’ with one’s basic existence as a subject—or in literary terms, as a person capable of starting a sentence with the word ‘I’ (ibid.). According to Spivak, imperial regimes deny colonial subjects this ability to speak, and hence, refuse to acknowledge their existence as subjects in the world. Colonial violence is in this sense ‘epistemic violence’ (ibid.). Spivak chides scholars for reproducing these colonial patterns in their attempts to speak ‘for’ marginalised groups (ibid.). Such accounts, which aim to give ‘voice’ to those who cannot speak, in fact homogenise and further marginalise a diverse group of individuals (ibid.). As a result, paternalistic ethnography begins to look like a kind of neocolonialism.

Spivak’s writing suggests that ethnography is implicated in the politics of power and oppression (ibid.). She demonstrates that telling a story is a way of constituting one’s self and that speaking ‘for’ others is a violent denial of that subjectivity. In sum, she links the creation of narrative to structural disparities in power and reminds us that academics are not exempt from this exchange. This vision of subjectivity—as a product

of speech and marker of power—is the first piece of the concept of witnessing. The second idea behind this concept is that narratives operate according to their own kind of truth. Trauma theorist Donald Spence explains this claim in his writing on psychoanalysis and memory (1984). According to Spence, there is an important distinction between ‘narrative’ and ‘historical’ notions of the truth (ibid.). ‘Historical’ truth aims at chronological and factual coherence, at an accurate and generalisable version of events. In contrast, ‘narrative’ truth represents the meaning of an individual’s experience. The ‘narrative’ truth of a story is true for the person who tells it, and in that sense, reveals something important about a subject. This type of truth is deeply personal; it expresses an individual vision of the world. ‘Historical’ truth, on the other hand, entails the claim to one objective, shared reality.

Literary scholars have adopted this distinction between different kinds of truth to describe competing witness testimonies about the Holocaust (Assmann 2006; Douglas 2001) and South African apartheid (Kiss 2000; Minow 1998; Teitel 2000). In these authors’ accounts, telling the ‘narrative’ truth of one’s own story about apartheid or life in a concentration camp helps to empower survivors of mass violence (ibid.). In broader terms, the notion of narrative truth also contributes to a new approach to storytelling, and by extension, to a revised understanding of ethnography. Merging Spivak’s insight into subjectivity with Spence’s writing, literary scholars have begun to establish ‘witnessing’ as a distinct genre of discourse (Assman 2006; Wieviorka 2006). In contrast to other forms of speech, such as legal testimony or history, witnessing does not aim at factual truth. Instead, this narrative form involves telling an individual story on its own terms and for its own sake.

This perspective on narrative changes the purpose of academic work. As literary theorist Aleida Assmann puts it, ‘the question to be asked is no longer merely what has

happened, but also how was the event *experienced*, how is it *remembered* and *passed on...*?' (Assmann 2006: 261).⁴⁵ Asking these critical questions about how stories get remembered and retold shifts the focus of a narrative from the 'true' story toward the person telling it. A witness recounts events as he or she experienced them—and in doing so, constitutes his or her own identity. In this sense, witnessing brings the witness into being; it is a self-creating act. Witness testimony can thus empower a speaker. It can also tell scholars something important about the stakes of individual identity and about how people come to conceive of themselves as agents in the world.

This conceptual schema offers a great deal to scholars concerned with imprisonment. Eager to acknowledge the interior life of the prison but wary of speaking for its inhabitants, contemporary ethnographers could reframe our project as an attempt to witness the penal institution. We could see and present ourselves as witnesses to the practice of late modern imprisonment and as scholars bearing witness to the testimonies of prisoners and staff. This is not simply a semantic shift away from the terms of traditional ethnography. While it certainly means describing the 'results' of prison studies differently, employing the concept of witnessing also means recasting the relationship between prison scholarship and truth. When ethnography is understood as an instance of witnessing, the burden to tell an authoritative version of events within the prison—or to explain why the picture we are depicting is not in fact generalisable—diminishes significantly. Such an objective version of the truth is, to put it simply, beside the point. Instead, the goal of witnessing imprisonment, as feminist ethnographers (e.g., Riche 2005; Bosworth *et al* 2005) have long argued, is to portray one version of events behind bars, and to focus our intellectual attention on the context and implications of that particular portrayal. The relevant research question here is not

⁴⁵ Emphasis added.

whether something is in fact true, but why it becomes true and real for a person in a specific situation.

That question can be revealing within the prison. To take one illuminating example from my own study, I often witnessed prisoners' stories about racist and xenophobic treatment within the penal institution. Many of the foreign nationals I interviewed claimed to have been discriminated against by staff, fellow prisoners, or both. These people's claims, which I examine in much more detail in chapters four and five, raise complex methodological questions about the nature of truth. On one hand, it is certainly true (in an historical sense) that racism and xenophobia exist within the penal estate. On the other, it is also true (here in the narrative sense) that prisoners invoke ideas about race and nationality to give force and meaning to their claims of injustice. This ambiguity about the 'truth' of the situation could catalyse a long enquiry into the veracity of particular prisoners' stories. An ethnographer could spend considerable time asking whether these prisoners' accounts of racism were in fact true, and hence, whether it was ethical to include them in an ethnography of prison life. More fruitfully, though, prison scholars might ask how and why the concepts of race and nation become such potent metaphors within prisoners' narratives of their incarceration. Why does the treatment these prisoners receive register *to them* as racism or xenophobia? How and why do prisoners articulate their experiences this way? How do these ideas shape prisoners' perceptions of themselves? Such questions emerge when scholars understand our 'empirical data' as witness testimony worth examining on—and in—its own terms.

These questions link prisoners' personal experiences of incarceration to broader concerns about how concepts like race and nation come to matter within the penal institution. The way prisoners articulate what happens to them is a window into the way

meaning is made within the prison. Why 'race' is socially meaningful, for instance, only becomes clear when we ask how that notion circulates behind bars. What is race within the prison? Why does race divide people in a way that other aspects of identity, such as hair colour or height, do not? Why does nationality matter in the hierarchies of prison life? Prisoner testimonies offer insight into these questions, for they illuminate what the ideas of race and nationality mean to the people who experience them. By focusing on how prisoners choose to tell their stories rather than on whether those stories are representative samples of prison life, scholars can begin to ask how and why particular concepts (like race and nationality) work to structure social inequality. This question shifts scholarly attention away from an unattainable objective truth and toward the sociological context in which ideas about difference take root. The first merit of 'witnessing', then, is that it moves ethnography away from a claim to objectivity, and in doing so, offers a new vantage point on questions about inequality and social difference.

This concept also better describes what many ethnographers are actually doing behind bars. Given the security measures and barriers to access within the prison, prisons research almost never offers a full picture of 'the penal institution'.⁴⁶ The practice of empirical research is neither so static nor so universal. Prison scholars gather testimonies from prisoners and staff members where and when we can, record our own critical observations as we see them, and compile the two to present an account of prison life. That account is a subjective snapshot of imprisonment in a particular institution, not an insider's guide to 'the way the prison works'. The terms of any ethnographic account are shaped by their specific historical moment and by the researcher's own interests and goals, by what we care to notice within the penal institution and how we choose to recall it once we leave.

⁴⁶ Some researchers have offered a particularly vivid and in-depth picture of the penal institution (See, e.g., work by Rod Earle (2009) and Coretta Phillips (Earle and Phillips 2010). Nonetheless, significant barriers to prison access remain, especially for critical criminologists (Hannah-Moffat 2011).

The presentation of prisons research ought to acknowledge this fundamental contextuality, which exists under even the best research circumstances. Thinking of ethnography as witnessing the practice of imprisonment—rather than revealing the prison writ large or from an omnipotent perspective—is one way to do that. This frame foregrounds the constraints and the particularity of a research environment. It also highlights the researcher’s creative role in representing that environment. An ethnographic witness does not claim to have an exhaustive understanding of all prisons, but rather, to have had one experience within the prison worth retelling. The researcher is an editor of gathered testimonies and, crucially, a witness to imprisonment herself. The notion of witnessing thus encompasses the dual role that a researcher plays as both an author and a witness to others’ authorship.

The latter half of this equation is worth emphasising. As I argued earlier, prison studies that overlook (or under-acknowledge) the researcher’s subjectivity (e.g., Bottoms 1999; Crewe 2009; Eisenman 2000; Goodman 2008; Knox 2000) can suppress the testimonies of those within the prison, casting them as ‘marionettes’ in service of a larger and less personal project (Spivak 1988). This approach to ethnography reproduces the prison’s inherent tendency to efface the voices of those within it. Prisons are, by their very nature, places where people are silenced and constrained. Indeed, silencing is a principal mode of punishment within the penal institution. Prisoners are given identification numbers in place of their names; their visits with family members are controlled; they are transferred without warning, and, at least in my experience, do not often get asked what they think. On the other side of the cell doors, prison staff members are also small pieces of a large system. ‘Civilian’ staff and line officers are regularly transferred between institutions, asked to work long hours and handle emotionally challenging situations, and are rarely given a voice in the policies they

enact.⁴⁷ In sum, the prison is a space that structurally and often purposefully silences its inhabitants. Framing ethnography as an opportunity for those within prisons to bear witness to incarceration is an attempt to resist this trend.

It is also an attempt to promote a more ‘global’ approach to imprisonment. In recent years, scholars from across the disciplines of the social sciences have critiqued ‘methodological nationalism’, a problem I introduced in the last lines of chapter one (Chernilo 2011; See also Albrow 1997; Appadurai 1995; Brenner 1999; Marcus 1998). These scholars point out that the traditional approach to ethnography is firmly embedded within space and time, and as a result, tends to overlook the transnational nature of 21st century social relations (ibid.). Ethnographies grounded in particular institutions are, in other words, tied to the boundaries of those institutions, and in this sense offer a limited picture of the social world. Scholars critical of this trend toward ‘methodological nationalism’ call for ‘global’ ethnographies less bound to the constraints of ‘particular communities and places’ (Gille and Riain 2002: 271). Witnessing is one means to that ‘global’ end.

The goal in classic prison ethnographies is to paint a detailed portrait of ‘the penal institution’. This goal connects prison ethnography to the prison, and to the implicit assumptions of that institutional space. When ethnography is recast as witnessing, however, the aim is slightly different—it is less tied to the particular penal institution and more focused on the narratives that emerge from within it. The point of ‘witnessing imprisonment’ is not so much to portray an institution as it is to capture the testimonies produced by the experience of that institution. Within this framework, ethnographic research shifts away from the specific prison being studied. Instead of depicting the ‘interior life’ of a prison, ethnography becomes a means to gather people’s

⁴⁷ See note 41 on use of the term ‘civilian’ in the prison.

testimonies and think critically about their sociological contexts. By isolating the narratives within the prison, witnessing thus unmoors ethnographers from the confines of the penal institution, and more to the point, from the presuppositions that guide prison practices.

The previous chapter critiqued the presumption that prisons are confined ‘domestic’ spaces. Understanding ethnography as an act of witnessing can help scholars to depict the experience of imprisonment without accepting this premise. The concept of witnessing, in other words, allows analysis of the prison to extend outside the nation-state. In doing so, it enables criminologists to become more critical of late modern state power. When prisoners describe their migration to Great Britain from Zimbabwe or Sri Lanka, prison scholars can follow those narratives and begin to understand them as a constitutive part of the contemporary prison. We can ‘witness’ the British prison through the many different stories that comprise it, stories that begin in Nigeria and Jamaica and refuse to stay within the nation’s borders. In short, we can portray the penal institution without assuming a nationalist frame. The term witnessing thus provides a model for conducting empirical work without being tied to the nation-state. Moreover, it offers scholars a way to critique the nation-state *from within its own institutions*. This is key if the goal of prison scholarship is to privilege lived experience without forgoing systematic theory. That goal shaped and directed my own research behind bars.

Witnessing Imprisonment

My research on foreign nationals centred on men’s prisons located in northern, central, and southeastern England. Over the course of one year, I conducted fieldwork within five different penal institutions: HMP Woodhill; HMP Bullingdon; HMP Risley; HMP

Canterbury; and HMP Manchester. These prisons capture some of the variety within the British penal estate. Built in 1992, HMP Woodhill is a Category A facility with a separate close supervision wing. Woodhill holds up to 819 prisoners, approximately 115 (or 14 per cent) of whom are foreign nationals at any given time. As I describe in much more detail in the next chapter, the penal estate currently operates under a ‘hubs and spokes’ system in which certain prisons, the ‘hubs’, are ‘embedded’ with full-time immigration staff.⁴⁸ The remaining ‘spoke’ prisons have less frequent contact with immigration personnel. HMP Woodhill is a ‘spoke’ prison, which UK Border Agency representatives visit once a month. HMP Risley, in contrast, is the ‘hub’ prison for the northeast of England. Risley has an operating capacity of 1,085 and is designated as a Category C training facility. HMP Bullingdon is also a Category C training prison (with an additional function as a Category B local prison). Bullingdon is a ‘spoke’ prison and can hold up to 1,114 prisoners.⁴⁹

The last two prisons I visited are the oldest and largest, respectively, in this study. Constructed in 1808, HMP Canterbury has an operating capacity of 304. Canterbury is one of three ‘dedicated foreign national only’ prisons in England and Wales.⁵⁰ At least in theory, every prisoner held there is serving under 5 years ‘with an expectation of removal’ at or before the conclusion of that criminal sentence. HMP Manchester is also distinct from other prisons within the penal estate, but less for its population than for its famous history. Informally known as Strangeways, HMP

⁴⁸ This is another example of the militarised language that I examine in more detail in chapter three. See note 41.

⁴⁹ In HMP Bullingdon I conducted one-on-one interviews with prison officials but not prisoners and in HMP Risley I interviewed the ‘embedded’ UKBA agents. In all other facilities, I spoke with both prisoners and staff.

⁵⁰ When the hubs and spokes system was created in 2009, the only other ‘dedicated foreign national prison’ was HMP Bullwood Hall (MoJ and UKBA 2009). In 2012, the Prison Service announced that HMP Huntercombe, a Category C men’s prison, would be ‘re-rolled’ to become the third all-foreign national facility.

Manchester originally opened in 1868, but was rebuilt and renamed after the riots of April 1990.⁵¹ Today, HMP Manchester is a high-security prison with the capacity for 1,269 prisoners. At any time, approximately 140 (or 11 per cent) of those prisoners are foreign nationals.⁵²

The differences between these penal institutions shaped my research. I spent the first six months of my project in HMP Woodhill before proceeding to the other facilities. Woodhill, like Strangeways, has a ‘mixed’ national population of both British citizens and foreign nationals. In prisons with such ‘mixed’ populations, my research typically began in foreign national ‘surgeries’, the meetings in which immigration agents interview prisoners who have been identified as non-British citizens. These ‘surgeries’ were held monthly in HMP Woodhill, twice monthly at HMP Manchester, and less frequently at other prisons. I observed nine immigration ‘surgeries’ in HMP Woodhill and HMP Manchester over the course of a year of fieldwork. During each ‘surgery’, I joined a line-up of solicitors, border agents, and volunteers who were scheduled to speak to a room of gathered prisoners. When my turn came to speak, I introduced my project and asked for volunteers to participate in longer interviews about life behind bars. Based on prisoners’ responses, I followed up the immigration ‘surgeries’ with one-on-one interviews. In sum, I spoke with 166 foreign national prisoners and 32 prison and immigration staff members. Of those 166 interviews with prisoners, 81 were in-depth, one-on-one interviews. I also interviewed two prison interpreters who were hired by the Prison Service to translate for Chinese prisoners.

⁵¹ See pages 31-2. See also: Carrabine 2004; Woolf 1991.

⁵² These statistics on the number of foreign nationals in each prison’s population are taken from interviews with staff members in prisons at the time of my research. However, as I mentioned earlier in the chapter, the prison population is extremely fluid. The number of foreign nationals in any given prison changes from day-to-day and it is quite possible that these percentages have changed significantly in the year since I completed my fieldwork. The purpose of including these numbers (given their potential inaccuracy) is to give some sense of the relative portion of each prison population that was composed of foreign national prisoners at the time of my research.

My research proceeded somewhat differently in HMP Canterbury, where all of the prisoners have been identified as foreign nationals. In that facility, I embarked on a relatively straightforward effort to gather individual prisoner and staff testimonies. I did not have to seek out foreign national prisoners within this prison, nor did I have to distinguish between staff people who did and did not interact with the ‘foreign’ prisoner population. Instead, the entire prison was a case study in the imprisonment of non-British citizens. Accordingly, I interviewed any of the prisoners and staff members in that facility who were interested in participating in my research. Over the course of two weeks, I observed the education, healthcare, and housing areas of the prison, and held five focus groups with prisoners. I also interviewed prison managers, staff members, and many prisoners one-on-one. This was the most condensed period of observation and interviewing in the course of my fieldwork.

My one-on-one interviews with foreign national prisoners were semi-structured and each lasted between forty-five minutes and three hours. These interviews were largely open-ended because I was interested in what stories these prisoners *wanted* to tell me. Still, each interview began with a set of questions about prisoners’ personal migration stories:

- Where were you born?
- When did you come to the UK?
- How long have you been in this prison?
- How long have you been incarcerated?
- When were you identified as a foreign national prisoner?
- When do you expect to be released?
- Where do you think you will go after release?

The conversations that followed these questions led in many directions. Some prisoners stopped after my first question and spoke at length about life in their ‘home’ countries. Other prisoners answered my initial questions in quick succession, then focused more on the conditions of incarceration, the circumstances of their criminal charges, or their concerns about deportation. Sometimes prisoners asked me if these introductory questions were an interrogation—one man told me, ‘you sound like the UKBA’. During other interviews, prisoners seemed relieved to have an outlet for their feelings about the prison. In general, I tried to let these conversations go where prisoners wanted to take them to go, noting in my journal when a basic question about a prisoner’s life story had been overlooked. No matter how these interviews developed, my last question was almost always, ‘if you were writing a report about the experiences of foreign nationals, what would you say?’

Between that final question and the beginning of the interview, I encountered a wide range of different narratives. Some prisoners were engaged with the goals of my project—one man, for instance, suggested that I write ‘the life of a cell’, a study that examined the stories of the many prisoners who had passed through a single prison cell. Other prisoners were less interested in the details of my research process and more concerned with their particular cases. Despite this variation, themes emerged from my discussions with foreign nationals. Our interviews almost always touched on certain topics: the emotional experience of incarceration; race relations within the prison; attitudes toward immigration staff and the possibility of deportation; religion; coping mechanisms; family contact and social visits; the meaning of ‘Englishness’ and ‘Britishness’; and the definition of ‘home’. Where prisoners did not raise these issues themselves, I asked questions to elicit them:

- Do you think you will be deported?
- What will you do if you are deported?
- How do you make friends within the prison?
- What is race?
- Does race matter inside the prison?
- Is race different here than outside prison?
- How do you cope with the stresses of incarceration?
- What is the biggest challenge to prison life?
- Who is the worst off behind bars?
- What is the difference between British and English?
- Where is home?

I chose these questions because they prompted discussions about how conceptions of identity and foreignness shape the experience of incarceration.

Where it was relevant, my interviews with foreign national prisoners also included discussions about other topics: British colonialism; attitudes toward Islam, terrorism, and the ‘War on Terror’; gangs, drug use within the prison; and gender, which surfaced both in terms of the relationships between male prisoners and female staff and in conversations about sex offenders’ place in the prisoner hierarchy. The significance of these topics emerged over the course of my interviews rather than at the outset of my project. In one meeting, for example, a prisoner announced to me that being in handcuffs ‘made him feel like a terrorist’. That claim prompted a discussion about terrorism and stereotyping of foreign nationals within the prison. In another interview, a man told me that the biggest difference between being a ‘foreigner’ and being a British citizen is that ‘foreigners’ have fewer connections to the outside community, and as a result, have a harder time finding drugs behind bars. We went on to discuss drug use

within the prison. Slowly, I realised that these issues, which had not initially struck me as ‘foreign national prisoner issues’, were related in interesting and important ways to prisoners’ perceptions of incarceration. Accordingly, I began to ask more foreign nationals how they felt about Islam and war, colonialism, drugs, and gender. I took detailed notes during all of these interviews, and I transcribed them, along with my personal reflections, as soon as possible after each meeting.

In most cases, my one-on-one interviews with prisoners took place in the small rooms set aside for confidential visits between prisoners and their solicitors. In the Category A prisons where I conducted the bulk of my research, the furniture in these interview rooms was bolted to the floor and I had to press a red button to have prison guards open the door at the conclusion of my meetings. These rooms usually had two chairs, a table, and windows on four sides. Typically, I was searched and fingerprinted twice before I got to them, and I had to be escorted by prison officers when I was ready to leave. In the Category C prison, on the other hand, I wore a personal alarm and wandered more freely in the prison’s open spaces. In that facility, I walked between art classes, computer courses, and the library, interviewing any prisoners who were available to talk. I also observed education classes, toured the medical centre, and walked along the prison wings with a staff member.

The open qualities of the Category A interview rooms—you can see into and out of them from all sides—shaped my research experience in unexpected ways. Often, for example, I would be speaking with one prisoner while border agents were interviewing another in the next cubicle. This could be disconcerting. During one interview, I saw a prisoner who I had interviewed several times sign the papers agreeing to return to Jamaica. That was last time I saw him. In another interview, I was speaking to a prisoner when I saw a different man, who I had met the week prior, out of the corner of

my eye. That prisoner was waiting for his solicitor and had decided to lie on the interview table on his back while he passed the time. When he caught my eye, he had tilted his head back over the edge of the table and was watching me conduct my interview. He stayed like that, staring at me, upside down, for a full fifteen minutes before his solicitor arrived. In moments like these, the affective experience of being within the prison and interacting with its inhabitants is intense and hard to translate onto the page.

These interviews in the prison's visiting rooms contrasted with the other meetings I conducted for this project. In addition to interviewing prisoners, I also held discussions with prison staff members, border agents, and prison policymakers. Those meetings took place in prison governor's offices, Whitehall buildings, and Oxford libraries. Within the prisons, I spoke with staff members from both local and national immigration offices and several foreign national coordinators, the prison staff members responsible for coordinating immigration 'surgeries'. I also interviewed prison line staff, prison doctors, chaplains, librarians, art teachers, 'safer custody' representatives, 'diversity managers', and volunteers. Each of those interviews focused on these people's interactions with foreign nationals and their perceptions of the management of that population. When speaking to border agents, for example, I asked about the new 'hubs and spokes' system and other policies on foreign national prisoners. With doctors and diversity managers, in contrast, I inquired about the aspects of prison life that were different for them when dealing with 'foreign' prisoners.

Outside the prison gates, I also conducted 'elite' interviews with policymakers from the UK Border Agency (UKBA) and the National Offender Management Service (NOMS), the two agencies responsible for crafting British policy on 'foreign offenders'. Over the course of three separate interviews, I spoke with the senior managers who

created the ‘hubs and spokes’ system for managing foreign national prisoners. I asked those policymakers how the new system had come about and how it had changed the institutions they managed. I also interviewed representatives from Her Majesty’s Inspectorate of Prisons (HMIP), the Independent Monitoring Board (IMB), the Prison Ombudsman, and several charities for immigration detainees. In sum, prisoners included, I interviewed 209 people.

Meeting and speaking with these people was often difficult. Though it is not always depressing or exciting, witnessing imprisonment is always an emotional project. Indeed, there is a whole range of emotion within this experience. Interviewing prisoners is at times saddening and at others is ethically complicated, frustrating, mundane, and boring. Prisoners, particularly the ‘time-served’ detainees I interviewed, often told me harrowing stories, threatened suicide and self-harm, showed me their physical scars, and broke down in tears. One man I met, who was just eighteen, started crying as soon as I asked him how he was doing. This moment illustrated just how odd—and at odds with the rest of the social world—the prison can be. For reasons that seem unclear in retrospect, I did not reach out and touch that person. Perhaps the oddness and harshness of the interview room affected me; perhaps my reaction to his emotions was about my identity as a young woman in a men’s prison. I might (or might not) have touched a crying female prisoner’s shoulder. I might have reached toward that man had he looked up at me. Instead, I just sat there silently as he cried. In other interviews, people seemed angry at me and angry about their cases. Several of the men I met stood up abruptly and banged on the tables as they told their stories. Others brushed me off, yelled at me, or explicitly asked for help, which I almost always could not give.

The last of these situations can be the most frustrating. It can be demoralising to hear people’s stories, to have them ask for something in return, and to realise that

listening is your sole contribution. This was a particularly hard lesson during an interview with one man, who asked to remain anonymous. That man listened as I explained my consent form and then spoke with me for about an hour about his migration from Nigeria. Then, at the end of our interview, his tone changed. He pleaded with me to call his pastor in Nigeria and to make a case for his release. He told me that I was the only one who could help him and that I owed him this help because he had just helped me with my project. At moments like these, the ethics of prison interviewing are immeasurably complex. In response to the man's requests, I explained my role (and its limitations) in professional language that seemed sharply disjointed from his emotional plea. That interview ended with me telling the prisoner I could not do anything for him. Several months later, I encountered that same man in a different prison's immigration surgery. Still angry at me, he told the room full of people that I was really 'a spy for the UKBA'.

Situations like these illustrate that listening to prisoners' is an emotional, ethically challenging, and at times deeply unfulfilling response to their stories. Listening to prisoners' recall their experiences is also a practically difficult exercise. In many of my interviews, I encountered serious language and cultural barriers and returned home exhausted from trying to understand what I had heard. The experience of doing this sort of fieldwork can take a physical toll. I did, however, discover that my American accent endeared me to some prisoners as a fellow 'foreigner'. Many prisoners found my familiarity with the American prison system interesting and asked me about life in the United States. These moments of overlap helped me to connect with the prisoners I met. The counterpoint to this commonality was my rather obvious presence as a young white woman in a men's institution, and my perhaps less overt—but at times equally

significant—Jewish surname, which became a topic of conversation and in some cases significant tension during conversations about religion.

All of these aspects of the interview process informed my research. Prisoners' behavior toward me, my feelings about them, and the sheer intensity of doing work in this kind of institutional space were substantive elements of my project. As empirical prison scholars well know, the emotional experience of being within the prison becomes an important part of witnessing and recounting prison life (Bosworth *et al* 2005; Phillips and Earle 2010; Schlosser 2008). The affective dimension of incarceration was (and still is) the thing I remembered most clearly when I walked out the prison gates. In this sense, the next five chapters provide a recollection of my own memories and feelings about meeting the people involved in incarcerating foreign nationals. While this thesis ultimately becomes a theoretical reflection on the purpose of late modern incarceration, it is also a personal testimony about the lives I saw, and the life I led, over the past several years.

Conclusion: Truth and Subjectivity

Empirical scholars debate how much to discuss these personal and affective aspects of our fieldwork (Bosworth *et al* 2005; Phillips and Earle 2010; Schlosser 2008). Much empirical writing on the prison does not discuss emotion at all. The mores of academia, and particularly social scientific scholarship, do not always include venting about the experience of doing research. Scholars in other disciplines, such as history or international relations, do not typically describe what it is like to pore over archives or spend hours in a library. Perhaps it seems that the same should hold in criminology and

that the emotional elements of our fieldwork should remain beyond the scope of our reports.

The problem with this approach is that the emotional dimension of ethnography is a window into the way punishment works. The texture of conducting interviews was a defining feature of my fieldwork, and is, I think, one of the more ‘hidden’ aspects of prison ethnography (Schlosser 2008: 1500). I explore the implications of this dimension of my incarceration more in the final chapter of this thesis. That chapter returns to the question with which this one began—questions about the intersection of theory and practice and the possibility of better integrating the two—to argue that scholars need to begin our research into the penal institution from an affective account of prison life. For the moment, I want to conclude by reiterating that interviewing prisoners is an inescapably subjective exercise.

The thesis that follows organises foreign national prisoners’ narratives into distinct chapters and coherent themes. The process of dividing up these prisoners’ stories and deciding what about them is worth retelling is a difficult and ethically questionable one. There are many things that prisoners told me that I have had to leave out for brevity, that I have chosen to omit, or that I did not understand. This last category is particularly troubling—where I could not fit what prisoners were saying into my own understanding about the world, or where I could not translate their language into my own, I had to leave those statements out of my account. This feels like an unfair editing practice, one in which my concerns and my knowledge come to matter more than they should. It is worth emphasising, then, that I am myself a witness here, and that while I strive to quote the prisoners I interviewed, I am in the end reporting what made sense to me.

Of course, that does not make the story I tell any less true. As Coretta Phillips and Rod Earle make clear, the ‘truth’ of prison life involves those who write about incarceration (Phillips and Earle 2010). According to these scholars, ‘situating ourselves more explicitly within the co-construction of the prison world can provide an opportunity to disrupt the dehumanizing othering that is prison’s principal social accomplishment’ (ibid.: 375). Phillips and Earle suggest that there is a politics to acknowledging the researcher’s formative role in the creation of meaning in and around penal institutions (ibid.). This politics is worth echoing and making explicit, for it provides the connection between actual prisons and academic accounts of them. If we take the researcher’s role in the production of knowledge seriously, there is a natural *and necessary* transition from what happens inside the prison to what we ask and aim to do in prison studies. The ultimately methodological bent of this thesis is then a political move, one which insists that the way scholars talk about the prison is constitutive of its purpose and place in society. Before turning to those politics of method, chapter three explores a political crisis that shook the Home Office in April of 2006.

Chapter Three: Hubs and Spokes

The crisis began on April 25, 2006. That morning, Home Secretary Charles Clarke announced that over the preceding seven years more than a thousand foreign nationals had been released from prison without being considered for deportation (BBC 2006a). Clarke's revelation prompted a media frenzy (ibid.; Daily Mail 2006a, 2006b; Johnston 2006b; Michael 2006). For the next week, headlines proclaimed a dangerous national crisis: 'Home Office Blunders Left Foreign Rapists in the UK' (Daily Mail 2006a); 'We May Never Find Foreign Murderers and Rapists' (Johnston 2006b); Foreign prisoners 'on the loose' (Daily Mail 2006b). Across the board, more-and-less xenophobic articles explored the 'problem' of 'foreign criminals'. One editorial asked why these 'on-the-run convicts', such 'manifest undesirables', were in the country at all (Slack 2009). Even the relatively staid BBC ran a series of stories describing how 'foreign criminals', notably 'murderers and rapists', had been 'allowed to walk free' (BBC 2006e). Ten days later, Charles Clarke was dismissed.

Clarke's dramatic departure provided a public face and a superficial conclusion to the foreign prisoner 'crisis'. Behind the scenes, however, the scandal continued long after the presses stopped. In the months following Clarke's dismissal, newly minted Home Secretary John Reid oversaw a wide-scale restructuring of both the Prison Service and the Immigration and Nationality Directorate. Reid and his counterparts sought to integrate the two state agencies, an effort that culminated in a broad new policy on foreign national prisoners. Dubbed 'hubs and spokes', that policy establishes special prisons for 'foreigners' and deputises prison staff to act as quasi-immigration agents (MoJ and UKBA 2009). It also 'embeds' immigration officials within penal institutions and obliges prisons to hold prisoners beyond the length of their criminal

sentences (*ibid.*). In sum, the hubs and spokes policy shifts the penal estate toward the question of foreignness.

This chapter asks how such an expansive penal policy came to pass and what it might tell scholars about the practice of late modern punishment. How and why did the hubs and spokes system develop from a short-lived political scandal? What can this story tell criminologists about the relationship between immigration and imprisonment? What do policies like hubs and spokes mean for the purpose of the prison? These questions guide the chapter, which proceeds from an account of the Home Office scandal to an assessment of its aftermath in penal policy and practice. Ultimately, I argue that the hubs and spokes policy evinces the emergence of a partially decriminalised penalty, one shaped by the pressures of migration control.

This claim unfolds over three sections, each of which examines a different aspect of hubs and spokes. The first section of the chapter traces the policy to its origins in the ‘crisis’ of April 2006. I explore the political battles that created that crisis and explain how they led to the formulation of a sprawling new penal policy. The second section, in contrast, examines the implementation of the hubs and spokes policy within the prison system. Drawing on internal memos, interviews, and observations, I describe how the hubs and spokes framework affects penal practices and (at least in some cases) gets resisted and reinterpreted by prison staff. That account grounds the third and final section of the chapter, which reconsiders the connection between immigration and imprisonment. Typically, scholars have critiqued the collusion of border control and punishment through the concept of ‘crimmigration’ (Stumpf 2007; See also Bosworth and Kaufman 2011; Lee 2005; Zedner 2010). I argue that this paradigm, while compelling, can also stall academic inquiry into the political and social transformations

taking place within the late modern prison (See Bosworth 2011b; Leerkes and Broeders 2010).

The Crisis

While it most often remembered as the prelude to Charles Clarke's departure, the foreign national prisoner scandal is part of a longer story about local politics, immigration discourses, and British bureaucracy. In fact, this particular scandal began nearly a year before it emerged in headlines across the British media. The 'crisis' also continued well after Clarke left the Home Office, trickling down through his agency, the Prison Service, and the 139 prisons in England and Wales. This narrative can tell criminologists a good deal about the operation of penal institutions and the construction of crises in the British national conscience.

Though most of the people I interviewed recalled 'the crisis of April 2006', the foreign prisoner scandal actually commenced relatively quietly in July 2005. That month, the National Audit Office (NAO), an independent government-spending watchdog, published a sixty-page report on the return of failed asylum applicants (NAO 2005). The NAO's attention to this issue was not unusual. Asylum-seekers, and particularly 'bogus' refugees, had figured prominently in political discussions and headlines since the early 1990s, when the collapse of the Soviet Union and European integration propelled a wave of migration from Eastern Europe (Gibney 2008). A small section of that report, however, came as a surprise to some in the Home Office.⁵³ In a few paragraphs devoted to criminal cases, the NAO noted that immigration authorities could not provide figures on the number of foreign nationals who had been released

⁵³ Those surprised by the NAO report included, apparently, the Home Secretary. According to a BBC report from 2006, Charles Clarke 'admitted that his attention was first brought to the problem [of released foreign national prisoners] on publication of this report' (BBC 2006a).

from prison because ‘removal could not be arranged’ (2005: 13). The report suggested, in other words, that some prisoners who ‘should’ have been deported were instead released.

This claim provoked a mild public reaction from Prime Minister Tony Blair, who announced an investment of £3 million in the management of failed asylum seekers (BBC 2006a).⁵⁴ The NAO report also caught the attention of Conservative MP Richard Bacon, representative for the constituency neighboring Charles Clarke’s Norwich South. Bacon, who was at the time running for re-election, caught wind of ‘the foreign criminal issue’ in the fall of 2005 (PAC 2006). Five months before the local elections in East Anglia, he questioned the Home Secretary’s leadership in a statement to the press (BBC 2006a). Bacon then announced to the BBC that he had ‘set in motion a whole set of procedures to change the way the Prison Service and the Nationality Directorate were working’ (ibid.).

Bacon’s effort gained steam and publicity a month later when Yusuf and Mustaf Jama, two brothers from Somalia, were charged with murdering Police Constable Sharon Beshenivsky during an armed robbery. Beshenivsky’s murder generated an enormous amount of press coverage, fueling the public debates over asylum and imprisonment (Greenhill *et al* 2006; Johnston 2006a). Both of the Jama brothers had been granted asylum in the United Kingdom; one, Mustaf, had been released from prison six months prior to the robbery. Mustaf Jama escaped arrest by dressing in a niqab and using his sister’s passport to fly to Somalia. He then evaded capture in Somalia for nearly two years before he was arrested and returned to Britain by members

⁵⁴ Blair’s investment capitalised on the claim, oft articulated prior to his re-election, that deportation should be a cornerstone of New Labour migration policy (Mann 2003; Zedner 2010). In this sense, the NAO report provided an opportunity for him to fulfill a campaign promise.

of the British military.⁵⁵ This dramatic turn of events—the murder of a female police officer, followed by an escape involving cross-dressing in a religious veil and a covert military operation—raises questions about British attitudes toward race, gender, religion, and international policing. During the spring of 2006, the Jama case also bolstered Richard Bacon’s campaign.

In the midst of the public search for Mustaf Jama—referred to in the press as ‘Britain’s Most Wanted Man’ and the ‘the killer asylum seeker’—Bacon repeatedly pressed the Home Office on its release of foreign national prisoners (BBC 2006a; Greenhill *et al* 2006; Times 2009). His continued efforts landed him re-election and the title ‘Backbencher of the Year’ (Bacon 2006). They also precipitated Charles Clarke’s announcement to the press, which preempted the next day’s parliamentary hearing on the issue. Nine days after that announcement—and just one day after Labour’s poor showing in the local elections—Clarke was replaced as Home Secretary by Defence Secretary John Reid. In tendering his resignation, Clarke presented the failure to consider foreign national prisoners for deportation as a problem of failed bureaucracy. ‘The issue is not people going free’, he explained, but rather ‘getting the various aspects of our operation functioning properly’ (BBC 2006c).

The media saw it differently. In contrast to Clarke, reports in many papers, and particularly in the British tabloids, framed the release of the foreign nationals as a crisis (BBC 2006e; Daily Mail 2006a; Johnston 2006b; Slack 2009).⁵⁶ Most accounts of the scandal (including the official one penned by the Home Office) adopted the choice term ‘foreign criminal’ to describe the released prisoners (Bhui 2007: 379; Home Office

⁵⁵ Mustaf Jama was convicted of Beshenivsky’s murder after being captured by the British military in Somalia in October 2007. He is serving a life sentence in the UK (Norfolk 2009; Times 2009).

⁵⁶ The distinction between Clarke’s articulation of ‘the issue’ and its presentation in the media captures a persistent tension between populist visions of crime control and what Ian Loader calls ‘platonic guardianship’, a notion of governance in which crime is managed by expert bureaucrats (Loader 2006).

2007). As Hindpal Singh Bhui noted in his report for the Prison Reform Trust, this language ‘conjure[s] up over-dramatic and frightening “underworld” images’ to distinguish a largely unexceptional group within the prison population (2007: 379). The Home Office’s own statistics suggest that rates of recidivism, violent, and sexual offences among foreign nationals are either comparable or lower than those of British nationals (ibid.; MoJ 2010a). Of the 1,023 foreign nationals that were released under Clarke’s watch, only 36 (or 3.5 per cent) had committed offences classified as ‘most serious’ (Vine 2012: 7).⁵⁷ Moreover, if they are released, all foreign nationals are subject to the same probation and other supervision arrangements as British citizens (Bhui 2007). Nevertheless, the coverage of Clarke’s dismissal proclaimed—or as Stuart Hall would remind us, created—a widespread crisis of governance (Hall *et al* 1978).

Sensationalist media accounts of the foreign national prisoner scandal overshadowed Clarke’s reading of the ‘problem’ and laid the groundwork for an aggressive response from a New Labour government keen to assert its seriousness about both crime and migration control. In the wake of the frenzy over ‘foreign criminals’, the British government made a series of public overtures: it petitioned the European Court of Human Rights to reconsider the absolute ban on deporting people to countries where they could face torture or death (BBC 2006d);⁵⁸ it invested more money in the ‘problem’ of failed asylum seekers (BBC 2006a); and Parliament passed legislation expanding the use of deportation for foreign national prisoners (UK Borders Act 2007;

⁵⁷ ‘Most serious’ offenders are categorised as people convicted of murder, manslaughter, rape and child sex offences (Vine 2012: 7).

⁵⁸ The European Court of Human Rights’ ban on deportation to countries that condone torture became UK law in the 1998 Human Rights Act. As Lucia Zedner notes, that ban had been ‘portrayed in the media as a charter for foreign criminals and terrorists’ throughout the foreign prisoner scandal (Zedner 2010: 383). The government sought to have the ban lifted in late May of 2006, just two weeks after Clarke’s dismissal.

See also Bosworth and Guild 2008; Gibney 2008).⁵⁹ Behind closed doors, the government also initiated a transformation of the British bureaucratic machinery. This internal development extended the foreign prisoner scandal far beyond its origins in an East Anglian election.

In the weeks after Clarke's dismissal, Home Secretary John Reid oversaw a series of structural changes to both the Prison Service and the Immigration and Nationality Directorate. First, Reid formally divided these two agencies, placing prisons under the Ministry of Justice and immigration under the Home Office.⁶⁰ He then released an 'eight point plan of action' that encouraged the newly separate arms of government to prioritise foreign prisoners (HMPS 2007a; See also BBC 2006b). Within the Prison Service, this effort involved a trio of policies on how to handle non-British citizens (HMPS 2006, 2007b, 2008). Among those policies was Prison Service Order 4630, the first Prison Service document to engage with immigration and nationality in explicit terms (*ibid.*). That order defined the category 'foreign national' and outlined an expanded relationship, based largely on information sharing, between the Prison Service and the Nationality Directorate. In doing so, PSO 4630 officially introduced the demands of migration control into the prison estate (*ibid.*; HMPS 2007a, 2008).⁶¹ It also

⁵⁹ Under the UK Borders Act of 2007, all non-citizen prisoners are automatically considered for deportation, while non-European nationals sentenced to at least one year and European Economic Area (EEA) nationals sentenced to at least two years face mandatory deportation. These sentence lengths—one year for non-European nationals and two years for EEA nationals—are both cumulative and retroactive. This means that, for instance, a non-European foreign national with a prior record of nine months in prison would face 'removal' based on a three month sentence, regardless of when the original nine months was served. In addition to establishing these criteria for 'removal', the Borders Act also provides immigration officers with police powers of detention, search and seizure, and introduces compulsory biometric residence permits for non-EU immigrants (UK Borders Act 2007; See also Harper and Symonds 2009).

⁶⁰ Reid's reformulation also placed probation services under the Ministry of Justice and policing under the Home Office.

⁶¹ PSO 4630 has been amended several times since its release (HMPS 2007a, 2008). The Order was amended in 2007 by the publication of a related Prison Service Instruction (PSI) and was then updated in full in 2008 (*ibid.*). In the spring of 2011, one official involved in Prison Service policymaking stated that

reversed the Prison Service's stance that the treatment of foreign national prisoners fell under the existing policy on race relations.⁶²

Secretary Reid's emphasis on foreign national prisoners prompted similarly broad shifts within the Nationality Directorate. The first and most obvious of these was a name change. In the months following Reid's appointment, the Immigration and Nationality Directorate (IND) formally became the Border and Immigration Agency (BIA) (a title that would last a year before the organisation came to be known, as it is now, as the UK Border Agency).⁶³ The newly established BIA then introduced the Facilitated Returns Scheme, a programme intended to increase deportation rates. Debuted in tandem with a performance target for deportation numbers, the Facilitated Returns Scheme (FRS) incentivises deportation by providing cash and grants to non-European prisoners who volunteer to return 'home' (HMPS 2007a).⁶⁴ This scheme, which accounted for one third of the total deportations in 2009 and almost half of the deportations in 2010, saves the National Offender Management Service £1.5 million per

a forthcoming PSI would amend PSO 4630 again, this time to streamline the process by which foreign national prisoners are identified to immigration authorities.

⁶² Prior to the 2006 scandal, the Prison Service maintained that there was no need for formal guidance on foreign national prisoners. The agency held this stance despite public reports that called for such a policy, including a 2004 report from Her Majesty's Inspectorate of Prisons (HMIP) that noted 'an institutional blind spot for foreign nationals within the Prison Service' (Bhui 2004; HMIP 2004). A separate report from the Prison Reform Trust implies that prior to the 2006 scandal the Prison Service categorised concerns about the treatment of foreigners under race relations and, to that end, resisted publication of a standalone policy on nationality (Bhui 2004). My interviews with Prison Service officials confirmed this suggestion.

⁶³ Throughout the chapter, I refer to the Border Agency using its the chronologically appropriate name. For clarity, this thesis on the whole refers to the UK Border Agency using its current name and its acronym, UKBA.

⁶⁴ The Facilitated Returns Scheme (FRS) is only available to foreign national prisoners who are not citizens of nation-states within the European Economic Area (EEA). Both the Vine Report (2012) and my interviews with policymakers involved in the management of FRS reveal that the scheme has changed slightly since its debut in 2007. As of October 1, 2010, the grants offered to foreign nationals who agree to their own 'removal' have gotten smaller. Originally, prisoners were offered £5,000 (with a small portion as cash up front and the rest upon arrival) to return to their 'home' countries. Today that number is £1,500 for serving prisoners and £750 for those who have completed their criminal sentences (Vine 2012).

month and costs the Border Agency £7-10 million a year (Vine 2012: 11-12).⁶⁵ On average, the Facilitated Returns Scheme opens up 500 new prison places each month (ibid.). The creation of this scheme aimed to relieve what one high-ranking Border Agency official called the ‘huge political pressure around the numbers of foreign national prisoners’ (ibid.; Vine 2012: 3).

That pressure also contributed to the Border Agency’s budget. In the aftermath of April 2006, the BIA began to redirect resources to its Criminal Casework Directorate (CCD), the division responsible for managing immigration cases within the penal estate. By 2008, the CCD’s budget had increased by £40 million (MoJ and UKBA 2009). This ‘very significant injection of resources from elsewhere in the organisation’ propelled a bureaucratic inflation: in the wake of scandal, the CCD expanded to 35 times its original size (ibid.; MoJ 2007: 2). The ‘problem’ of foreign prisoners thus created its own solution in the form of a widened state apparatus for finding and ‘removing’ foreigners. As one Border Agency official put it, ‘this organisation grew out of crisis’.

That crisis also catalysed perhaps the most significant shift in the British penal machinery, the hubs and spokes policy. After Reid’s appointment, the Prison Service and the Border Agency not only adjusted their focus toward the management of foreign nationals within their own organisations. They also entered into a long—and by all accounts tense—series of negotiations about how they might work together to handle these ‘problem’ prisoners. Over the course of three years, from 2006 to 2009, officials from the Border Agency met with their counterparts at the National Offender Management Service (NOMS), the umbrella agency covering prisons and probation. These meetings resulted in an agreement that took effect in June of 2009 and was leaked

⁶⁵ According to the Vine Report, the Facilitated Returns Scheme (FRS) accounted for 49 per cent of the total 5,235 deportations in 2010 and 30 per cent of the total 5,530 deportations in 2009 (Vine 2012: 11). That report also states that FRS cost the Border Agency £7.1 million (including £2.3 million of EU funding) in the 2009-2010 fiscal year and cost a projected £9.7 million (including £2.7 million of EU funding) in the 2010-2011 fiscal year (ibid.). These statistics are the basis for the claims made above.

to the press shortly thereafter (MoJ and UKBA 2009). That agreement set out terms for enhanced communication between prison and immigration officials. It also reorganised the penal estate around the concept of foreignness.

At the least in theory, the hubs and spokes agreement creates a panoptic model for the management of foreign nationals within the 139 prisons in England and Wales. Under the new policy, foreign national prisoners, who make up around 13 per cent of the total prison population, are concentrated within particular prisons known as hubs (MoJ and UKBA 2009; For statistics see MoJ 2010a; See also Bhui 2004, 2007; Vine 2012).⁶⁶ Those hub prisons, which are geographically distributed across England and Wales, are each ‘embedded’ with full-time immigration staff, who communicate with caseworkers in the UKBA’s Criminal Casework Directorate (MOJ and UKBA 2009). Adding to these hub prisons, the agreement also created two ‘dedicated foreign national only prisons’ meant to hold prisoners facing deportation.⁶⁷ In effect, then, the hubs and spokes policy redistributed the prison population according to nationality. This redistribution involved hundreds of prisoner transfers, which in many cases took place overnight the day after the new policy took effect.⁶⁸

In addition to reorganising the penal estate in this way, the hubs and spokes policy also set out a series of guidelines for the relationship between immigration and

⁶⁶ When the hubs and spokes agreement was drafted, the hub prisons were: HMP Risley; HMP Hewell; HMP Morton Hall; HMP The Mount; HMP The Verne; HMP Wandsworth; and HMP Wormwood Scrubs (MoJ and UKBA 2009). Morton Hall, which became a women’s prison 1996, was ‘reroled’ in May 2011 as a men’s Immigration ‘Removal’ Centre. It is now jointly operated by the Prison Service and the UK Border Agency. For a full list of the hub, spoke, and non-spoke prisons, see the Service Level Agreement between UKBA and NOMS (ibid.).

⁶⁷ At the time of the hubs and spokes agreement, the two ‘dedicated foreign national only prisons’ were HMP Canterbury and HMP Bullwood Hall (MoJ and UKBA 2009). HMP Huntercombe has since been added to that list. ‘Dedicated foreign national’ prisons are generally counted as hub prisons, which brings the total number of hub prisons to nine (after the addition of HMP Huntercombe and the ‘reroling’ of HMP Morton Hall as an Immigration Removal Centre).

⁶⁸ These transfers were challenged under the Race Relations Act (1976), but were ultimately upheld in court. See *R (On the Application of the Equality and Human Rights Commission) v. Secretary of State for Justice* [2010] EWHC 147, [2010] All ER (D) 198.

prison staff. Among those guidelines is a mandate: where immigration officials are not ‘embedded’ within a prison, prison staff members are obliged to identify and refer all foreign national prisoners to the UKBA (MoJ and UKBA 2009). Building from those referrals, the Border Agency then determines which foreign nationals will face deportation.⁶⁹ The hubs and spokes policy thus inaugurated a cooperative, inter-agency effort to identify the ‘foreigners’ in British prisons. The new policy also required that prisons ‘maximize’ the immigration detention estate by holding some ex-prisoners as immigration detainees (*ibid.*: 9).⁷⁰

This last requirement is the most contentious one among prison staff, and at least in terms of legal trends, is one of the most notable aspects of the hubs and spokes policy. According to the agreement between NOMS and UKBA, the Prison Service is ‘expected’ to hold ‘time-served’ immigration detainees—that is, prisoners facing deportation whose criminal sentences have expired—until they are released, transferred to one of the UKBA’s ‘removal’ centres, or ‘removed’ from the UK (MoJ and UKBA 2009: 9). These ex-prisoners are held within prisons under administrative (rather than criminal) powers.⁷¹ This form of detention is indefinite in theory, though not in practice, and has led to ex-prisoners being detained ‘pending deportation’ for years.⁷²

⁶⁹ In determining whether a prisoner will be deported, UK Border Agency caseworkers follow the guidelines of the 2007 UK Borders Act. (See note 59). These guidelines determine which prisoners will face deportation, but they do not dictate which prisoners will ultimately be deported. Often, inmates identified for deportation under these guidelines are released into the UK at the conclusion of their sentences, either because they qualify for temporary leave to remain or because they cannot be deported due to human rights restrictions or a failure to procure travel documents from the country of origin (Vine 2012).

⁷⁰ Prisons have long been used to detain people both pre and post-sentence (Bosworth 2008a; Bosworth and Kaufman 2011). The Service Level Agreement between the UKBA and NOMS does not inaugurate this practice, but rather condones it in explicit terms.

⁷¹ Specifically, ‘time-served’ prisoners are detained in prisons under what are known as IS 91 Detention Holds (MoJ and UKBA 2009). The authority to hold deportees under such orders stems from the 1971 Immigration Act, Schedule 3, Para 2(3) (UK).

⁷² In theory, the UKBA has the power to detain foreign national prisoners indefinitely in Immigration Removal Centres (IRCs) or prisons ‘for the purpose of removing them from the UK’ (Vine 2012: 19).

Despite reporting a slew of other statistics on its population, neither the Prison Service nor the UKBA regularly publishes the number of ex-prisoners detained behind prison walls. Still, this information is not completely elusive. The hubs and spokes agreement of 2009 sets the target number for such ‘time-served’ prisoners at 200 (MoJ and UKBA 2009: 5). As of the spring of 2011, the actual number of immigration detainees held within prisons was, according to one prison official, ‘over 600’. In early 2012, the UKBA published a report that placed the number of detainees in prisons at 760 (Vine 2012: 19).⁷³ That recent quote means that nearly half (46 per cent) of all ex-prisoner detainees are held in prisons (ibid.).⁷⁴

The indefinite detention of a hundreds of ex-prisoners within British prisons raises concerns about the use of administrative law and the related erosion of due process rights. This practice also compels a critical examination of the government’s reaction to the foreign prisoner scandal. According to the officials that drafted it, the hubs and spokes policy, like many of the post-2006 changes within the Home Office,

While this power to detain is not limited to a specific timescale, detention is only lawful where there is a ‘reasonable prospect’ of removal within a ‘reasonable timescale’ (*R v. Governor of Durham Prison, Ex parte, Hardial Singh* [1983] Imm AR 198, [1984] 1 All ER 983; See also Vine 2012: 19). Several prisoners have challenged their post-sentence detention within the prison, arguing that it constitutes a form of false imprisonment. See, e.g., the following cases brought by foreign national prisoners: *Lumba (WL) (Congo) v. Secretary of State for the Home Department* [2011] UKSC 12, [2011] All ER (D) 262; *AP (Trinidad and Tobago) v. Secretary of State for the Home Department* [2011] EWCA Civ 551, [2011] All ER (D) 108; *RU (Bangladesh) v. Secretary of State for the Home Department* [2011] EWCA Civ 651, [2011] All ER (D) 38.

⁷³ The Vine Report, which was published in 2012 by the Chief Inspector of the UK Border Agency, is the first public document in some time to specifically state the number of ex-prisoners held under immigration powers in British prisons. The fact that this number is well above the agreed upon performance target of 200 ex-prisoners in the penal estate raises a series of questions (MoJ and UKBA 2009: 5). It is unclear whether that performance target still holds weight within the Prison Service and the UKBA, or indeed if it ever did. Moreover, it is not clear from interviews or published documents whether the detention of ex-prisoners within prisons is a growing trend or if the numbers have always been well above 200. Border Agency and Prison Service representatives were reticent to discuss this statistic, which suggests that they acknowledged, at least in part, the legal and political problems surrounding the indefinite detention of ex-prisoners in British prisons.

⁷⁴ To be clear, this statistic refers only to ex-prisoners detained under immigration powers, not to the total number of detainees Britain. (That number is close to 3000; See Vine 2012). In January 2011, the most recent date for which concrete statistics are available, the UK Border Agency was detaining 1,667 ex-prisoner foreign nationals. Of those 1,667 detained ex-prisoners, 907 (54 per cent) were detained in Immigration Removal Centres (IRCs) and 760, the number cited above, were detained in prisons (ibid.: 19).

was created to make the deportation of foreign national prisoners faster and smoother. The hubs and spokes agreement puts this goal in official terms; it states that the purpose of the penal policy is to formalise ‘the traditional informal working practices between parts of the NOMS and UKBA’, which were deemed ‘no longer appropriate’ after Reid divided the Home Office and the Ministry of Justice (MoJ and UKBA 2009: 5). The agreement also cites ‘significantly improved’ ‘joint data...and risk management’ as part of the rationale for hubs and spokes (ibid.) This presentation of the new policy captures the philosophy of punishment underlying government’s response to the foreign national prisoner scandal.

In a matter of months after the scandal emerged in the tabloids, Reid reshuffled the Home Office, orchestrated communication between state agencies, and funneled both money and energy into the ‘problem’ of foreign prisoners. These decisions produced expansive new policies—not to mention an entirely new directorate—to manage the foreign prisoner population. In other words, the government saw and reacted to the prisoner ‘crisis’ in distinctly bureaucratic terms. This approach affirmed Charles Clarke’s proclamation that the challenge of the foreign prisoner scandal was ‘to [get]...our operation functioning properly’ (BBC 2006c). On a deeper level, it also evinced an actuarial understanding of crime control that prioritises the classification and expulsion of a risk posed to the state. In this case, the risk was ‘the foreign criminal’ and the goal was to identify and ‘remove’ him or her from the UK in accordance with carefully calculated performance targets.

At first glance, this actuarial approach to prisoners—centred on statistical targets and new rules—might appear to contrast with the heated populism of the tabloid reports that fueled the foreign criminal crisis (Bosworth and Guild 2008; Feeley and Simon 1992, 1994). Headlines warning of ‘foreign criminals and rapists’ ‘on the loose’ seem at

odds with the muted managerialism of programmes like hubs and spokes or the Facilitated Returns Scheme, which present ‘the foreign prisoner’ as a number to be crunched (Daily Mail 2006b; HMPS 2007b; MoJ and UKBA 2009). However, as other scholars (e.g., Bosworth and Guild 2008) have noted, the difference between these two responses is largely a question of tone. In practice, actuarial strategies of offender management like those adopted by Reid’s Home Office often converge with strands of popular punitivism, such as anti-immigrant sensibility, to legitimate the expansion of state control (ibid; See also O’Malley 1999; Zedner 2008, 2010). The hubs and spokes policy illustrates this process. Borne from political scandal, the new policy on foreign national prisoners propelled an inflation of the bureaucratic machinery used to manage migration.

Specifically, the hubs and spokes policy deployed the power of *the prison* toward the state’s efforts to control its borders. One senior civil servant in the UKBA described this shift in the Border Agency’s conception of its own work. As that official explained, ‘crisis points create opportunities. Call it responsive; call it exploiting. If you set up a project, it gets going and people get on board’. The pressing critical question is precisely what opportunity was created by and through the foreign national prisoner scandal. The answer, it seems, is a new vision of the prison’s place in migration control. Under hubs and spokes, the prison becomes a piece of the UKBA’s wider deportation strategy and a practical site for the institution of migration control measures. The prison also becomes a place where border control policy is negotiated and contested. Ultimately, the hubs and spokes policy makes the prison a constitutive part of the UKBA project. This transformation plays out on a local level within the prisons of the British penal estate.

Immigration Postmen

The hubs and spokes policy raises a series of questions about the use of the late modern prison. In practice, hubs and spokes positions the prison—its prisoners, prison staff, and the notion of imprisonment itself—as part of the government’s attempt to police migration. This new penal policy implicates the prison in what Matthew Gibney calls ‘the deportation turn’, an historical moment in which the ‘problem’ of migration is increasingly understood through the solution of detention (2008; See also Bosworth and Guild 2008; Bosworth and Kaufman 2011). But the implementation of hubs and spokes is also piecemeal and personalised—and in this sense, is incompletely aligned with the policy that created it. In many cases, prison staff members resist and reinterpret migration control measures within the prison. Examining the hubs and spokes policy as it works behind bars illustrates both the reach and the limits of the effort to merge migration and crime control.

Within the prisons I visited, the government’s focus on migration control was evident at a number of different levels. Perhaps most obviously, the hubs and spokes policy recasts Prison Service staff as quasi-immigration officers. From day-to-day, prison line staff may be called upon to collect prisoners’ travel documents and search their cells for passports and other forms of identification. Foreign National Coordinators, the staff members assigned to manage foreign national prisoners, take on an even greater role in prisoners’ immigration cases. These prison staff regularly contact foreign embassies, mediate between prisoners and immigration officials and, while they cannot legally provide immigration advice, often serve foreign nationals with legal notices on behalf of the UKBA (HMPS 2008). Not surprisingly, some foreign national coordinators also become involved (and well-versed) in migration policy and practice,

from the UK's legal obligations under the Vienna Conventions to the Border Agency's thirteen-point list of questions to help 'establish nationality more accurately in cases where there is some uncertainty' (HMPS 2008: 1, 52).⁷⁵

Ultimately, prison staff members sit in 'structured subordination' to the Border Agency's mission, delivering UKBA information, promoting the Facilitated Returns Scheme, and enabling the administrative detention of ex-prisoners (Hall 1978).⁷⁶ This entire endeavor is shaped not only by the UKBA's mission, but also by its method. In one revision of Prison Service Order 4630, for instance, the UKBA (then the Border and Immigration Authority) provides detailed instructions on how prison staff should serve immigration documents to foreign national prisoners (HMPS 2008). 'If you are asked to date a notice, please do so,' the order reads. It continues:

At worst a failure to date the notice can lead to serious problems at the appeal; at best, it gives the appellant's legal representatives an easy way of casting doubt on Home Office competence. [ibid.: 31]

This directive frames the officers of the Prison Service, which is a division of the Ministry of Justice, as ambassadors and defenders of the Home Office's legitimacy. As that section of the order rather bluntly concludes, 'You are, essentially, the postman' (ibid.).

In enlisting Prison Service staff as UKBA 'postmen', the post-2006 foreign national prisoner policies extend the practical reach of migration control deep into the

⁷⁵ This was not true of all the Foreign National Coordinators I met. Some seemed to know very little about the hubs and spokes system; others avoided their role in migration control altogether. The claim here is limited: specific staff members within the prison system act as mediators between prisoners and the UKBA.

⁷⁶ Stuart Hall used the term 'structured subordination' to describe the relationship between politicians and the press (1978). According to Hall, the media is structurally dependent upon politicians and in reporting politics reproduces and bolsters their power. I have extended Hall's argument by analogy to depict the relationship between the UKBA and the Prison Service. Under the hubs and spokes policy, the Prison Service is structurally 'subordinated' to the aims of border control. In enacting those aims within the prison, prison staff members legitimate the project of migration control.

penal estate. These policies also situate the prison as a symbolic site for migration control. Under the hubs and spokes model, foreign nationals are identified, concentrated, and incarcerated in prisons until the UKBA approves their release (MoJ and UKBA 2009). Since the foreign prisoner scandal, moreover, the UKBA has spent an increasing proportion of its time and budget on the management of the ‘criminal’ population. Within this frame, release from prison becomes a certification of legal residency and finding ‘foreign criminals’ becomes a guiding—and self-fulfilling—goal for the Border Agency. The hubs and spokes policy thus figures the prison as a kind of immigration net, an integral site at and through which migration is policed. The prison is, of course, one of many such sites, for migration control unfolds in airports, embassies, and police stations as well. Under the new hubs and spokes policy, the penal institution joins these spaces as a potent symbol of border control.

The counterpoint to this rhetorical process is that prisons are actual physical sites for holding foreign prisoners and immigration detainees. The 139 prisons in England and Wales currently hold somewhere 11,000 and 13,000 thousand foreign nationals, many of whom face deportation (MoJ 2010a).⁷⁷ In housing these prisoners, particularly those whose have completed their criminal sentences, prisons extend the immigration detention estate. This new role for the prison was made explicit—and more-or-less permanent—when the UKBA and NOMS formally agreed to a ‘target’ for the number

⁷⁷ See note 3 on the composition of the foreign national prisoner population. As I explain in that note, the number of foreign national prisoners varies depending on the size of the remand and ‘time-served’ populations, while the number actually ‘removed’ from the UK is even more difficult to track. Ministry of Justice statistics from yearend 2010 place the foreign national population at 10,866 (MoJ 2010a). That number does not include the 1,794 prisoners listed as ‘nationality not recorded’, nor the close to 800 ex-prisoners currently being detained in British prisons under immigration powers (Vine 2012; See note 4). Hindpal Singh Bhui notes that many prisoners with ‘unrecorded’ nationalities are in fact foreign nationals (Bhui 2007). If one were to combine the recorded, unrecorded, and time-served statistics, the number of foreign nationals in the British penal estate would be 13,260. That number represents a drop from the nearly 14,000 foreign nationals imprisoned at the time of Bhui’s 2007 report (ibid.). The explanation for this drop is not entirely clear—it may stem from an increase in deportation rates, a decrease in the number of imprisoned foreign national women, or an increase in the numbers of foreign nationals transferred into the immigration ‘removal’ estate.

of ‘time-served’ detainees held in prisons (ibid.). Indeed, in a subsection titled ‘What UKBA Expects of NOMS’, the agreement between those two agencies straightforwardly states that the Prison Service should ‘allow UKBA to maximize the immigration removal estate’ (ibid.: 9).

This expectation means that prisons hold ex-prisoners and that the boundary between prisons and immigration ‘removal’ centres is porous. Despite official claims that ex-prisoners are moved to immigration removal centres (IRCS) or held in prisons based on a risk assessment, the transfer policy for ‘time-served’ prisoners is unclear. In practice, transfers between penal and migration control institutions appear to depend as much on facility capacity and concerns about order as they do on risk. In some cases, for instance, prisoners are transferred to removal centres for persistently ‘causing problems’ in the prison or to prisons from IRCS for ‘inciting misbehavior’ there. This overlap between prisons and IRCs is extended and complicated by the increasing criminalisation of immigration offenses, which can lead to prison sentences for ‘crimes’ such as possession of false documents and assisting illegal entry (Bosworth and Guild 2008; Hansen 2000; UK Borders Act 2007).⁷⁸

Prisons also provide a controlled space for interaction between foreign nationals and immigration authorities. In accordance with the post-2006 Prison Service Orders on foreign nationality, prisons across the penal estate now hold regular meetings in which Border Agency officials come behind bars to interview prisoners who have been

⁷⁸ The Vine Report (2012) offers a small but nonetheless illuminating window into the effects that criminalising immigration offences has had on the prison population. Based on a sample of 132 case files, that report found that 27 per cent of foreign national prisoners were incarcerated for fraud and forgery, the typical charges levied against those who possess false identification documents (ibid.: 8). That offence ranks highest in the breakdown of offences for which foreign nationals are incarcerated. The next is drug charges, which account for 23 per cent of the foreign national prisoner population, and then violent offences, which account for 22 per cent (ibid.). The list drops off after that statistic (See Vine 2012 for a complete account). While based on only a limited sample, these numbers suggest that criminalising the possession of false documents has contributed in significant ways to the make-up of the prison population.

identified as ‘foreigners’ (HMPS 2006, 2008).⁷⁹ Such meetings, which within the prison are called ‘immigration surgeries’, give border agents an opportunity to fingerprint and photograph prisoners. During these interactions, UKBA staff use what one official called ‘assertive interviewing practices’ and ‘police techniques’ to determine prisoners’ nationalities. At least in some cases, border agents also employ the threat of imprisonment to achieve their aims. In one surgery I attended, for example, a UKBA representative told a ‘non-compliant’ foreign national prisoner—that is, a man who would not agree to his own deportation—that unless he acquiesced to deportation proceedings, immigration could ‘hold him in prison as long as we want’.

In this way and many others, the hubs and spokes policy figures the prison as means of migration control. That is not to say, however, that the exchange between immigration and imprisonment is all encompassing, nor that every immigration agent presents imprisonment as a threat. To the contrary, the implementation of the hubs and spokes policy is much more localised—and often more controversial—than it can seem from outside prison walls. Within the prison, it is immediately evident that migration control is a priority and that prison staff are doing immigration work. But it is also clear that the hubs and spokes policy has its detractors and that the overlap between migration control and penal institutions is incomplete. While the formal agreement between NOMS and UKBA establishes specific hub and spoke prisons, many prisons diverge from this script. Some of the spoke prisons I visited employed full-time immigration staff, who were technically meant to be ‘embedded’ within the nine hub prisons where foreign nationals are concentrated (MoJ and UKBA 2009). Other spoke prisons incarcerate a significant number of foreign nationals and the role that immigration

⁷⁹ The frequency of these meetings depends on whether a prison is categorised as a ‘hub’ or ‘spoke’.

personnel play within the prison differs in each institution. In a few prisons, the staff assigned to manage foreign nationals had never heard of hubs and spokes.

The meaning of the hubs and spokes policy thus took on a local character when realised within the actual penal institution. So, too, did the interactions between prison and immigration staff. This bureaucratic relationship was one of the main targets of the hubs and spokes agreement, which makes plain that the foreign national prisoner scandal was caused, at least in part, by poor communication between state agencies (MoJ and UKBA 2009). In most of the prisons I visited, UKBA and Prison Service staff members communicated according to the formal dictates of that agreement and were both cooperative and cordial with one another when doing so. In individual interviews, however, the conflicts between these groups emerged. Both prison and border agency staff members expressed concerns that their missions were too different for the hubs and spokes system to work. In several cases, prison staff complained that they had little knowledge and less control over prisoners' immigration cases, a situation that they found especially frustrating when dealing with 'difficult' time-served prisoners.⁸⁰ Prison staff also worried about how the UKBA's priorities affected the nebulous balance of power within the prison.

One foreign national coordinator recounted the problems created when Border Agency officials introduce immigration casework into the prison system and then leave prison staff to handle the maintenance of order. 'If you're coming with bad news, I'm giving it to [the prisoners]', she said. 'You're not coming into my prison and giving my prisoners bad news'. Articulating a complex blend of protectiveness, defensiveness, and

⁸⁰ 'Time-served' prisoners—that is, those who have completed their criminal sentences and are being detained under immigration powers in the prison—are especially volatile. In my experience, these prisoners tend to be more vocally angry, resistant, and frustrated than prisoners who know their date of release. Chapter seven explores the experience of indefinite detention in more detail. For a psychological account of the pressures of indefinite detention as they relate to tendencies toward self-harm, see Borrill and Taylor (2009).

ownership over the prison and its prisoners, this staff member suggested that the hubs and spokes policy disrupts the daily organisation and hierarchies of prison life. More senior Prison Service officials reiterated this argument on a grander scale, noting that the hubs and spokes system transposes the demands of migration control onto a penal estate already arranged by security classification and pinched by massive overcrowding. As one Prison Service policymaker put it, the hubs and spokes policy necessitates prisoner transfers and particular prison assignments when ‘we are already bursting at the seams’.

These criticisms illuminate the tensions underlying the new penal policy. They also clarify the Prison Service’s own perception of its purpose. Prison officials’ complaints about the hubs and spokes system reflect an interest in maintaining their own authority, both within the penal institution and within the broader government bureaucracy (Bhui 2004; Bosworth 2011a). Inside the prison, this goal takes the form of localised debates about the boundaries and limits of immigration staff power. Such debates typically centre on the balance between immigration ‘removal’ targets and ‘the need to maintain order’, a concept that holds great sway in prison staff members’ articulations of the drawbacks of the hubs and spokes policy. Throughout my interviews, prison officials asserted the primacy of the need for order, and with it, the import of the Prison Service’s existing classification system. These claims suggest that the Prison Service understands itself through the lens of order—and at least in some cases, sees that paradigm as incompatible with the notion of ‘removal’.

Prison staff also expressed concerns about the treatment of foreign national prisoners under hubs and spokes. One prison staff member, for instance, predicted that the hubs and spokes policy would ultimately fail because the two organisations had a fundamentally different approach to prisoners. As that person put it, ‘the difference

between the Prison Service and the UKBA is that we see them as people and they see them as numbers'. Of course this is a biased perspective, but it nonetheless illustrates the philosophical conflicts at play in the implementation of the penal policy. According to one official familiar with the relationship between UKBA and NOMS, these conflicts were part of the reason that the hubs and spokes agreement took three years to negotiate. That official said that the hubs and spokes policy was created 'for UKBA convenience', and that during the negotiations, NOMS voiced fears about its capacity to uphold a 'decency agency' while indefinitely detaining deportees.⁸¹ The UKBA, on the other hand, was singularly focused on the effort to 'detain and deport'.

The two state agencies selected to manage the foreign prisoner 'crisis' thus had distinct and sometimes conflicting goals in creating hubs and spokes. This distinction was acknowledged in the Prime Minister's Delivery Unit (PMDU) report commissioned in response to the April 2006 scandal (MoJ and UKBA 2009). In that report, the PMDU found that 'NOMS and UKBA are ultimately working toward different objectives in managing F[oreign] N[ational] P[risoners]' (ibid.). NOMS, according to its mission statement, exists both 'to protect the public' and 'to reduce re-offending rates' (MoJ 2010b). While the Prison Service is not explicit about how it intends to reach these goals, its official emphasis on 'reducing re-offending' by helping prisoners lead 'good and useful lives during and after release' suggests a conceptual investment in the connection between offenders and the British polity.⁸² The UKBA, in contrast, is by

⁸¹ The 'Decency Agenda' was introduced by Prison Service Director General Martin Narey in 1999. While there is no consensus on what exactly this agenda entails, Alison Liebling argues that it is an explicit move away from notions of 'justice' and 'liberality' and toward concepts like 'fairness, minimum standards, security, order, the challenging of offender behavior, and a reduction in the availability and use of drugs' (2004: 478). Despite the conceptual ambiguity of the Decency Agenda, prison officials and prison staff regularly cite it when they are asked to explain the purpose of the prison.

⁸² To be clear, my suggestion is not that the Prison Service is actually or sufficiently concerned with the prison's broader place in society or even with offender resettlement. The point here is a limited one: given its stated objective, the Prison Service is connected to prisoners' continued presence on British soil in a way that the UKBA is not.

definition interested in ‘controlling the border’ by increasing the annual number of deportations.⁸³

This clash between the two agencies’ aims plays out on the ground in the subtle but constant tension between immigration and prison staff. That tension is then more than bureaucratic boundary drawing; it is also a window into the problems that arise when governments attempt to merge immigration with imprisonment. On paper, policies like hubs and spokes appear to blend border control with punishment practices, and in doing so, to seamlessly police both migration and crime. But behind closed doors and prison walls, these policies prompt debates about transfers and prisoner treatment—debates that are, at their base, about the purpose of the prison and the legitimacy of the UKBA’s presence behind bars. Accordingly, one official advised me to ‘hesitate when talking about any “integration” of the UKBA and the Prison Service’. Instead, criminologists need to think more critically about the relationship between immigration and imprisonment.

The Criminalisation of Immigration

Typically, scholars have critiqued the overlap between migration control and the prison as evidence of the criminalisation of immigration, or as legal scholar Juliet Stumpf calls

⁸³ The UKBA is heavily focused on increasing deportation numbers—indeed, this appears to be the agency’s defining purpose. The UKBA’s emphasis on deportation is clear, for example, from its practices with regard to foreign national prisoners who appeal their deportation on human rights grounds. Between March and December 2010, the Border Agency’s decisions to deport were overturned by the courts in 425 cases, ‘the overwhelming majority on human rights grounds’ (Vine 2012). That number compares with only 151 prisoners whom the UKBA granted permission to remain on human rights grounds during the same period (ibid). The Border Agency thus had a particularly limited interpretation of whether a foreign national should be entitled to remain in the UK (ibid.). As Vine notes, this legal record is both costly—the 425 appeals in 2010 cost the government around £480,000—and ineffective (ibid.: 15). Accordingly, the Vine Report calls on the Border Agency to bring its deportation decisions more in line with the view expressed by the courts (ibid.: 3). The UKBA’s record of overturned cases suggests a fundamental disagreement between the Border Agency and the courts about the meaning and relevance of human rights in regard to foreign national prisoners.

it, ‘cimmigration’ (Stumpf 2007, 2012; See also Bhattacharyya 2008; Bosworth and Guild 2008; Bosworth and Kaufman 2011; Cole 2003; Kil and Menjivar 2006; Lee 2005; Preston and Perez 2006; Sheikh 2008; Zedner 2010). This formulation has a number of merits, chief among them its focus on the concerning spread of imprisonment practices beyond the realm of the criminal law. However, notions like cimmigration can also suppress some of the key distinctions between migration control and punishment. Those distinctions are worth examining in more detail, for they can tell scholars a great deal about the purpose of the contemporary penal institution.

The critique of cimmigration springs from an appreciation of its contributions to criminology. As a conceptual framework, cimmigration has propelled academic enquiry into the nature of contemporary imprisonment practices. Stumpf’s portmanteau captures how the language and machinery of criminal justice gets transposed onto discussions of migration, effectively criminalising foreign nationals for their mere presence in a foreign nation (Stumpf 2007). This description of recent legal trends has motivated compelling scholarship on the transformation and expansion of administrative law (Stumpf 2007; Zedner 2010), the decline of national sovereignty (Brown 2010), and the obfuscation of due process rights (Cole 2003).⁸⁴ Scholars such as Alessandro di Giorgi (2011), Mary Bosworth (2011), Asale Angel-Ajani (2003) and Salvatore Palidda (2011) have also explored how the criminalisation of immigration recasts racism in new forms. These criminologists have demonstrated that national stereotypes collude with assumptions about race to enable incarceration and to (further) marginalise migrant communities (See also Bosworth 2011a; Garcia and Bessa 2011; Maneri 2011; Simon 1998; Weber 2002).

⁸⁴ Cole’s (2003) book *Enemy Aliens* obviously precedes Stumpf’s (2007) article on ‘cimmigration’, but his work tackles many of the same questions about the collusion of administrative and criminal legal paradigms. The claim here is not that the term ‘cimmigration’ inaugurated a new line of thought, but rather that it captured a set of concerns about migration control that had been percolating in Anglo-American criminology and legal scholarship since the mid 1990s.

The concept of criminalised immigration has also provided solid ground to critique the securitisation of immigration, and with it, the oft drawn link between criminality, migration, and terrorism (Bhattacharyya 2008; Cole 2003; Huysmans 2006; Zedner 2010). Particularly since September 11, 2001, though also before, politicians and members of the British press have framed ‘irregular’ migration as a terrorist threat—and accordingly, as a phenomenon that necessitates incarceration (ibid.).⁸⁵ Such language characterised many media reports of the April 2006 foreign prisoner crisis (See, e.g., Daily Mail 2006a; Johnston 2006b). Criminologists have been quick to note that this presentation of the ‘problem’ of immigration facilitates the spread of imprisonment (Bosworth and Guild 2008; Rahola 2011; Weber 2006). In their analysis of British migration control policies, for instance, Mary Bosworth and Mhairi Guild indict a ‘legislative framework that identifies the most vulnerable migrants as potential terrorists’, and in doing so, propels the expansion of imprisonment within the UK (2008: 711). Citing a 2007 report from the UK Refugee Council, Bosworth and Guild assert that ‘fear of the shadowy figure of the terrorist suspect has...rendered the majority of migrants a priori suspect’ (ibid.; Refugee Council 2007).

Attentiveness to such fear-filled rhetoric proves relevant to any analysis of the management of foreign national prisoners, for both the UKBA and Prison Service discourses are rife with references to terrorism, national security, and war. Most obviously, the hubs and spokes agreement adopts the language of war—and pits the penal institution as a battleground—when it ‘embeds’ immigration staff within prisons (MoJ and UKBA 2009). That agreement also calls forth ‘the shadowy figure of the terrorist suspect’ when it defines the term foreign national prisoner ‘in its broadest

⁸⁵ While this claim refers to the British press, the account of post 9/11 political rhetoric holds true in other countries as well, most notably the United States. On American migration rhetoric see: Cole 2003, Sheikh 2008. For more on the British presentation of ‘irregular’ migration see: Bosworth and Guild 2008; Zedner 2010.

sense' as 'a remand, sentenced or time-served detained prisoner...*known or believed to be a foreign national*' (Bosworth and Guild 2008; MoJ and UKBA 2009: 5).⁸⁶ Prison Service Order 4630 codifies this murky definition and mandates that prison staff report to the UKBA 'when there is reason to suspect that the prisoner is a foreign national' (HMPS 2008: 7).

These wide descriptions of foreign nationality evoke the fear-mongering language of McCarthyism, suturing a subtle connection between foreignness and terrorism. That connection came to the fore in one of my interviews with a UKBA official, who called the process of determining a prisoner's nationality 'intelligence-gathering' and explained that migration control is important because 'to a terrorist, a document is a weapon'. Analysis of securitised (and more broadly criminalised) immigration helps to explain this problematic articulation of foreign nationality. Enquiries into the criminalisation of immigration highlight how the messy rhetorical overlap between foreignness and terrorism enables the expansion of racialised and legally dubious detention regimes.

While it helps to parse this rhetoric, however, the crimmigration framework can also elide notable aspects of policies like hubs and spokes. For one, the concept of crimmigration encourages an overemphasis on the process of criminalisation, which is only one of several emergent trends in migration legislation and policy (Bosworth 2011b; Leerkes and Broeders 2010). The crimmigration paradigm highlights the expansion of the criminal law into the realm of migration, the use of criminality to describe migrants, and the development of policing practices along the national border. These criminalising processes are important to understanding the treatment of migrants in the 21st Century. But they are also accompanied by a series of non-criminal trends,

⁸⁶ Emphasis added.

such as the expansion of administrative detention and the curtailment of due process for non-citizens (ibid.; See also Bosworth and Guild 2008; Cole 2003; Grewcock 2011).

Indeed, in many ways contemporary migration control practices depend less on a connection between immigration and crime than on the particularly non-criminal nature of foreignness.

Mary Bosworth and Mhairi Guild explore this point in their work on the British immigration detention system. They note that migrants are ‘in a substantially different, and far more vulnerable position [than]...domestic UK criminal[s]’, whose criminality affords them due process rights (2008: 712). Unlike the British penal estate, the British immigration detention system is not bound by the constraints of the criminal law (ibid.). Moreover, restrictive immigration legislation like the UK Borders Act (2007) mandates deportation for foreign national prisoners, ‘arguabl[ly] punishing them beyond the terms of their sentence, not simply for the crime committed, but for doing it as outsiders’ (ibid.). Within this frame, migration control appears more connected to fears of foreignness—and less dependent on the language and legislation of crime—than terms like crimmigration suggest. By foregrounding the process of criminalisation, the crimmigration framework can suppress the crucially non-criminal element of the relationship between crime and migration control.

The crimmigration paradigm can also obscure the key role that the prison plays in border control, both as a material space and as an image of custody. Over the past decade, a number of scholars have commented on the growing overlap between the prison and the process of policing migration (Angel-Ajani 2003; Bosworth 2007, 2011a, 2011b; Bosworth and Kaufman 2011; Grewcock 2011; Leerkes and Broeder 2010; Simon 1998; Stevens 2009; Weber 2006; Zedner 2011). For the most part, this work focuses on the emergence of the immigration detention centre, a technology that fuses

migration control with incarceration practices. Writing in this vein, political theorist Jacqueline Smith has documented the incarceration of migrants under prison-like circumstances throughout the United States and particularly along the U.S.-Mexican border (Stevens 2009, 2010). Leanne Weber (2006) has explored a similar phenomenon in Australia, where immigration detention centres have sprung up at a rapid clip since the mid-1990s. This scholarship suggests that the boundary between immigration and criminal incarceration has become blurred by migration control policies that emphasise detention.

With the creation of policies like hubs and spokes, it is clear that this account of imprisonment holds true in England and Wales.⁸⁷ There are multiple and obvious ways in which British prisons and immigration ‘removal’ centres support and mirror one another. These institutions are constructed to the same architectural blueprint; they hold many of the same prisoners; they share performance targets and policymakers; and with immigration officials ‘embedded’ within the prison, they share staff as well (MoJ and UKBA 2009; Vine 2012).⁸⁸ On both conceptual and practical levels, prisons and immigration detention centres are increasingly involved in the same project; they are two arms of the government’s effort to ‘shore up’ national borders and reinforce a waning sense of national sovereignty (Bosworth and Guild 2008; Bosworth and Kaufman 2011; Brown 2010; Weber and Bowling 2004). From this perspective, the institutions of criminal justice and migration control appear to be part of a particular and shared late modern moment.

In a different and important sense, however, prisons are not a part of the immigration estate, nor they are they completely consistent with the project of migration

⁸⁷ Mary Bosworth (2011a) has also written about this practice in the British context.

⁸⁸ On the conceptual and practical parity between the immigration and penal systems in the United States, see: Bosworth (2007), Bosworth and Kaufman (2011).

control. This inconsistency is worth noting, for it illuminates how the prison works as the metaphor against and through which migration control unfolds. While the hubs and spokes model seems to integrate border control with imprisonment, this policy also depends upon and preserves the prison's distinct character as an institution—namely, one defined by the totality of its control over its inhabitants and bounded, at least in theory, by the criminal law (Foucault 1977; Duff 2010). That is to say, there are key differences between prisons and immigration detention centres, and these differences matter to the operation of both institutions. One official I interviewed, a high-ranking Border Agency policymaker, appreciated this fact. That official explained that the prison is a unique site for border control practices, and is crucially separate from the immigration detention centre. 'You can look at their property, their phone calls, their visitors', she said of prisoners held in prisons. 'In a prison regime', information about a prisoner's nationality 'is easier to get. Removal centres are a different regime'.

This UKBA official did not distinguish between remand, sentenced, and post-sentence prisoners when comparing penal and immigration regimes. Technically, time-served prisoners held under immigration powers have the same legal status as detainees in 'removal' centres and are treated as remand prisoners when held within the penal institution (HMPS 2008). In this context, the prison is not a separate legal sphere from the immigration 'removal' centre and obtaining information about prisoner's nationalities should not be much 'easier to get' within the prison. But the UKBA policymaker I interviewed presented the prison as an especially controlled, and hence desirable, environment for Border Agency practices. This articulation of border control is revealing, not so much because it exposes a dubious practice, but rather because it captures the prison's conceptual role in the project of migration control.

Whether prisoners are actually subject to different migration control measures in prisons and ‘removal’ centres is not entirely clear—the UKBA official I interviewed seemed to suggest that they were, but the policy on foreign national prisoners indicates otherwise (HMPS 2008). What is evident, however, is that the prison occupies an important position in the Border Agency’s understanding of itself and its detention centres. Prisons are institutions that look a certain way, where certain practices, such as keeping people behind bars and searching their cells, become normal. These practices, and the very idea of the penal institution, hold a particular place within the UKBA imagination. The prison is the paradigm against which the Border Agency compares its own activities and makes sense of its mission.

The distinction between prisons and ‘removal’ centres is then both salient and substantive. While there is no question that the prison is a practical site for migration control and that prisons increasingly function as de facto ‘removal’ centres, the prison also serves as a conceptual foil to the detention centre, and as an aspirational model of incarceration for the Border Agency. In other words, the discursive relationship between immigration and imprisonment is analogic rather than exact. The prison and the detention centre are related by analogy—and for that matter, through an imperfect analogy that elides the differences between administrative and criminal incarceration. The detention centre is a replica of the prison devoid of the criminal law; the prison, on the other hand, is a symbolic representation of the criminal sanction. In practice, these two regimes often look and function similarly. In principle, they exist in contrast to one another.

There is, in other words, a conceptual gap between the prison and the detention centre. This gap matters because it legitimates the existence of both incarceration regimes. Again, this phenomenon becomes clear within the actual penal institution. In

the prisons I visited, the Prison Service staff members who worked with foreign national prisoners often chafed against their new role as aides to Border Agency. These staff members drew contrasts between prisons and detention centres, particularly when discussing the detention of ex-prisoners under immigration powers. Several foreign national coordinators told me that they did everything they could to limit the number of detainees held in prisons, a practice that made them ‘uncomfortable’. These efforts, which constitute a form of resistance to the hubs and spokes policy, included lobbying officials at ‘removal’ centres to take detainees from the prison, offering to ‘trade’ ex-prisoners across the two estates, and advocating for more frequent UKBA visits to the prison.⁸⁹ One prison staff member who had tried these different methods told me that she was frustrated by time-served prisoners’ continued presence within the prison, and that this problem was ‘just an immigration capacity issue’.

This claim captures how the concept of the prison forges a link between migration and crime control. On one hand, this staff members’ assertion that indefinite detention is ‘an immigration issue’ appears to clarify the boundaries and purpose of the penal institution. This staff member seemed to think, and wanted to make clear, that the prison should be a place only for those people who are serving criminal sentences. That sentiment echoes the one that Prison Service policymakers expressed during the negotiations that created the hubs and spokes policy: the prison is not a detention centre, and should not, insofar as it is possible, be used as such (MoJ and UKBA 2009). This articulation of hubs and spokes defines the prison in contrast to other incarceration regimes. For these prison staff and policymakers, the UKBA’s presence in the prison made it more urgent that the penal institution be a reflection of the criminal law.

⁸⁹ The goal of more frequent UKBA visits was to accelerate prisoners’ immigration casework, and in doing so, to reduce the number of prisoners whose immigration cases were outstanding at the conclusion of their criminal sentences.

On another hand, though, these staff members' claims enable the blurring of criminal and administrative law—the very trend they aim to resist. The foreign national coordinator who told me that detaining ex-prisoners is 'just an immigration capacity issue' is technically correct, for under the hubs and spokes policy it is the UKBA and not the Prison Service that decides when, if ever, a foreign national prisoner gets released (MoJ and UKBA 2009).⁹⁰ This policy allows the UKBA to detain more people and, to the extent that the most 'difficult' prisoners remain in prisons, to avoid the problems created by its own policies. However, if it divorces the Border Agency from the consequences of its own work, the UKBA's control over detainee casework also lets prison staff and officials defer responsibility for those in their charge. Insisting that the problems of foreign nationals are 'just immigration issues' places time-served prisoners who threaten suicide and foreign nationals who resist 'removal' outside the scope of the prison. Yet these people remain within the prison and their concerns become a part of prison life. The sense of the prison as a unique and bounded institution—one where particular people are held and only particular problems are handled—allows those who manage prisons to ignore what is actually happening within the penal institution and how that institution has changed.

With the emergence of policies like hubs and spokes, there is little doubt that the prison has become a site for administrative detention, and more to point, for the various processes of migration control. But in the minds of prison staff, officials, and many other people, the prison remains a symbol of criminal justice and the criminal law, one with a delineated scope and a particular (criminal) population. Many of the people I

⁹⁰ This broad power to determine a detainee's date of release is checked by the judiciary, which can order an ex-prisoner's release. The High Court has, for the most part, upheld detention 'pending deportation' under the 1971 Immigration Act. See the following cases challenging the post-sentence detention of foreign national prisoners: *Lumba (WL) (Congo) v. Secretary of State for the Home Department* [2011] UKSC 12, [2011] All ER (D) 262; *AP (Trinidad and Tobago) v. Secretary of State for the Home Department* [2011] EWCA Civ 551, [2011] All ER (D) 108; *RU (Bangladesh) v. Secretary of State for the Home Department* [2011] EWCA Civ 651, [2011] All ER (D) 38.

interviewed in British prisons insisted that the penal institution exists for the purpose of punishment, a concept that they connected to the criminal law and distinguished from border control. For these prison staff members, and for many prisoners as well, the prison embodies punishment in a way that the detention centre does not and cannot, for the penal institution, unlike other places, is a physical realisation of the criminal sanction.

This vision of the penal institution has a number of implications. On one hand, as I have just suggested, it allows the Prison Service to continue functioning without addressing the prison's changing role in British society. On another, it reinforces the conceptual connection between prisons and punishment. Distinguishing the prison from the detention centre, particularly when the two spaces frequently serve the same purpose and house overlapping populations, creates the impression that the prison is a space for punishment while the detention centre, in contrast, is not. But is this true? Are these spaces so different? Can immigration detention be called punishment? And why should the concept of punishment apply to penal institutions that are increasingly working toward the aims of migration control?

These are difficult questions, which legal academics have given much consideration (Ashworth 2006; Cole 2003; Duff 2010; Duff and Garland 1994; Harcourt 2007; Zedner 2009). Many scholars argue that punishment is—and can only ever be—a sanction that flows from the criminal law (*ibid.*). These scholars contend that calling anything painful or analogous to imprisonment a form of punishment has dangerous effects (*ibid.*). As they see it, taking an expansive approach to the meaning of punishment dilutes its connection to the criminal law, and as a result, implicitly legitimates (or at least creates space for) legally questionable practices such as indefinite administrative detention (*ibid.*; Cole 2004). The concern for these scholars, in other

words, is that calling everything and anything punishment threatens to divorce punishment practices from the protections that flow from the criminal law, such as due process. The opposite concern, of course, is that detention centres and other sites of administrative sanction are experienced by those within them as punitive spaces, and that retaining a limited definition of punishment threatens to obscure that lived experience (Stevens 2009; See also Bosworth 2011a, 2011b, Bosworth and Kaufman 2011; Leerkes and Broeder 2010; Simon 1998). The question in this line of thought is whether we lose an appreciation for the experience of incarceration when scholars describe immigration detention as anything other than punishment.

The only clear conclusion here is that the meaning of punishment is open to debate. Both of these lines of thought have merit and conversations about the link between punishment and the criminal law will continue to unfold. The real problem is that this conversation is more-or-less absent from official discussions about how to manage prisons and detention centres. Policymakers and staff members rely on the conceptual distinction between the prison and the detention centre—they assume that these are two different kinds of places with two distinct purposes. This sense that prisons and ‘removal’ centres are fundamentally different allows both institutions to sidestep unanswered questions about what punishment really means. On a practical level, the conceptual distinction between prisons and detention centres also facilitates the existence of an immigration detention estate to detain ‘non-criminal’ migrants. Ultimately, there is a reinforcing exchange between Prison Service practices and UKBA policies, and both institutions depend on the gap between the two.

While compelling, terms like crimmigration smooth over this gap. In doing so, they stall more nuanced enquiry into the strange bureaucratic symbiosis beneath policies like hubs and spokes. The practice of policing and punishing ‘foreign criminals’ is

complex—it depends as much on the prison’s theoretically bounded scope and the practices of prison staff as it does on the blurring of legal realms. Indeed, the hubs and spokes policy often operates *through* the tensions and distinctions between migration control and punishment, detention centres and penal institutions. In an effort to critique contemporary legal trends, crimmigration scholars have too frequently overlooked these distinctions, instead crafting an overly coherent narrative about how migration gets policed. That narrative emphasises the structural integration of migration control and incarceration and the expansion of the detention apparatus—concerning trends, no question, but also trends met with resistance and complicated by decriminalising developments within the prison (Bosworth 2011a, 2011b; Grewcock 2011). These developments deserve further attention, for they suggest that while immigration has been criminalised in recent years, the practice of penalty has also been partially decriminalised by the prison’s shift toward migration control (ibid.). Focusing on the emergence of this new form of penalty—and asking if it can indeed be called a decriminalised *penalty*—may push criminology, and particularly the crimmigration paradigm, in new directions (ibid.).

Conclusion: A Decriminalised Penalty?

Criminologists need a conceptual model that captures the simultaneous codependence and conflict between migration and crime control. We need to examine the relationship between immigration and imprisonment, particularly in terms of its effects on the penal institution. Asking whether policies like hubs and spokes can be understood as instances of ‘decriminalised penalty’ may help to do some of this critical work. This question foregrounds a set of concerns about the meaning of punishment and the use of the late

modern prison. The concept of a decriminalised penalty is provocative and perhaps a bit uncomfortable; it does not, at least at first glance, sit well with the belief that punishment flows from the criminal law. This discomfort is illuminating, for it compels us to ask: is the prison still a place of punishment if it is being reshaped toward the aims of migration control?⁹¹ How are we to understand the meaning of punishment given policies like hubs and spokes? What exactly *is* the prison doing, if not incapacitating, or rehabilitating, or deterring criminals while they serve their sentences?

These questions emerge from the paradox implicit in the notion of a decriminalised penalty. The idea of decriminalisation does not align with the concept of penalty, which was pioneered to explain the social effects of criminal punishment practices (Foucault 1977). Yet this is precisely what appears to be happening in policies like hubs and spokes: migration control is being framed as punishment through the use of and reference to the prison, while the prison is being (at least partially) disconnected from the criminal law through policies that emphasise foreignness and make deportation rather than release the conclusion of life behind bars. Over the past several years, the concept of foreign nationality has become more and more important to the practice of incarceration (Bosworth 2011a). The hubs and spokes system imports—indeed, literally builds—border control into the structure of the penal estate. Under that policy, foreign national prisoners are distinguished from their British national counterparts from the moment they enter the prison and prisons have been reshaped toward the goals of border control (MoJ and UKBA 2009). These developments have sutured the link between immigration and imprisonment and have fundamentally altered the purpose of the prison.

⁹¹ One might ask the same question about the prison when it is used to detain people preemptively or post-sentence for the purpose of ‘public protection’. The question here is whether the concept of punishment applies to the prison when it becomes a space for the implementation of non-criminal sanctions. In terms of migration control, a related question is whether the practice of immigration detention can be understood as punishment.

Accordingly, scholars have to ask difficult questions about the practice of punishment: Can you have a decriminalised punishment regime? If you cannot, if punishment is only the result of the criminal law, then what are we to call cases like the ‘time-served’ prisoner and the immigration detainee? We can certainly call these instances of administrative detention. But what happens when the people within prisons and detention centres perceive their own ‘administrative incarceration’ as a form of punishment? Does it matter if power is experienced as punishment by those subjected to it? Do criminologists have an obligation to consider the perceived, lived aspects of punishment? How should that dimension of incarceration play into theories of the prison? These questions develop from a term like decriminalised penalty.⁹² They also link theories of punishment to empirical aspects of the incarceration experience. In this sense, the concept of a decriminalised penalty, with all its inherent contradictions, can push scholars to think more about the distance between empirical and theoretical prisons research.

The term decriminalised penalty also prompts debates about the effects of late modern incarceration regimes. Policies like hubs and spokes have not only changed the organisation of the penal estate. They have also situated the prison as a site where the boundaries of citizenship are drawn. In his analysis of US immigration policy, Nicholas de Genova argues that the ‘enforcement spectacle’ of immigration detention creates the epistemological distinction between the American citizen and non-citizen ‘culprits’ (2007: 435).⁹³ The decriminalisation of the prison—its rerouting toward migration

⁹² Such questions might also flow from the concept ‘illegitimate penalty’, which Michael Grewcock (2011: 56) explores in his work on Australian detention practices. See chapter one for a discussion of the concept of legitimacy in prison studies.

⁹³ According to De Genova, the ‘detention dragnet’ that sprung up after September 11, 2001 in the United States created a public spectacle, which in turn rendered all ‘non-citizens’ potential terrorists (2007: 435). De Genova argues that this presumptive ‘staging of guilt’ created ‘the culprit’, a new and knowable category of American ‘non-citizen’ (ibid.). Here, the relevant point is that policing (and other enforcement) practices have epistemological effects; they *create* categories of existence within a society.

control—seems to be the British analogue to this process. The hubs and spokes policy employs the prison and all of its symbolism to distinguish citizens from deportees. In doing so, this policy brings the priorities of migration control into the penal institution and makes finding non-citizens ‘known or believed to be foreign nationals’ a project of the criminal justice apparatus (MoJ and UKBA 2009: 5). In other words, policies that attempt to blend immigration with imprisonment introduce the aims—and all the ethical problems—of detention into the prison system.

Penal policies like hubs and spokes thus do much more than quiet the political scandals from which they develop. In the fall of 2006, the hubs and spokes policy was a response to Charles Clarke’s dramatic dismissal as Home Secretary. Several years on, it is evidence that scholars need to revisit classic accounts of punishment and the penal institution. Where before prison scholars examined legitimacy and order within the ‘criminal’ prison, today we have to ask: Does punishment depend solely on the criminal law? How does punishment connect to immigration, and how does imprisonment relate to the notion of citizenship? These questions shape the chapter that follows, which examines how non-citizens are made—and then punished for being foreign.

Chapter Four: Making Citizens

Inside a stout brick prison first constructed in 1808, seven foreign nationals sit in a classroom. They are attending an English-as-a-second-language course intended to improve basic English language skills. Their teacher, a woman of roughly fifty, refers to their reading assignment from the prior class. ‘Tell me which words you found difficult’, she instructs them. After several long beats, one man raises his hand. ‘Coronation’, he offers. ‘Coronation. Alright, coronation’, she responds. ‘Coronation is the ceremony of putting the crown on the queen. Any other questions?’ Another prisoner raises his hand: ‘heritage’. ‘History, man’, his classmate interjects. ‘Heritage is your history’. Their teacher expounds, ‘It’s to do with the history of your people. Our heritage is Dover Castle and the NHS. Part of your heritage, even if you don’t like it, is that a lot of your people speak French because the French came to your country. Do you understand?’ The man nods; he understands. A third prisoner joins in, ‘what about “anxious”?’ ‘Anxious?’ his teacher replies. ‘Anxious is like, oh no, they’re sending me to prison, what’s it going to be like?’

Classes like these take place in prisons every day. They are one of the many ways, both implicit and explicit, in which prisoners are taught about British culture. Together with a series of other activities, such as courses in proper citizenship and questionnaires about nationality, these language classes shape prisoners’ experiences of incarceration. Over time, they also construct and confirm a particular notion of Britishness, one that extends well beyond prison walls and involves far more than immigration status. This chapter examines the process by which such ideas about British national belonging are built behind bars. Drawing on interviews and observations, I

explore how the prison becomes a site for the production of British citizens, and moreover, for a vision of citizenship as a privilege to be earned.

In the past decade, scholars have voiced concern about the development of what Lucia Zedner calls ‘contingent citizenship’, a rhetorical frame in which political belonging is cast as a ‘status granted only to those able to...accord with preset norms’ (2010: 383; See also Bosworth and Guild 2008; Cole 2003). Zedner’s critique is aimed at a series of legislative and policy changes—most explicitly, the Borders, Citizenship and Immigration Act of 2009—which have transformed the meaning of British citizenship in recent years (Zedner 2010). This chapter provides an empirical perspective on Zedner’s claims. Following her line of thought, I ask how, in practice, citizenship becomes a barometer for specific ‘British values’ (ibid.: 387). This enquiry begins with an examination of the Prison Service’s strategy for finding the ‘foreigners’ within the penal estate. I describe how prison and immigration staff work to identify foreign nationals and what being identified as foreigner means for those serving time behind bars. Then I turn to those experiences unique to the foreign national prisoner population, which include transfer into specific prisons and mandatory classes on citizenship and British culture. Based on the testimonies of ‘foreign’ prisoners, I argue that the contemporary prison is, more than ever before, a place where citizens are made.

Finding Foreigners

Citizenship matters from the moment incarceration begins. Under the new hubs and spokes policy, prison staff members are responsible for identifying any non-British citizen within the prison population to immigration authorities (MoJ and UKBA 2009). This mandate makes citizenship an immediate concern for both prisoners and prison

staff. Indeed, citizen or foreign-born is one of the first distinctions drawn between prisoners behind bars. Within a day or so of their incarceration, all prisoners are given a questionnaire that asks, among many other things, where they were born. The answer to that question has lasting, and in some cases unintended and unexpected, consequences on prison life.

Asking prisoners where they were born is an explicit attempt to identify people who do not—or do not want—to conceive of themselves as foreign. Both penal policymakers and prison staff explained to me that the question ‘where were you born?’ is a ‘more effective’ way of identifying foreign nationals than asking other questions, such as ‘where are you from?’ or ‘what is your nationality?’ The point of the chosen question, in other words, is to catch prisoners who think they are British or want to be British, but who are not legally citizens of the UK. This approach can be misleading on a number of levels. For one, the conflation of birthplace and nationality often conflicts with prisoners’ own senses of national identity. Many prisoners who were raised (but not born) in the United Kingdom conceive of themselves as British; some are the only non-British citizens in their families.⁹⁴ These prisoners’ stories prompt ethical questions about what it means to be a citizen—and specifically, whether a person can be British without being a legal citizen of the UK. Beyond that philosophical debate, there are also several technical cases in which birthplace and nationality do not align. Many British citizens acquire citizenship after their birth, and hence, are citizens of the UK despite being foreign-born. Sometimes, moreover, the

⁹⁴ I use the terms non-citizen and non-British citizen throughout this chapter to describe the group of prisoners who do not hold British citizenship. Where I explicitly describe someone as a non-British citizen, that person holds citizenship in a country other than the United Kingdom. I reserve the term non-citizen for those prisoners who do not hold citizenship in any country. This distinction is intended to capture the variety in prisoners’ immigration situations—some prisoners, for instance, cannot be deported because they have no known country of origin; others have immigrated from countries whose governments will not cooperate with the UK’s deportation proceedings. Distinguishing between non-citizens and non-British citizens also counters the implication that not being a British citizen is tantamount to not being a citizen of any nation.

opposite is true: people born in the UK or in former British colonies can give up or lose their citizenship, making them British-born but not legal British citizens.⁹⁵

For these and other reasons, asking prisoners where they were born leads to the over-identification of foreign nationals, many of whom are in fact British citizens. While neither the Prison Service nor the Border Agency publishes statistics on the number of prisoners misidentified as foreigners each year, it was clear from a year of observations within prisons that over-identification was widespread. In one of the immigration meetings I observed, for instance, nearly half of the forty prisoners in the room were misidentified British nationals. This held true, though not always in such high numbers, in nearly every immigration surgery I attended. In other meetings, the prisoners selected to meet with immigration authorities had indefinite leave to remain in the country, had lived in the UK for decades, had British national families, or had immigrated to the UK in their infancy. Of course, circumstances such as family ties and prior leave to remain preclude neither prisoners' deportations nor their formal designation as foreign nationals. But these prisoners' presence in immigration surgeries does highlight the contrast between colloquial and legal notions of national belonging. In sum, the question 'where were you born?' creates an exceptionally wide pool of people designated as foreign.

In theory, or at least in the theory espoused by the Prison Service and the UKBA, the over-identification of 'foreigners' is not a problem. According to Prison Service and Border Agency policymakers, prison staff are instructed to refer anyone who is foreign-born to the UKBA in order to avoid 'mistakes', for any prisoner who is not referred to immigration is assumed to be a British citizen. Under pressure to help the UKBA meet its annual 'removal' targets, the Prison Service has thus adopted and

⁹⁵ Chapter six examines the particular case of foreign nationals born in former British colonies.

propagated a purposefully blunt measure for foreignness. The inaccuracy of this measure bothered many prisoners, particularly those who did not identify as foreigners or who were themselves xenophobic. Exemplifying the latter group, one prisoner complained that he ‘didn’t know why they dragged me down here like an illegal’. Another prisoner, Patrick, believed that the nationality identification process was intentionally misleading to those outside the prison.⁹⁶ ‘They have you believe that foreign nationals...are fresh, just through the tunnel’, he told me. ‘But it’s not true’. Born in the Congo, Patrick immigrated to the UK with his family during his infancy and was not a legal British citizen at the time we spoke. But he resisted identifying as ‘foreign’, instead referring to foreign national prisoners in the third person. ‘Most of them have lived here all their life’, he explained. ‘They speak proper English. Even people who came to England as a one month old baby’. Another prisoner named Gus agreed, wondering aloud why the Prison Service needed to distinguish foreigners at all. ‘I always put myself down as human’, he said. ‘Why is there no human box on the form?’

For Gus and Patrick, the prison’s nationality questionnaire forced a foreign identity. Other prisoners had the inverse experience. Testifying to the complexity of national belonging, several of British citizens I met had self-identified in ways that led them to be categorised as foreign nationals. One man, for instance, had drunkenly told the police that he was born in St. Vincent when he had in reality never left the United Kingdom. Another prisoner, Leon, was born in the United States and held dual nationality with the UK. Despite his citizenship status, and despite never having visited Jamaica, Leon chose to identify himself as Jamaican on the reception questionnaire. He ‘felt Jamaican’, he explained, because he had grown up in a largely Jamaican immigrant

⁹⁶ As stated at the outset, all of the names referenced in this thesis are pseudonyms chosen by the prisoners. Where they are not named, the quoted prisoners requested to remain nameless.

community in London. ‘I would say I’m half British, half Jamaican’, Leon told me. ‘Although’, he added, ‘America is number one because that’s my birthplace’. Robert, another prisoner in the immigration meeting, had a similarly complex response to questions about his nationality. Robert had explicitly chosen not to identify as British despite holding citizenship in the UK. ‘I know I’m British’, he told me. ‘But I’ve always been proud of my roots. So I said I was Dominican because I class myself that way’.

Robert, Patrick, and Leon’s personal narratives of national belonging conflict with rudimentary penal practices that aim to cast the widest possible immigration net. Their stories also defy a one-dimensional account of agency within the citizen-making process. While the question of whether someone is foreign-born can seem clear in penal policies, the effort to determine prisoners’ nationalities is in practice a deeply complicated affair. Within the prison, identifying ‘foreigners’ is both intense and imbalanced; it is a process in which power tilts toward the Prison Service and the Border Agency. But the identification effort is also a ‘negotiated settlement’ between prisoners and prison staff, one in which prisoners’ personal, political, and often multiple articulations of their own identities matter a good deal (Goodman 2008). A prisoner’s own conception of his nationality plays an important part—often a role of resistance—in the push to find the foreigners behind bars. Ultimately, the settlement achieved through the exchange between prisoners and staff does not depend on a prisoner’s cooperation, for prison staff will inform immigration about any prisoner whose nationality is in question. But the texture of that exchange—the length of time it takes to determine someone’s nationality, the tone of prisoners’ interactions with prison and immigration staff—does vary based on the prisoner’s initial and continued representations of himself within the prison.

A prisoner's final designation as a foreign national or British citizen obscures this contingent and highly personal identification process. So, too, do deportation rates and statistics on the numbers of incarcerated foreign nationals (MoJ 2010a). The first notable aspect of the prison's approach to citizenship, then, is that a prisoner's actual immigration status does not determine whether he (or she) will experience imprisonment as 'a foreign national'. At least initially, a prisoner's legal immigration status is separate from the question of whether he will be identified as 'foreign' inside the prison. In practice, citizenship is thus a vague concept—a rough measure of national belonging—that connects the operations of the Prison Service with the goals of the UK Border Agency. Yet despite this ambiguity, the concept of citizenship matters a great deal to both prisoners and staff, for being identified as a foreigner (or a citizen) has significant ramifications on the daily experience of imprisonment.

Being 'tagged foreign', as one prisoner called it, introduces a whole set of new concerns into prison life. Prisoners who are categorised as foreign nationals are required to attend mandatory immigration surgeries, to manage simultaneous immigration and criminal cases, and to provide documented proof of their nationalities. The last of these requirements can be especially difficult for 'undocumented' prisoners such as Noishime, whose birth certificate had been destroyed in the Rwandan genocide. 'I'm Rwandan, I always tell them that,' he said to me. 'But I don't have any proof. They keep asking me for stuff. But it was all lost. I have to prove I'm destitute, but they know how I'm living. It's just terrible.' Noishime's problems are shared by other prisoners—incarcerated Palestinians and Roma, for instance, or migrants from the Western Sahara. The obligation to identify their nationality also proves problematic for prisoners who faced basic logistical difficulties when asked to produce their passports from behind prison walls. Scott, a Polish national, had surrendered his passport to his landlord when he

failed to pay rent; Augustus' passport was with his ex-wife, with whom he was on poor terms; and many prisoners had neither family, friends, nor available solicitors to retrieve their identity documents.

This situation cast certain routine aspects of incarceration, such as dealing with legal counsel, in a new light. Upon seeing an immigration solicitor in one of the surgeries I attended, one prisoner whispered, 'she's like gold dust'. Another prisoner told me that imprisonment and immigration casework are fundamentally incompatible:

There's fifty foreign national prisoners here. How come there's only one coordinator? The facility ain't here to figure out immigration cases. You're just sitting, sitting like a duck. You need fax machines, access to solicitors, paperwork. It ain't here. It's harder to do everything here.

According to this prisoner, the structural realities of imprisonment conflicted with the demands of being a 'foreigner' facing deportation. For many prisoners, this conflict shifted the focus of life behind bars toward immigration and the UKBA. 'It adds stress', Patrick explained, 'imagining being dumped at an airport not knowing where I was going to go'. Another prisoner told me that being 'foreign' was harder than being a 'normal' prisoner. Then he added:

I believe you do the crime, you do the time. What I don't like is this immigration stuff. I could do my time fine. But I can't focus properly with all this in my mind. My stress is about the rules, not being in prison.

For this prisoner, getting 'flagged as foreign' meant that the real challenge of incarceration existed beyond the prison gates.

For others, the difficulty of being foreign sprung from the discrimination that foreign nationals face within the prison system. Over and again, prisoners told me that they were treated differently once they were identified as foreign nationals (and whether or not they were in fact non-British citizens). Prisoners were divided about whether that

discriminatory treatment came mainly from fellow prisoners, from prison staff, or from both. They were almost universally in agreement, however, that xenophobia and anti-immigrant feeling circulated within the prison. Vernon, a 41-year resident of the United Kingdom, said that the stereotyping and mistreatment began as soon as prison staff identified his foreignness. 'From the minute you say you were born in a foreign country, it's like "well, well well"', he told me. 'But I can't deny where I was born'.

Damian concurred with Vernon's account. 'Once the English prisoners know you aren't from here, they say you are going to get deported, treat you differently, don't care', he said. Another prisoner named Alvin said he was surprised at the blanket treatment of those categorised as foreign nationals. Born in Jamaica, Alvin was a British citizen who had been misidentified as a foreign national. He had lived in England for 37 years. In a thick British accent, Alvin told me about his children and grandchildren, all of whom are British citizens. 'I think of myself as British. I have never been back to Jamaica' since immigrating at the age of 14, he told me. But on an emotional level, once he had been identified as a foreign national, Alvin felt that his legal immigration status became irrelevant. As he put it, 'if you're a foreigner, it doesn't matter if you have a British passport'.

Other prisoners who had immigrated more recently than Alvin and Vernon said they faced discrimination specific to 'new' migrants.⁹⁷ That discrimination centred on the competing claims that foreigners steal British jobs and come to Britain for its welfare system. One prisoner, who asked to remain nameless, recounted his experience. 'There's lots of racism, bigotry, stupidity, shouting insults and abuse', he said, 'especially if you're a foreigner who doesn't understand the language or is weak in body. They got the wrong perception that foreigners come to this country to suck

⁹⁷ See Weber and Bowling (2004) on the concept of 'new' migration, a term used to describe the wave of migration from Eastern Europe after the fall of the Soviet Union.

benefits'. Another man I interviewed, an Albanian prisoner, agreed with this account. He, too, had been charged by other prisoners with migrating to 'steal their benefits':

I spent twelve years in England. In their eyes they are racist. Think you are here for benefits. English prisoners are the worst. Outside, you work with them, they stay like that for a year or two. In prison you get bullied a lot. No one ever asked me where I came from, how hard I worked, did I get benefits. They never bother asking you. You end up getting bullied.

A third prisoner I met, a man named Charles, reiterated these claims about discrimination in broader terms. Charles was born in Nigeria, and immigrated to the UK at the age of 23. He contested the notion that immigration is motivated by the lure of benefits, arguing that is the desire for jobs that pulls migrants toward the UK. As Charles put it:

The world globally is not evenly distributed. The wealth. It's obvious...A lot of us from Africa came to better our lives, to do jobs you'd pay for your children not to do. No one wakes up and says, "God, let me be a cleaner". But you just take what comes your way when you're trying to keep your head above water.

In Charles' account, migration unfolds on a global scale and has less to do with welfare than with work. Other prisoners, however, did not make this distinction—Charles said that many 'citizen' prisoners told him to 'return to where I came from'. Scott, a Polish national, heard the same refrain. He told me that, 'English people be racist to Lithuanian, Polish'. As he described it, English prisoners 'call me names, spit on you. Inside prison, "Polish bastard, go back to your country!"'.

These accounts suggest that prisoners deemed to be 'foreign' are subject to anti-immigrant sentiments similar to those that migrants face in British society (Lynn and Lea 2003; Malloch and Stanley 2005; Sales 2002; Weber and Bowling 2004). Like free foreign nationals, these prisoners are charged with stealing jobs, depleting the welfare system, and making 'bogus' asylum claims to avoid deportation (ibid.). Inside the

prison, moreover, some immigration and prison staff members relied on specific national stereotypes of ‘foreign criminals’. The immigration agents who work within prisons often offered me detailed typologies of prisoner behavior based on nationality: the Jamaicans are ‘loud and aggressive’; Eastern Europeans are ‘alcohol-related violent offences’; Nigerians ‘are all document offences’; Vietnamese prisoners are ‘marijuana dealers’. One border agent who worked in a prison with a high percentage of foreign nationals told me that ‘the Vietnamese are especially compliant’, and that they are ‘like a conveyor belt’ since ‘eighty to ninety per cent take FRS’.⁹⁸ These generalisations surfaced in each of the prisons I visited. While I heard them most frequently from immigration officials, prisoners reported that prison staff, and particularly line officers, relied on stereotypes as well. Robert, a British citizen who had been identified as foreign at reception, explained to me that the prison officers ‘treat foreign nationals differently’ depending on where the prisoners were born. They ‘say ching-chong to the Chinese’, he told me, ‘and to the Jamaicans, the guards can’t understand, so they say “what the fuck is he talking about?” They be mugging everyone off’.

Robert was one of several British citizens who, after having been misidentified as foreign national, recounted the stereotyping of ‘foreigners’ from a particularly illuminating perspective. He, like Damian, had attended British schools and grown up with British citizen friends. Those educational experiences changed the way these prisoners saw the treatment of foreign nationals. Damian explained:

The officers treat you differently because you’re a foreign national. I’ve grown up in school with them, so I know. You can tell when an English person is trying to get...like the way you see them talk with the Congolese. Just because they don’t know doesn’t mean I don’t know. They don’t give them solicitor phone calls, they’re not allowed to come out and make phone calls.

⁹⁸ The Facilitated Returns Scheme (FRS) is a Border Agency programme designed to incentivise migrants’ return ‘home’ to their birth country. See chapter three for more on the origins and funding of this programme. See also note 64.

Damian's personal identification with British culture clashed with his formal immigration status, prompting him to describe the treatment of 'foreigners' behind bars as both a participant and an observer. The Prison Service's wide definition of foreignness encouraged this kind of double perception of prison life.⁹⁹ Once identified as foreign, many prisoners who had conceived of themselves as British prior to incarceration came to see xenophobia in a new and different light, both as a distant phenomenon that applied to 'real' foreigners and as a form of treatment to which they were now subjected. In this sense, the process of finding 'foreigners' enabled empathy as well as mistreatment. Damian's description of the treatment of Congolese prisoners reflects this empathetic experience of being foreign behind bars.

His testimony also illustrates the complexity of discrimination within the prison. While some of the prisoners I interviewed reported explicit instances of stereotyping—like when a guard said that 'the Pakis smell'—many described a more subtle experience of favoritism. One man, for example, told me that 'they do English prisoners more favors' and 'they talk with them. They don't do that with us'. Others said that foreign nationals were overlooked for jobs and delayed with requests, particularly for access to the mosque and the Imam (See Bhui 2004).¹⁰⁰ In general, prisoners seemed to feel that xenophobia existed, but often could not explain precisely why. Rus, for instance, felt that officers looked at him differently once he was identified as foreign:

⁹⁹ See chapter three on the 'loose' definition of foreign nationality in the prison. The service level agreement between UKBA and NOMS defines the term foreign national prisoner 'in its broadest sense' as 'a remand, sentenced or time-served detained prisoner...known or believed to be a foreign national' (MoJ and UKBA 2009: 5). Prison Service Order 4630 mandates that prison staff report to the UKBA 'when there is reason to suspect that the prisoner is a foreign national' (HMPS 2008: 7).

¹⁰⁰ Hindpal Bhui's report for the Prison Reform Trust (2004) mentioned concerns about equity in job assignments between foreign and British nationals. Bhui (2009) has also written about the treatment of Muslim inmates, many but not all of whom are foreign nationals (See also HMIP 2010a). Discrimination against Muslim prisoners is a complex phenomenon; it intersects with questions about foreignness—particularly where fears of foreignness and terrorism are conflated—but also raises distinct concerns about religion, ethnicity and race within the prison. Chapter five considers these issues in more detail.

They only have x-ray vision eyes for me. It's like, this is our country, this is our prison, so we only look after our own.

Another prisoner felt the term foreign national enabled all kinds of 'abuse'. He explained:

The reason they call us foreign nationals is to abuse us. They wouldn't treat to English boys the way they treat us. The place would be burning.

In this man's testimony, the notion of foreign nationality picks out those who will and will not—or can and cannot—resist mistreatment. This description of nationality is notably disconnected from legal matters of immigration status. Rather than classifying prisoners who face deportation, the term foreign national is doing a very different kind of work here; it is identifying the most vulnerable members of the prison population and distinguishing them from the 'English boys'. Foreignness, in other words, is about a prisoner's place within the prison hierarchy.

This account of foreign nationality raises questions about the consequences of the hubs and spokes policy. Like many of the people I interviewed, this prisoner believed that his treatment and his role within the prison was connected to his 'foreignness'. For him, citizenship was a less a concrete legal reality than it was a lens onto the experience of imprisonment. The prisoners I met often presented being a foreigner in this way. In several interviews, for example, prisoners described having to wait for the bathroom or disliking their cell assignments as instances of discrimination against foreigners. These claims prompt complex epistemological questions: is this 'in fact' discrimination? How could we know? Is this treatment based on nationality, or simply a reality of incarceration? Scholars have spent considerable time exploring these questions about the nature of discriminatory treatment behind bars (Candle 2001;

Cheliotas and Liebling 2006; CRE 1998, 2003a, 2003b; Genders and Player 1989; HMIP 2005; McGhee 2003; Phillips 2007). To push that conversation in a slightly different direction, criminologists might ask why these prisoners articulate the problems and pressures of prison life through the idea of foreignness. Why role does the concept of foreignness play in these accounts?

In answering that question, it is worth noting that I explicitly asked prisoners about their experience of the hubs and spokes system. My emphasis on the new penal policy certainly could have affected prisoners' claims about its effects. Nonetheless, the way prisoners presented nationality also suggests that citizenship and foreignness work as conceptual reference points for the people held in penal institutions. The hubs and spokes policy has prioritised the idea of citizenship, and in doing so, has cast foreignness as a key frame for understanding the experience of incarceration. According to Patrick, this is a new phenomenon:

This all started in 2006. I've been to prison before. I never used to hear about these things. I was in prison from 2000 to 2001 for twelve months and I had no problems with immigration then. It's since John Reid, he started all these things.

Researchers like Hindpal Bhui (2004) were studying the treatment of foreign nationals before Reid took over as Home Secretary in 2006. Patrick's larger point, though, remains intact. He, like many of the prisoners I interviewed, felt that foreignness had come to matter more in recent years. Gus, for example, had lived in the UK for more than four decades and had been incarcerated twice. He had a different experience of incarceration the second time around. 'I was in prison in 1997', Gus said. 'Nationality wasn't an issue then'. Rather, it appears, nationality has become 'an issue' as the prison has become an explicit site for migration control. Nowhere is this shift clearer than in the two prisons selected to hold only 'foreigners' facing deportation.

‘Second Class Service’

The ‘foreign national only’ prison is an unusual place. In theory, the two ‘all foreigner’ prisons in the British penal estate hold prisoners toward the end of their criminal sentences as they await deportation from the UK. The facility I visited, HMP Canterbury, was retooled for this purpose in 2007, one year after the foreign prisoner scandal. It was a particularly anachronistic building for the recent turn toward border control. Canterbury originally was designed as county gaol in 1808; it still bears the inscription ‘House of Corrections’ over its stone gate. Over the last two hundred years, the prison has also served as the site of a Home Office archive, a Naval Detention Centre, and a Category C prison for men. When I visited, it was a site for migration control and a window into what happens when punishment and citizenship intersect.

Like the rest of the penal estate, this foreign national only prison has both a blueprint and a practical reality. According to its mission statement, the prison is supposed to hold foreign national prisoners serving up to five year sentences who have an ‘expectation of removal’ from the United Kingdom (MoJ 2011). In practice, Canterbury houses a wider group of prisoners. There as elsewhere, some of the prisoners designated as foreign were actually misidentified British citizens. Many of the non-British citizens, moreover, were not facing what they perceived to be ‘imminent removal’.¹⁰¹ One prisoner from the Congo had been incarcerated ‘pending deportation’ for several years and had little personal expectation of deportation. As he put it:

¹⁰¹ The courts, of course, disagree, opting for a wider interpretation of the term ‘imminent removal’. To date, British courts have upheld foreign national prisoners’ detention, including post-sentence detention, for as much as six years. See, e.g., the following cases challenging the post-sentence detention of foreign national prisoners: *Lumba (WL) (Congo) v. Secretary of State for the Home Department* [2011] UKSC 12, [2011] All ER (D) 262; *AP (Trinidad and Tobago) v. Secretary of State for the Home Department* [2011] EWCA Civ 551, [2011] All ER (D) 108; *RU (Bangladesh) v. Secretary of State for the Home Department* [2011] EWCA Civ 651, [2011] All ER (D) 38.

They keep telling me ‘you will be removed imminently’. They’ve been saying that for four years.

After a prolonged post-sentence detention, that Congolese prisoner was ultimately released. According to prison officials, this man’s release was not unexpected, nor was it particularly unusual. In interviews, staff estimated that less than 20 per cent of the prisoners held in Canterbury at any one time are deported directly from the prison. They explained that the remaining prisoners are either released into the UK or transferred to immigration ‘removal’ centres, where again many ex-prisoners—one official told me ‘about 60 per cent’—are released. In other words, prison staff members suggested that most ‘foreign’ prisoners ultimately remain within Britain. Wary in the wake of the foreign prisoner scandal, neither the Prison Service nor the UK Border Agency publishes statistics on the number of prisoners identified as foreign nationals who are released rather than deported. The Vine Report, which offers the most clarity on this matter, found that in 2010 a total of 5,235 foreign national prisoners were ‘removed’ from the UK, while 1,211 ex-prisoners were released into Britain (Vine 2012: 11, 22).

¹⁰² Given the findings in that report, it is unclear whether the prison staff members’ quoted statistics are accurate or whether they represent inflated rumors about the deportation system. ¹⁰³ What is evident is that many prison staff members believe that the majority of incarcerated foreign nationals end up living in the UK.

¹⁰² The Vine Report (2012) suggests that the vast majority of these releases are ordered by the courts rather than by the UKBA. Of the 1,211 foreign national prisoners who were released into Britain between February 2010 and January 2011, only 109 were released by the UKBA (ibid: 22). The remaining 1,102 prisoners were released after bringing their appeals to the Courts and Tribunal Service (ibid.). The Vine Report calls on the UKBA to bring its deportation decisions more in line with the standard used by the courts (ibid.).

¹⁰³ To be clear, the Vine Report is not necessarily at odds with these prison staff members’ quoted statistics on deportation. According to that report, the Facilitated Returns Scheme (FRS) accounted for 49 per cent of the total 5,235 deportations of foreign national prisoners in 2010 (Vine 2012: 11; See chapter three and note 64 for a description of FRS). That leaves 2,565 prisoners who did not elect to return to their ‘home’ countries under the FRS programme in 2010. If you consider only those prisoners, the rate of

This belief highlights the degree to which the ‘all-foreigner’ prison is, despite its appearance on paper, just like any other institution in the penal estate. In an important sense, this prison is no different than the other penal institutions in England and Wales. HMP Canterbury holds prisoners who, like their British national counterparts, face a variety of concerns. To the surprise of some prison staff, the foreign nationals in Canterbury also have many of the same problems as citizen prisoners. ‘I thought they would present different health issues’, the health manager told me,

I thought the Eastern Europeans would have higher rates of TB. I was concerned about Asthma with Asians and HIV in the African population. But no, the numbers aren’t there.

The Safer Custody representative, the staff member responsible for violence reduction and self-harm prevention, made a similar discovery:

They don’t get drugs because there are no links to the community and they have fewer visits. But it’s really difficult to say they’re any different from an indigenous population.

This use of the term ‘indigenous’ is intriguing on a number of levels. More often used to describe populations who have been colonised, here the term sets foreign nationals against an imagined group of people who have a claim to the UK. This language suggests that prison staff, or at least this staff member, conceive of British citizenship as a form of national, cultural, and historical belonging—a conception that makes foreign nationality an incursion into a defined cultural space. The comparison between ‘indigenous’ and foreign prisoners is also revealing in the context of claims made

release for foreign national prisoners in 2010 would be 47 per cent (based on 1,211 releases between February 2010 and January 2011) (Vine 2012: 22). That figure is much closer to the deportation numbers that staff members quoted in interviews. When considering these claims, it is also important to note that the Vine Report (2012) refers to the total population of foreign national prisoners in the penal and immigration estates, while HMP Canterbury holds only foreign national prisoners facing deportation who are within five years of the conclusion of their criminal sentences.

outside HMP Canterbury, where prison staff and officials often told me that foreigners constitute a security threat and present greater mental and physical health problems than the rest of the prison population. Inside Canterbury, the opposite proved true. These ‘foreign’ prisoners were, more than many staff expected, the same as prisoners everywhere.

What makes these prisoners different is not so much where they were born as where they have ended up. HMP Canterbury is by most standards small and safe (HMIP 2010b). The prison holds just over 300 prisoners at maximum capacity and is officially designated as a Category C facility, the lowest security classification before the Category D open prison. In these respects, Canterbury is not a particularly notable prison, nor does it constitute an especially large slice of the prison population. Yet these superficial similarities with the larger penal estate are precisely what make the ‘all foreign’ prison an illuminating place and an institution worth studying in its own right. Within Canterbury, it quickly becomes clear that what looks and seems like any other prison is in fact a very distinct space, one defined not by its architecture or uniforms but by the labels attached to the people it confines: non-citizen, foreigner, foreign national, detainee. Unlike other penal institutions, this prison is shaped first and foremost by the question of citizenship. It is a condensed and controlled experiment into what happens when foreignness becomes the defining feature of an incarceration regime.

One result of that experiment is that prisoners come to believe that they are being punished not for a crime, but for their citizenship status. In ‘mixed’ foreign and British national prisons, prisoners typically described punishment as a byproduct of the penal regime, through references to their loss of liberty or the conditions behind bars. Within HMP Canterbury, on the other hand, many prisoners argued that they were being

punished because of who they were. In this all-foreign national prison, prisoners' discussions of punishment focused on the issue of citizenship:

They just want you to feel punishment. They just want to punish foreign nationals.

It does feel like punishment for being foreign a bit, because there are a number of differences in this prison. Once you're branded a foreign national, it is irrelevant where your family is. Education isn't the same. I felt, yeah, I was being punished because I was tagged as a foreign national.

Punishment is harder for foreigner nationals at sentencing.

I feel different being in a foreign national prison. I feel segregated. Mixing up with other people is more relaxing, more social. I'm punished by being here.

I think they're just trying to keep all the foreigners in one boundary. I am 135 miles from my family because I am a foreign national.

Punishment? Yes definitely. That's their tactic. Immigration separates you from your family—literally, they say that—so you just sign and go.

I think all 300 prisoners here would say they're being punished because they're foreign.

In each of these accounts, prisoners expressed a sense that the punitive aspect of incarceration was linked to their putative (or actual) lack of British citizenship.

Prisoners who did not identify themselves as foreigners found this particularly upsetting; often, they reminisced about life in other prisons where foreignness 'didn't matter so much'. 'I was happy at Scrubs', one prisoner told me. 'Then I have to come here, and now I feel different'. Other prisoners, especially those who did conceive of themselves as foreign, preferred being in Canterbury. One man explained that he liked being in an institution where his national identity was recognised: 'The difference is in Belmarsh no one would know I'm from Ghana'.¹⁰⁴

¹⁰⁴ 'Scrubs' refers to HMP Wormwood Scrubs, a Category B prison in west London. HMP Belmarsh is a Category A prison in southeast London.

There was variation in whether prisoners liked the idea of the foreign national prison in principle. In practice, however, most prisoners agreed that the conditions in HMP Canterbury were worse than in other facilities. This was not because the staff was disliked—in fact, the prison staff members at HMP Canterbury were notably well-liked and were attuned to the concerns of their population—nor because access to immigration caseworkers was difficult to obtain. Rather, prisoners in Canterbury complained that the facility itself got short shrift. ‘There’s not the quality of education here, probably because it’s a foreign national prison’, one man told me. He added:

I don’t have access to the courses I need for my sentence plan. They think all of these people are going home, but it’s like any other prison. Enhanced thinking skills, victim awareness; they’re not here. It’s just alcohol and drug related.

The problem of inadequate service provision came up over and over again. ‘Facility-wise, the budget is the big difference because it’s foreign national prison’, a prisoner from Pakistan explained. ‘In Bullingdon, you get toiletries every day. Here it’s once a week’. Another prisoner told me that ‘we only get gym facilities from other prisoners who have discarded them. They’re making us second rate prisoners’. His friend, who also asked to remain anonymous, agreed with this account. He argued that, ‘there is nothing like rehabilitation in this prison and the earlier this charade is stopped the better’.

Like prisoners’ testimonies about discrimination, these charges raise difficult questions about truth, trust, and the ethnographer’s epistemological role behind bars. In my experience, most prisoners describe their incarceration regime as worse than others. Prisoners outside Canterbury, for instance, regularly told me how much better life was in the ‘all foreigner’ prisons and in an immigration ‘removal’ centres. These claims are one of the ways that prisoners make sense of their imprisonment and imagine a better world. They are important coping mechanisms, and in this sense, are true for the

prisoners making them. In the case of HMP Canterbury, these claims also reflect the relative position of the all-foreign national prison within the penal estate. According to one prison official, ‘for funding, Canterbury is at the bottom of the list’. Staff within the prison reported that ‘all foreigner’ prisons do not receive support for anger management or vocational classes because Canterbury has a theoretically exceptional population of prisoners will not be released back into British society. An official familiar with the prison system explained this phenomenon:

NOMS said what they are doing is reducing reoffending. These people aren’t ending up on the stats. Why give them services that won’t affect the stats? It’s an informed decision.

Another prison staff member agreed with this account, explaining that the ‘foreign national issue gets pushed under the carpet’. That official added:

They’re assumed deportable, but 60 per cent aren’t, so they just don’t get services. They say foreign nationals must receive exactly the same service, but I know for a fact that they don’t.

The cumulative result of this approach to foreign nationals is a penal system distinguished by what one prison official called ‘second class service to foreigners’.

The second class system at Canterbury provides a window into the nationalist boundaries of the penal project. On one hand, the relative paucity of rehabilitative programmes for foreign nationals in this facility is about the way the prison’s effectiveness is understood—namely, through statistics on recidivism. This statistical approach to the prison raises questions about the effects of managerialism and the purpose of the penal institution. On the other hand, though, the absence of anger management or bricklaying courses within the ‘foreign only’ prison is about more than statistics or actuarial logic; it is about the degree to which the practice of imprisonment

is bound to the nation-state. The fact that foreigners receive ‘second rate’ services depends upon two related assumptions: first, that foreign prisoners are deportable, and second, that anyone deportable falls outside the remit of the penal institution. The implicit assumption, in other words, is that the prison is made for the British polity.

The reality is that the prison *makes* the British polity through practices like finding foreigners and placing them in specialised institutions. As many prisoners reminded me, the question of who is ‘foreign’ to the UK, while legally delineated, is far from clear on an affective level. Many people who are technically non-British citizens are heavily identified with British culture and the notion of Britishness is itself highly contested. The British polity does not exist as an entity to be policed; instead, it is the practices of policing and punishment that create the boundaries of British society. By identifying people as foreigners—often people who do not conceive of themselves in that way—the Prison Service and the Border Agency refine the concept of British citizenship. By placing those ‘foreigners’ in separate facilities, these agencies also telegraph that foreign nationals do not belong in the country, nor even in its ‘regular’ prisons. In the end, the prison becomes a place where the line between citizens and foreigners is drawn and where the meaning of the British citizen is made.¹⁰⁵

This process of citizen-making becomes particularly clear when a place like HMP Canterbury attempts to judge itself. Within the Prison Service, the main measure for evaluating prisons is the key performance indicator, or KPI. Prisons in the British penal estate operate along a shared set of KPIs for everything from healthcare provision

¹⁰⁵ These claims about the production of citizens complement Catherine Dauvergne’s work in the book *Making People Illegal* (2008). Dauvergne argues that ‘the contemporary crackdown on extralegal migration’ creates a class of unwanted people whose ‘illegality’ legitimates the sovereign state (ibid.: 47). This chapter argues that the ‘crackdown’ Dauvergne critiques works not only to make people illegal, but to construct citizens as well.

to resettlement programmes.¹⁰⁶ Despite its small size and dedicated staff, Canterbury regularly fails certain KPIs: making contacts to help prisoners find jobs after release; providing offenders with assistance opening a bank account; maintaining facility capacity. These performance targets are difficult for the prison to meet because its population is dominated by people who are frequently transferred to ‘removal’ centres and who are ineligible for bank accounts and ‘British’ jobs. That is to say, the prison fails where it cannot succeed, for the measurements are made for citizens. Staff members tried to ameliorate this situation by thinking outside the typical constraints of the penal institution. This prompted a series of questions, like:

Would we facilitate evening visits for a family member who had flown in from Sierra Leone and it was the only time they could visit?

No, they agreed, that would be too complicated and would necessitate evening shifts for visits. But ‘do we want to do parenting courses?’ One staff member thought not:

The culture is so different. Some of these guys think nothing of beating their children.

They agreed against offering the course and moved on to other ways in which the KPIs might be met. Do we need a global resettlement centre? Can we facilitate communication with the Congo or Somalia? Each time, the ‘all-foreigner’ prison failed to fit into the Penal Service’s mould. Foreigners seemed to confuse the system, demanding services—nighttime visits, global resettlement—that were new, unusual, and in some cases downright unacceptable within the penal institution.

This vignette captures the conceptual and practical boundaries of the British prison. Both as an idea and as a set of practices, the prison is inextricably connected to

¹⁰⁶ See Prison Service Order 7100, which lays out many of the Prison Service’s key performance indicators and targets (HMPS 2007b).

the nation-state, for it is a place where ‘the citizen’ is the imagined recipient of the many ‘services’ involved in incarceration. Familiar with the challenges foreign nationals experience and pose, some staff members at HMP Canterbury sensed a problem with this perspective. Regardless of where prisoners end up, ‘they’re people worth helping’, one staff member said. That person wondered why resettlement should matter less in a foreign national prison. ‘You don’t want to leave a guy to rape someone there either’, he explained.

Such concerns about the world beyond Britain fall outside the current scope of the penal institution. In doing so, they illustrate how significantly the prison—and the concept of punishment—would change if Prison Service officials and prison scholars focused on nationality and citizenship. Foreign national prisoners are not simply a ‘special needs’ prison population. They are a group whose needs demonstrate the limitations of punishment and the nationalist assumptions upon which penalty depends. The fact that the British prison officials cannot think beyond the country’s borders to, for instance, the problem of reoffending in the Congo, illustrates that punishment is a fundamentally precarious project no matter where it is practiced. How, if imprisonment does not stop reoffending ‘out there’, are we so convinced that it works within Britain, or at all?¹⁰⁷ How, moreover, does the concept of punishment come to make sense within the boundaries of a polity? Taking foreign national prisoners and their problems seriously would mean rethinking the degree to which punishment practices presuppose and depend upon a particular model of citizenship. Instead of engaging in that critique, the prison reinforces an exclusionary vision of political membership through activities like English courses.

¹⁰⁷ Mary Bosworth asked me this provocative question and has explored it in her own work on British immigration detention (2011a).

‘Practice Your English’

Though only a small piece of the prison regime, education courses are a critical part of the experience of incarceration. Many prisoners told me that classroom time is essential to surviving imprisonment. Noishime explained:

The education course keeps me out of my cell. If you stay in your cell, everything comes back, the stress, the depression. Your whole life starts coming in, you start getting more depressed. You have to try to fight.

Noishime embraced the courses offered to prisoners. For prisoners like him, these classes offer a reprieve from the simultaneous anxieties of criminal incarceration and potential deportation. For criminologists, these courses also provide a glimpse into what it means to be (and to become) British behind bars.

Of all the courses offered within the prison, English-as-a-second language is especially laden with implicit references to British belonging and national culture. The ESOL course I observed took place in a room adorned with posters celebrating the prison’s international population. ‘I am Romanian’, ‘I am Turkish’, ‘I am Russian’, the posters read. Around the room, signs declared their creator’s origins in the Congo, China, Lithuania, and Italy. The prisoners in the class I attended were from as many different places and had varying levels of English capability. Between themselves, they conversed in Arabic, French, and Hindi. With their teacher, they spoke English. She was keen on this, and reprimanded me when I spoke French with a prisoner from the Congo. After an opening talk about the import of English immersion, she proceeded to a discussion of volunteerism, the topic of the day.

How many of you have volunteers in your country?

All but one of the men raised their hands. The teacher turned to the lone holdout.

In Fred's country, they don't appear to have a history of helping people and volunteer work. Everyone else does.

The men seemed unconcerned as she continued.

This country has a huge history of volunteering. Do you know why volunteering is important?

When the men did not reply, the teacher offered her own answer.

If a lot of people get involved in volunteering, it will help integration, but a lot of groups are specific to ethnicities. If you volunteer for a Pakistani group, you won't help other people. But if you volunteer for Red Cross at the hospital, that will be better. If there was more volunteering in your country, do you think it would be a better place to live?

This was a rhetorical question, a conclusion to her endorsement of 'integrated' volunteering. But an Algerian prisoner disagreed.

No.

The teacher took his response as an opportunity to expand her argument, and an exchange ensued:

Teacher: This country has a big thing for helping disabled people. Who helps people who can't see and hear in your country?

Prisoner: People help people in Algeria.

Teacher: Yes, but it's just people helping people and not an organisation. So do you think that's better?

Prisoner: Yes.

Teacher, flustered: Okay, well why don't you group talk about it then. Practice your English.

She turned to Fred, who was born in the Congo. He seemed a more willing participant.

Do people not help each other where you are from?

Fred's reply was too soft for me to hear from the back of the room. I only caught his instructor's response:

Oh, well, yes, it's been very difficult with the fighting.

With that, she returned to the theme of the course. 'Now Fred, the more you practice your English the better your English will get'.

Courses like this one construct a very specific understanding of British national belonging. This teacher's presentation on volunteering suggested that to be British is to be involved in the community in a particular way, namely through organisations like the Red Cross. Her delivery of this message felt like a satire of British culture—'but that's just helping people and not an organisation!' the British bureaucrat protests. The implicit claims here are both normative and paternalistic: bureaucracy is better than kinship; integration is preferable to 'ethnic' separation. In sum, it would better if your country were more like ours, and to be a part of ours you ought to conform. Conforming, moreover, means more than just applying for citizenship and stating a desire to reside in the UK. To be a true citizen, a person must accept and reproduce the British vision of social structure and community involvement.

Of course, this was only one class within one prison and every teacher has her own views. This scene is not necessarily identical to those that take place in the prisons across England and Wales. But it does capture the way that the prison can be used to craft citizens. In recent years, the British government has placed a growing emphasis on migrants' acceptance of 'British values' and customs (Zedner 2010: 387). Through measures like the citizenship test, which was introduced in 2002, those seeking to join

the British polity are increasingly required to demonstrate their familiarity with aspects of British culture such as Mothering Sunday or the constitution of Parliament.¹⁰⁸ These requirements infuse the concept of citizenship with social norms about the meaning of Britishness and make being a British citizen not only a legal status but also a test of one's 'knowledge about life in the United Kingdom' (ibid.: 384; See also Borders, Citizenship and Immigration Act (UK): 40). Criminologists and legal scholars have noted these emergent trends in British legislation and policymaking (ibid; Bosworth 2008b). Such trends play out behind bars as well.

Both in prison and beyond, these developments in the meaning of citizenship are highly contested. Like the effort to find foreigners, teaching prisoners about citizenship is a practice met with resistance and critique. 'No', the Algerian prisoner replies, organisational volunteering is not better than familial aid. No, the Congo would not be better off if it looked more like the UK. For these men, British values are a site for debate. Their responses demonstrate the degree to which citizenship is negotiated rather than simply delivered and accepted behind bars. In the English class I attended, prisoners disagreed about what community involvement should look like and how a good citizen would relate to the state. In return, they were taught that one model—the British model—of national belonging was best, and that to be British they had to accept that version of political membership. The exclusionary notion of British citizenship that criminologists have critiqued was thus affirmed over time and in person through local exchanges between prisoners and staff. These exchanges demonstrate that the prison is not just an immigration net, though it does serve that function. The penal institution is also a place where Britishness is constructed and contested.

¹⁰⁸ The citizenship test was introduced by the Nationality, Immigration and Asylum Act of 2002 (UK). This type of cultural test for citizenship is also used in other countries, such as the United States.

In the end, the process of constructing citizens in the prison changes how many prisoners see themselves. Several of the people I interviewed told me that the experience of being identified and treated as a foreigner had fundamentally altered their sense of self. Damian was one of the people. Like many of the ‘foreigners’ I met within the prison, Damian had always believed that he was British. Damian was born in Jamaica and migrated to England with his aunt before his twelfth birthday. A year after he left Jamaica, his mother, who still lived in that country, died. When I asked him about her death, Damian replied with a question: ‘They don’t care, do they?’ This answer hung in the air as he continued recounting his story.

After moving to London, Damian began to attend British schools and to make British friends. Eventually, he picked up a British accent and married a British citizen. They had a son, who shortly after his birth was diagnosed with a serious skin disease. A year later, Damian’s wife was diagnosed with cancer. Damian dealt drugs to make money:

My partner earns 100 pounds a week on disability. If she comes to visit, pays the train fare, then my kid goes without food for a week. I was selling drugs, but at least I was working for my family.

Damian was arrested and sent to prison with a criminal sentence for drug possession in 2008. At the end of that prison term he was transferred to an immigration ‘removal’ centre (IRC), where he was detained under immigration powers. After a year in the IRC without any movement in his immigration case, Damian placed a razor in his mouth and demanded to see immigration authorities. The IRC staff attempted to restrain him, and in the fight that followed Damian swallowed the razor. He was recovering from the resulting injuries to his stomach and abdomen when we first met.

I introduced myself to Damian in an immigration surgery held at a Category A prison. That week, he had been transferred back into the penal estate for the ‘problems’ he had caused in the Immigration Removal Centre. Initially, Damian told me that he was British. ‘I’m never going to Jamaica anyway. I’m not dumb’, he said, ‘don’t let my hair fool you.’ But when we met again a month later, Damian was concerned that he might actually be deported, and that his son would be left without a father. ‘You’re just playing the same tune in my head that plays in my son’s head’, Damian told me. I asked him what that meant, and he explained:

My partner has cancer. She’s not expected to pass 32, 35. My son’s not gonna have a mom, not gonna know where his dad is. How are you going to explain to that young man where his dad is?

This question weighed on Damian during his imprisonment and informed his prolonged resistance to deportation. But slowly, Damian’s perspective on citizenship shifted. The next time I saw him, Damian said he no longer felt British. Life behind bars had changed his mind:

It wasn’t until I got to prison that I realised I wasn’t British. When all this started, they made me realise I wasn’t British.

More than a year of indefinite detention had altered Damian’s identity. Now, he said, he knew he was ‘not really British’. The last time I saw Damian was several months later, again in an immigration surgery. Two days earlier, he had agreed to return to Jamaica. The last thing he told me was a joke: ‘17 years of bad weather is enough’.

Damian’s story is neither exceptional nor, in the general scheme of studying deportation, is it unusually sad. He was not a refugee displaced by genocide, a foreigner with no family, or a prisoner whose only crime was illegal entry. Damian was guilty of the crime of drug possession and was, by all accounts, born on the island of Jamaica. He

was one of many prisoners who threatened and enacted self-harm in the context of his immigration case—and unlike some of them, he survived to tell his tale.¹⁰⁹ Damian was, in other words, a person whose file might otherwise go unnoticed by UKBA caseworkers and prison staff. It is precisely this ordinariness that makes him compelling, for Damian’s narrative captures how changing prisoners’ conceptions of themselves becomes routine within the prison.

Criminologists have long noted that the practice of imprisonment operates on and through individual identity (See, e.g., Bosworth 1999; Carlen 1983; Carrabine 2004; Carrabine and Bosworth 2001; Crewe 2007). Scholars including Pat Carlen (1983), Mary Bosworth (1999), and Eamonn Carrabine (2004) have demonstrated that the effects of incarceration are often realised in the personal transformation of an individual’s sense of self. Interestingly, under conditions of mass mobility, that process plays out around the notion of citizenship. The experience of incarceration teaches prisoners like Damian that despite whatever they believe, they are not really British. Imprisonment is a practice through which those behind bars learn that the law determines who they are.

Most of the ‘foreign’ prisoners I interviewed discovered, like Damian, that they did not really ‘belong’ in Britain. Some prisoners, however, discovered that they actually *were* British by being incarcerated. George, for instance, had always conceived of himself as Ghanaian despite possessing a British passport and having lived in the UK for decades. He felt differently after coming to the prison:

If you asked me before I would’ve said I was Ghanaian. If you asked my mindset, my identity, I would’ve said Ghanaian. But since being here I’ve realised I’m not Ghanaian; I don’t fit in with the Ghanaians. But I’m not English. It messes with my identity. I’ve started questioning who exactly I am.

¹⁰⁹ See Borrill and Taylor (2009) and Bhui (2004) on suicides among the foreign national prisoner population.

I'm not Ghanaian; we have totally different aspirations. Before I would've said, 'no, I'm not English'. But I'm bloody English now and I have to accept it.

The experience of being imprisoned alongside Ghanaian nationals forced George to accept his Britishness. For other prisoners, life behind bars erased any notion of national belonging. Patrick explained this phenomenon:

I wanna go home to my family. That's the only home I know. I don't know what they're thinking. If I went to Congo, they'd call me a foreigner. Here I'm a foreigner; there I'm a foreigner. I don't know.

At the conclusion of four years behind bars, Patrick was left with a perpetual feeling of foreignness and the sense that he did not belong anywhere. His sentiment was shared by many of the prisoners who did not remember living in the places where they were born—prisoners like Rus and George, who immigrated in their infancies and could not speak the language of their birthplaces.

Whether it makes prisoners British or foreign, then, imprisonment is a transformative experience. People like Damian, George, and Patrick enter the penal institution with one idea about who they are and leave the prison with very different answers to that question. Through education courses and reception questionnaires, these prisoners' national identities are displaced and new ones—those in line with the law—are ascribed onto them. Such practices teach prisoners that they were wrong, that they did not understand what it takes to be British. When magnified across the penal estate, these stories of personal transformation situate the prison as a material site at which the epistemological boundaries of the citizen are etched. In this sense, the prison does not work to incapacitate or rehabilitate prisoners. It alters how people feel about themselves and what British society 'really' means.

Conclusion: Contingent Citizenship

This account of imprisonment brings us back to the question posed at the end of chapter three: how does imprisonment relate to citizenship? This question has been asked before and has been answered in a number of different ways. More than thirty years ago, Foucault demonstrated that the penal institution mediates between sovereign and subject, forging good citizens through discipline (1977). More recently, Jonathan Simon has argued that the prison embodies the core tenets and contradictions of modern democracy (1998). Simon notes that the penal institution evolved from ‘liberal democratic government’ and, since its inception, has been a place where ideas about citizenship are realised and reproduced (ibid.: 604). Like many criminologists and political theorists, he contends that the prison is a projection of the norms that constitute the sovereign state (ibid.; Dumm 1987; Garland 1985). The claim that the prison makes citizens is thus not particularly radical. Indeed, one might argue that it is a founding assertion of critical criminology.

What is noteworthy, though, is that the contemporary prison endorses a different model of citizenship than the penal institutions of the past. Simon (1998) hints at this phenomenon in his work on immigration detention. Citing the rise of globalisation and the growth of mass imprisonment, he argues that the 21st Century prison is caught between an undemocratic philosophy of containment and the democratic principles from which the penal institution emerged (ibid.). This tension surfaces, albeit in a slightly different form, within the prisons of the British penal estate. Though he does not articulate in these terms, Simon’s suggestion is essentially that the prison is becoming a new sort of place, one less concerned than before with reforming and returning citizens to the polity (ibid.; See also Bosworth and Kaufman 2011). Whereas the modern penal

institution aimed to discipline its criminals, and in this sense presumed their political membership, today's prisons are being used to distinguish citizens from foreigners and to make clear that the latter group does not belong. Within this frame, the prisoner is not so much presumed reformable as assumed deportable. The project of penalty, in other words, is to identify and reinforce the nation-state, not only by reforming its deviant members but by determining its edges as well.

This project has a substantive effect on the meaning of citizenship. Historically, citizenship has been conceived and presented within the law as a marker of 'civil, political, and social rights' born from participation in a polity (Zedner 2010: 382). This is the classic conception of the citizen; it is the idea alongside which both the liberal state and the modern prison developed. In recent years, however, that model has been eclipsed by a new formulation in which citizenship is, as the Home Office puts it, 'something to be earned' (ibid: 386; Home Office 1998). Lucia Zedner critiques this vision of citizenship, noting its problematic implications. According to Zedner, framing citizenship as a privilege makes political membership a means for social control. As she explains, 'the conditional nature of contemporary citizenship...becomes a potent tool by which those at the margins of the political community are policed by the state' (2010: 382).

Zedner stands alongside several other theorists, notably Nancy Fraser (2010) and Wendy Brown (2010), who have developed insightful arguments about the relationship between globalisation, political participation, and crime control. These scholars have illustrated that the concept of citizenship changes with the times, and that in an age of 'waning sovereignty' has become technique of exclusion (Brown 2010). The question that remains from these theoretical accounts is precisely how such changes unfold within the prison—or rather, how the apparatus of penalty captures and motivates this

transformation in the nature of national belonging. How does citizenship become an exclusionary idea? How does the bond between the individual and the state get recast as an earned privilege?

The answers to those questions lie behind bars, in the testimonies and daily experiences of the many prisoners flagged as ‘foreign’. Prisoners like Noishime, Patrick, Damian, and Guy demonstrate that the practice of incarceration is one key way in which citizenship becomes a contingent status. These prisoners’ stories demonstrate that the prison is deeply implicated in the enforcement of normative ideas about political membership—and specifically, in creating the sense that citizenship is both a privilege and goal. Noishime gave voice to this particular feeling. When I asked him what he would do if he were released, Noishime told me that he would pursue British citizenship:

If I get out, I’ll go for British citizenship. If I get citizenship, I won’t be a foreign national. I’ll neutralise myself.

Noishime’s plan illustrates the degree to which citizenship has become an aspiration within the prison. For him, and for many foreign nationals, British citizenship is way to avoid the dual threats of deportation and discriminatory treatment. Citizenship is a means to a less unhappy life and to a new identity. It is a way to ‘neutralise’ the features of one’s self that the prison—and through it, the British nation-state—has deemed unacceptable. The problem, as we will learn in chapter five, is that those features often cannot be erased, for the practice of making citizens is connected to the legacy of British racism.

Chapter Five: Passing and Performing

Nella Larsen's 1929 novel *Passing* introduces readers to Irene and Clare, childhood friends who are both of mixed racial ancestry. After the death of her father, Clare moves in with her two white aunts. Eventually, she marries a racist white man who believes that she is white. Irene, in contrast, moves to Harlem, where she marries a black doctor and identifies as African-American. Years later, the two friends have a chance meeting in the rooftop restaurant of the Drayton, a Chicago hotel. Both women, light-skinned, are passing as white in the racist establishment. At first, Clare stares at Irene, recognising her from the distant past. Irene feels Clare's gaze and, sensing that she does not belong, 'in turn anger, scorn, and fear slide over her' (Larsen 2003: 16). The reader is caught with Irene in the fear that her 'real' race will be found out. For a moment, regardless of our own identities, we are gripped by the high stakes of passing in a white dominated world.

Now a canonical text in critical race and sexuality courses, *Passing* depicts the personal experience of race, class, and gender in a society structured on racist and heteronormative ideas. Larsen's novel captures the ambiguity of identity in the United States of the late 1920s. The power of *Passing* lies in what remains unsaid, in the subtle ways that Larsen's characters subvert social norms, and in the questions that her plot raises: What does it mean to be black? To be white? When and where does race matter? How do societies determine who belongs? This chapter asks each of those questions in the context of the 21st Century British prison—a very different space than the one Larsen explored eighty years ago, but one in which her message resonates with equal force. Turning to the testimonies of prisoners incarcerated as 'foreigners', this chapter examines how the meaning of race gets created and contested behind bars.

The enquiry into race in prison has a rich history in criminology. In the UK, scholars such as Ben Bowling (1999), Coretta Phillips (2012; See also Phillips and Bowling 2003, 2007; Phillips and Earle 2008, 2010), Elaine Genders and Elaine Player (Genders and Player 1989) have contributed to a body of writing on the relationship between race and incarceration (See also Agozino 1997; Alfred 1992; Bosworth *et al* 2008; Budd *et al* 1999; Edgar and Martin 2004; Gelsthorpe 2005; Gordon 1983; McDermott 1990; Wilson 2003). These scholars have examined the construction of race in Britain and have explored the concept of institutional racism, which became a central topic of criminological study after the Stephen Lawrence Inquiry (Phillips 2011; Phillips and Bowling 2007).¹¹⁰ This chapter continues that line of thought. It also brings the criminological account of race in Britain into conversation with a broader set of questions about identity. Specifically, the chapter coheres around two questions: How does race play into the hubs and spokes policy? How does that policy interact with other aspects of identity, such as gender and sexuality?

These questions emerged from my research. In practice, assumptions about race play an important part in the effort to identify foreign nationals. Beliefs about race also shape foreign national prisoners' conceptions of themselves. Prisoners have their own definitions of race and nationality, which change with context and often conflict with the categories set out in penal policies (See, e.g., MoJ and UKBA 2009). In sum, race is a constitutive part of prison life. The concept of race is also inextricably related to other aspects of identity. When discussing race, the people I interviewed told me about culture and class, sexuality and other social norms. They reported that race was about 'playing

¹¹⁰ The Lawrence Inquiry examined the mishandled investigation of Stephen Lawrence's death. Lawrence, a black British teenager, was murdered in 1993. His death prompted an inquiry into racism within the Metropolitan Police and the Crown Prosecution Service. That inquiry culminated in The Macpherson Report (1999), in which Sir William Macpherson concluded that the police force was 'institutionally racist'. There is a robust body of criminological writing focused specifically on the Lawrence Inquiry and its aftermath. (See, e.g., Bridges 2000; Dennis *et al* 2000; Foster *et al* 2005; Lea 2000; Solomos 1999).

tennis well' or having 'the right name', and alternatively, that race 'really doesn't matter' as long as you are heterosexual. Accordingly, any attempt to untangle and parse the role that race plays in the imprisonment of 'foreigners' has to become a broader conversation about the complexity of identity behind bars.

This chapter explores that conversation. The first section examines the new penal policy on foreign national prisoners from an empirical angle (MoJ and UKBA 2009). Drawing on observations and interviews, I argue that the implementation of the hubs and spokes policy depends upon and reaffirms rigid ideas about race. I connect those ideas to the history of British racism, and then, in the second section, contrast them with the flexible understanding of race that circulates among prisoners within the penal institution. Prisoners offered a much more nuanced picture of race than the one that emerges from penal policy. Building from their testimonies, I contend, as other scholars have, that 'race' is contingent and fundamentally contextual, particularly within the small and hierarchical world of the prison (Phillips 2011, 2012; Phillips and Earle 2011). 'Race', in other words, is not a fixed concept, but rather one that springs from the particular space in which it is constructed.

The final section of the chapter situates my claims about race against a wider set of questions about identity. This section focuses on foreign national prisoners' attempts to 'pass' as British within the prison, which they described in interviews as a strategy to avoid deportation. Employing feminist and queer theoretical views of passing (Butler 1993, 1997a, 1999; Sedgwick 2004; Warner 1999), I argue that foreign national prisoners' efforts to pass as British citizens can be seen as an act of resistance to migration control. However, while they challenge border control, prisoners' attempts to pass also rely upon sexist and homophobic ideas about gender and sexuality. I consider the relationship between these gendered ideas and prisoners' nuanced articulations of

race. Ultimately, I argue that the contingency of racial identity within the prison depends, at least to some degree, on the existence of strict sexuality and gender norms.

‘Obvious Evidence’

The previous chapter described in detail the process by which foreign national prisoners are referred to immigration authorities. I depicted a system in which all prisoners are asked where they were born and, based on their responses, are categorised as either British or foreign nationals. That account demonstrated that foreignness is a constructed concept used to connect the practice of incarceration with the aims of migration control. In the prisons where the hubs and spokes policy plays out, the concept of foreignness is also inextricably linked to racial stereotypes, and through them, to the complex history of British racism.¹¹¹ While it is often suppressed in the official policy documents on foreign nationality, this racialised reality becomes clear in practice (HMPS 2007a, 2007b, 2008).

In the penal institutions I visited, the obligation to identify ‘foreign’ prisoners hinged on the discretion—and assumptions—of prison and immigration staff. Encouraged under the hubs and spokes policy to refer anyone who ‘seems to be’ a foreign national to immigration authorities, staff often relied not only on information about a prisoner’s birthplace, but also on what one official called ‘the tell-tale signs’ of foreign nationality: ethnicity, accent, name, dress, religious identification, and even association with other identified ‘foreigners’. In other words, prison and immigration staff identified foreign nationals based on their presuppositions about what foreignness

¹¹¹ For more on the history of British racism, see: Bowling 1998; Chater 2009; Hall *et al* 1978; Gilroy 1987; Killingray 2009; Panayi 2010; Taiwo 1999.

looks, sounds, and seems like to them. One prison official explained that this ‘loose’ approach to nationality was a way to avoid ‘mistakes’. As he put it:

One of the problems is the problem of nationality because it is self-declared. At the end of the day, it’s not foolproof. You look for obvious evidence. Someone could slip through, or the reverse could happen.

Many of the immigration officials I interviewed concurred with this account, but argued that the real problem lay in the difference between immigration and prison staff members’ training. One immigration officer explained:

Sure, some people slip through. It’s the Prison Service. You could slip through. That’s how we end up with some Brits. They’re not trained to recognise foreigners. We’ve got the instruments to determine who is a real Brit.

This officer’s claim is illuminating on several levels. First, it suggests that reliable ‘instruments’ to determine who is a ‘real Brit’ in fact exist. It also implies that the Border Agency has such instruments while the Prison Service does not, and as such, that the UKBA is a more authoritative or legitimate entity for ‘doing migration control’. At least in the immigration ‘surgeries’ I observed, however, this was not the case. Both UKBA representatives and Prison Service staff relied upon racialised assumptions to decide which prisoners qualified as foreign nationals. In one exchange, for example, a black British national prisoner told the UKBA agent interviewing him that he had a British passport and had lived in the country for 26 years. The immigration official replied, ‘but I see you have a strong Nigerian accent’. The prisoner retorted, ‘that has nothing to do with you’.

Exchanges like these made many prisoners feel that race and not nationality was the real focus of migration control. A prisoner in HMP Canterbury, one of three all

foreign national prisons in the penal estate, gave voice to this sentiment.¹¹² Pointing to his friend, a black British citizen who had been misidentified as a foreign national, that prisoner asked:

Who are the real foreigners? It's about colour. Look at him. He's British, but because of his colour he's here.

Roland, a migrant from Nigeria, had a similar perspective on border control. When I asked him how the prison identifies foreign nationals, Roland replied, 'Very Easy. Colour can tell number one'. Patrick, a non-citizen born in the Congo, agreed with this claim.¹¹³ Looking at me with a wry smile, he put it as a joke: 'if you're black, you're going back'.

Of course, the government's deportation policies are not as simplistic as such comments suggest, and many of the prisoners 'flagged' as foreign are Eastern European and East Asian—that is, not what Patrick described as black (MoJ 2010a). The 2007 Border Act sets out specific criteria for automatic removal from the UK, which include prisoners' sentence length, country of origin, and criminal record.¹¹⁴ Still, despite these legal guidelines, the practice of identifying which prisoners will be considered for 'removal' does appear to depend at least in part on racialised generalisations about the appearance of foreignness. Perhaps more to the point, many of the prisoners I

¹¹² At the time of my research, the second (and only other) all-foreign national prison was HMP Bullwood Hall. HMP Huntercombe was 're-roled' to become an all-foreign national facility in 2012. See note 50.

¹¹³ As in chapter four, I have opted to use the term non-citizen to describe foreign nationals who do not hold citizenship in any country and to use the term non-British citizen to identify those prisoners who are not citizens of the UK, but who do hold a different citizenship status. For more on the politics of this distinction, see note 94.

¹¹⁴ Under the 2007 Border Act, all non-citizen prisoners are automatically considered for deportation, while non-European foreign nationals sentenced to at least one year and European Economic Area (EEA) nationals sentenced to at least two years are liable to mandatory deportation. These guidelines determine which prisoners will face deportation, but they do not dictate which prisoners will ultimately be deported. See note 59 on deportation decisions.

interviewed perceived the identification process through the lens of race. For these prisoners, migration control was simply another register in which racism is realised.

George, a longtime resident of the UK, articulated this perspective in a particularly illuminating way. George had lived in the UK for 36 years and had noticed a shift in attitudes toward migrants during that time:

What is this fortress Europe mentality we're getting? You can't help but notice, well, European people are white people. Europe has all the wealth and is trying to fend everybody else off. I see what's happening to me as political.

George understood his own imprisonment as a manifestation of 'fortress Europe', an approach to immigration that many criminologists have critiqued in recent years (Di Giorgi 2010; Lacey 2008; Karydis 1998; Wacquant 1999). As Vassilis Karydis explains it, the 'fortress Europe conception' focuses 'on the protection of the single European entity from illegal migration and irregular asylum seekers' (1998: 351). This rhetorical frame racialises migration control by pitting migrants from North Africa, South Asia, the West Indies and the Middle East against a unified—and implicitly white—Europe.¹¹⁵ Refugee scholar Phil Marfleet (1999) argues that such racialised discourses, and in particular the notion of a 'fortress Europe', echo the racist ideologies that 'underpinned Europe's rival nationalisms' and the rise of Nazism in the 20th Century.¹¹⁶ In our interview, George connected the 'fortress Europe mentality' to contemporary inequalities in the global distribution of wealth. Reflecting on his incarceration, he argued that race matters in the identification of 'foreigners' behind bars because racism structures the wider social world.

¹¹⁵ Of course, citizens from the EU are not always white and the term white is itself a historical contingent construction. The point here is the concept of a 'fortress Europe' relies upon the longstanding myth that Europe is a 'white' region. As Coretta Phillips and Ben Bowling note, this myth has been a 'theme of racist thinking' since the Enlightenment (2007: 422).

¹¹⁶ Marfleet's analysis links George's testimony to the history of European nationalism, which I examine in the chapter that follows.

Other prisoners saw the role of race in the identification process as an extension of a racism latent within the penal institution. Many of the prisoners I interviewed, particularly those in the all foreign national facility, argued that the prison is defined by ideas about race. As one man, a Jamaican national, put it:

Prison is an institution of racism. It's the most institution of racism you can come across. It's not like this in the outside world.

Other people put this claim in different terms. 'Just look at those boards', one prisoner said, pointing to the Race Relations Statement that is prominently posted in every prison. That statement declares that prisoners may not be discriminated against on 'grounds of race, ethnicity, or nationality' (HMPS 2006; See also NACRO 2000).

Prisons began publishing these 'race relations' policies in the late 1980s as a response to concerns about brutality and harassment by prison officers. (Phillips and Bowling 2007: 445-6; See also Coid *et al* 2002; Gordon 1983; Gender and Player 1989). Those concerns grew, as did the Prison Service's emphasis on race relations, after the death of Zahid Mubarek in 2000 (*ibid.*; See also CRE 2003a, 2003b; Keith 2006).¹¹⁷ More than ten years on, however, many of the prisoners I interviewed saw the race relations signs as an empty promise. As one prisoner put it, 'None of the bullshit that it says on the boards is real'. Instead, prisoners often described an institution in which race determines the quality of prison life.

A few of the people I interviewed pointed to specific instances of racism, such as the man who reported being called a 'black bastard' and told by prison officers to 'turn down the jungle music' coming from his cell. More frequently, prisoners invoked the

¹¹⁷ Zahid Mubarek, a British-Pakistani teenager, was murdered by his cellmate on March 21, 2000 at the Feltham Young Offender's Institution in London. His death prompted a four-year public inquiry (Keith 2006) and an investigation by the Commission for Racial Equality (CRE 2003a, 2003b). Both inquiries found that Mubarek's death was the result of his cellmate's racism as well as failures on the part of the Prison Service.

idea of racism to describe the daily frustrations of incarceration. ‘Racism is very rampant’, one man told me. ‘Like, I’ve been asking to go to the doctor for weeks’. Thomas, who had been imprisoned for ten years when I met him, depicted his experience in a similar way. ‘Black people have it hard’, he said. ‘White people ask for something, get it right away. Blacks get it two days later’. Another prisoner named Rus also focused on the disparities in prisoners’ treatment by staff. Born in Bangladesh but now a British citizen, Rus said that ‘white guys can wear sandals on the landing, but we can’t’. He also reported that ‘Englishmen’ get more favours from line officers than ‘people like me’. ‘Me and a white Englishman, the priority goes to him’, Rus explained,

Like my tin of tuna this morning. I couldn’t get a can opener to open it from the guard, then a white guy gets it opened. It’s the colour thing. All the white people work at the servery. They only sort out their own people and who they get along with. They wouldn’t hesitate to put me on basic. I applied and never got enhanced. You have to chase it up.¹¹⁸

‘Basically, the officers are racist’, Rus summarised. ‘They won’t put it directly, but they put it indirectly’. For these ‘indirect’ reasons, Rus concluded that ‘being in prison has made me realise it’s about the colour of your skin’.

Like the claims about nationality that I explored in chapter four, these testimonies prompt a critical examination of what it means to tell (and for that matter, for scholars to uncover) the truth of prison life.¹¹⁹ In many of these prisoners’ accounts, racism works as a way to understand the prison hierarchy and the power struggles within a penal bureaucracy. It is not clear from these descriptions whether race was

¹¹⁸ Rus is referring in this quotation to the Incentives and Earned Privileges (IEP) Scheme, which was introduced into the prison system in 1995 as a way to incentivise good behavior and to encourage ‘order’ in the prison (Liebling 2004; PAS 2011). Under the IEP scheme, prisoners can earn prison ‘privileges’ such as extra visits, wearing their own clothes, and time out of their cells. This scheme has three levels, Enhanced, Standard, and Basic, the last of which is generally considered a punishment (Liebling 2004). The Prisoner’s Advice Service, an independent charity, provides a detailed description of the IEP Scheme (PAS 2011). In *Prisons and Their Moral Performance*, Alison Liebling argues that this scheme lies the centre of the Prison Service’s ‘Decency Agenda’ (2004: 30). See note 81 on this agenda.

¹¹⁹ Chapters two and seven explore this question in relationship to prison scholarship.

indeed the motivation for slow medical care, delays in prisoners' requests, job assignments, or uniform regulations.¹²⁰ It is also important to remember that these prisoners' claims were expressed to me, a white woman, in the context of one-on-one interviews in which I was asking about race relations. My own position in these interviews is relevant—it may be that prisoners' commented on race, or described the experience of race in a specific way, because I raised the issue. Prisoners' articulations of their experiences might also have been different if they were speaking to someone they perceived as non-white.

How exactly race surfaces in the decisions made within a penal institution thus remains unclear. But this lack of clarity might be beside the point. For what is evident, and what does tell criminologists something illuminating about the prison, is that many prisoners chose to articulate their experiences of incarceration through the notion of racism. Racism was the frame through which these prisoners represented their lives. It was a concept that seemed to have meaning and real force to prisoners in their discussions of the treatment that they received within the penal institution. Racism, in other words, worked for these prisoners as a way to describe the conditions of imprisonment to me. In this sense, racism is more than a reality that policymakers and prison governors must address. It is also a lens into how prisoners make sense of their own incarceration.

Positioning racism in these semantic terms raises provocative questions about why prisoners believe race motivates their treatment. Why would Rus think that the rules about wearing sandals on the landing are a product of racism? Why did he describe

¹²⁰ That is not to say that race was *not* relevant to these aspects of prison life, but rather that scholars can never know for sure if particular job assignments or medical decisions result from racism. Coretta Phillips (2011) has written about this ambiguity in identifying instances of racism within the criminal justice system. She endorses a 'multi-level framework' for examining 'institutional racism' (*ibid.*). Taking a slightly different approach, other scholars have attempted to document systematic inequities in work allocation within the prison (Bhui 2004; Coid *et al* 2002).

those rules to me in that particular way? Why did Thomas say that ‘blacks have it hard’? These questions suspend traditional concerns about whether discrimination is ‘real’ and instead foreground the testimonies that emerge from within the penal institution.¹²¹ That is to say, such questions shift the epistemological focus from an (unknowable) truth toward the historical and political context for prisoners’ articulations of their treatment. This conceptual shift enables—and moreover compels—scholars of imprisonment to address broader questions about the origins of British racism and xenophobia.

Such historical questions mattered to the prisoners I met. In what became an illuminating pattern, my questions about how race worked in the penal institution frequently gave way to prisoners’ comments about racism in the UK as a whole. As this happened more and more, it became clear to me that many of the people who had been identified as foreign nationals perceived a persistent strain of racism in British culture. Often, the ‘foreign’ prisoners I met presented their incarceration as just one example of the alienating experience of being black in Britain. A man named System, for instance, offered this account of his conviction on drug charges:

I felt like shit standing in front of twelve people trying to justify my life. Twelve fucking white people. How can I judge, can they judge? Me and my wife see things differently. Black people—Jamaican black people—they friend mean a lot. You pass by and think we’re having a fight. Five white men standing together isn’t a crime; three black people it’s a crime because...black people up to no good. A black man in a nice car—you think footballer...or what? Black

¹²¹ In *Unruly Practices*, Nancy Fraser argues that Foucault ‘brackets’ and ‘suspends’ normative questions about the legitimacy of political regimes in order to uncover the historical foundations of power (1989: 18). According to Fraser, this ‘bracketing’ or ‘suspending’ of the liberal normative framework is what allows Foucault to ask illuminating questions about the expression of power in discourse (ibid.). Fraser argues, in other words, that Foucault ‘brackets’ the concept of legitimacy on purpose, as a methodological strategy to study power in new ways. I have adopted a similar strategy. In turning away from classic questions about whether racism is ‘real’ within the prison, I aim to advance a different set of historical questions about why racism is a meaningful concept for prisoners. I discuss Foucauldian methodology, and Fraser’s critique in particular, in more depth in chapters one and seven.

people aren't supposed to do these things unless they're professional and well known.¹²²

System argued that in Britain, black people are viewed through the dual assumptions that race is linked to crime and wealth is 'supposed to be white'. As he put in another interview:

I'm treated this way because I'm a Jamaican. I'm black. They know they have a case because I'm Jamaican. In the dictionary it say that Jamaicans are yardies and are related to drugs.

Rus, who was also incarcerated on drug charges, offered a parallel assessment of British race relations. Born in Bangladesh, Rus considered himself to be black, and to be part of a growing community of 'coloured people' in the UK. 'This country is more coloured people than white now', he told me.

Twenty years ago, my dad used to tell me to stay away from the white neighborhoods. Now a white boy can't say nothing to me.

Still, Rus said, dominant British society remains more concerned with 'white people's problems' than the issues that affect black communities. 'Like the Stephen Lawrence thing', he said. 'You heard about it, but then never again. Then a girl gets kidnapped in Portugal and it's still on the news'.¹²³ Rus concluded, 'I don't know. I think I should bleach my skin and become white. Life would be easier in this country'.

Palpably angry, Rus and System concurred that British society is structured around discriminatory ideas about race. Another person I interviewed, Damian, agreed

¹²² System chose this pseudonym in our first interview. He explained his reasoning: 'That's my name because that's who brought me up'.

¹²³ Rus was referring here to the death of Stephen Lawrence and to the case of Madeleine McCann, a white British three year-old whose disappearance during a holiday to Portugal in 2007 was widely reported in the British press (See, e.g., BBC 2007; Daily Mail 2007; Edwards 2007). See note 110 for more on the Lawrence Inquiry. The Lawrence case was, of course, also prominently featured in the media.

with this assessment, but argued that racism is one aspect of a larger aversion to difference in British culture. He explained, ‘English people don’t like difference, or going against the grain. In any way.’ This short claim reveals a great deal. In the midst of a discussion about race relations, Damian suggested that being black is a form of ‘going against the grain’ of British society. That is to say, he implied that Britain is a society in which being black is itself an affront to the norm. Several criminologists, notably Ben Bowling and Coretta Phillips, have explored this conceptual tension between blackness and Britishness (Bowling 1998; Phillips 2007). Following a line of thought pioneered by Stuart Hall (1978), these scholars argue that racial stereotypes are linked, at a fundamental level, to exclusionary ideas about British national identity. As Paul Gilroy famously put it: *There Ain’t No Black in the Union Jack* (2002).

Gilroy’s writing from the 1980s presents a critique of British racism that resonates to this day. In his early work, Gilroy examined the rhetorical connection between racism and xenophobic conceptions of British national belonging (ibid.). Turning to sources such as Enoch Powell’s 1968 Rivers of Blood speech, he argued that discriminatory discourses about race and foreignness developed in tandem during the second half of the 20th Century as Britain grappled with the aftermath of colonialism. Specifically, Gilroy claimed that post-imperial British articulations of race presented ‘black settlement’ as an invasion from foreign lands (2002: 53, 101; See also Phillips and Bowling 2007: 422-23; Weber and Bowling 2004: 196). This formulation of migration forged a conceptual connection between race and nationality and framed blackness as a ‘problem’ for ‘British culture’. As Gilroy explained, the popular discourses on migration during the seventies and eighties constructed ‘the black presence...as a problem against which a homogenous, white, national “we” could be unified’ (2002: 49). In other words, nationalism and racism were articulated in and

through each other in the wake of the British empire.¹²⁴ They were, and still are, ‘densely interwoven’ concepts (2002: xxiii).

Since its publication, *There Ain't No Black in the Union Jack* has become a foundational text for both critical race theory and criminological writing on race. Gilroy's claims have informed academic studies of violence (Bowling 1999; Sveinsson 2008), policing (Cashmore 2001; Jefferson 1993; Loftus 2008), housing conditions (Lakey 1997), and educational achievement (Phillips 2011; Gillborn 2008; Searle 2001). Alongside historical scholarship on racism (See, e.g., Chater 2009; Killingray 2008; Panayi 2010), social scientific studies have shown that post-war ‘political and public discourses’ positioned black migrants as “‘bad stock’” assimilating into British culture’ (Phillips and Bowling 2007: 423). This academic account contextualises the testimonies that I witnessed within the penal institution. Scholarship on British racism helps to explain why so many prison and immigration staff conflated race with nationality, for it demonstrates that in Britain the concepts of race and foreignness cannot be separated. Instead, race and nation have been intertwined by a long and problematic pattern of excluding certain migrant groups, framing minority communities as a problem, and ‘identifying criminals as alien’ (ibid.; See also Fryer 1984; Weber and Bowling 2004). From this historical perspective, the process of finding foreigners along the ‘tell-tale signs’ of nationality appears to reiterate a strand of racialised xenophobia that has percolated in British society for decades.

In prison, this process also seems to have affected the meaning of nationality. With its wide definition of foreign nationality, not to mention the institutional presumption that it is better to over-identify foreign nationals than to let them ‘slip through’ the system, the hubs and spokes policy encourages the idea that ‘British

¹²⁴ The next chapter explores the relationship between the hubs and spokes policy and the legacy of British colonialism.

culture’ exists, is identifiable, and is essentially white (HMPS 2007a; See also MoJ and UKBA 2009). For the most part, the prisoners who pass easily through reception without ‘getting flagged’ as ‘potential foreigners’ are white men and women with British accents. Other prisoners—those who ‘look’ and ‘sound’ foreign but turn out to be British nationals—become exceptions to a general, racialised rule about who ‘really’ and ‘obviously’ belongs in Britain. The hubs and spokes policy thus makes nationality more than a legal category. In practice, the concept of nationality becomes a placeholder for racialised ideas about the character of ‘British culture’.

These ideas were on display during one of my visits to a prison in the northeast. During that visit, I overheard two ‘embedded’ border agency staff members discussing a prisoner who had been identified as a foreign national. ‘Is he EEA?’, one of the staff members asked.¹²⁵ ‘No, he’s not European...he’s *foreign national* foreign national’, the other staff person replied. Emphasising the distinction between legal and lived definitions of nationality, this border agent suggested that the term ‘foreign national’ refers, in practice, to non-European (and implicitly non-white) members of the prison population.¹²⁶ When repeated across the penal estate, interactions like these make the hubs and spokes policy into a practical vehicle for profiling. Over time, the repetition of these profiling practices creates, and continually recreates, a racialised vision of British citizenship.

This picture of British political membership is not only exclusionary; it is also inaccurate and inconsistent with the understanding of ‘British culture’ promoted in official documents (See, e.g., FCO 2012). Great Britain is and has always been a highly

¹²⁵ ‘EEA’ refers to the European Economic Area. Under the UK Borders Act 2007, the rules for automatic deportation are different for EU, EEA, and non-European nationals. Eligibility for the Facilitated Returns Scheme (FRS) also varies depending on a prisoners’ country of origin. See notes 59, 64 for more on these guidelines as they relate to EEA nationals.

¹²⁶ See note 115 on the implicit link between whiteness and ‘being European’.

diverse society (Baker and Mohieldeen 2000; Holmes 1997; Vertovec 2007). At least publicly, the government has long championed that diversity (FCO 2012; See also Hall 2001).¹²⁷ Though it never very clearly defined, ‘multicultural Britain’ has become a standard phrase in Home and Foreign Office documents since the late seventies, and particularly since Blair’s Labour government took office (Gibney *et al* 2011; Hall 2001; See also Bhabha 1994). As recently as this year, the government upheld the ‘multicultural’ character of British society as a selling point in tourism materials (FCO 2012). This public celebration of ‘multiculturalism’ contrasts with the approach to foreignness and cultural diversity that I encountered among staff, and particularly among immigration staff, in the prison.

There are a number of ways to interpret this disparity in the British government’s attitude toward difference. The first and most obvious reading is that ‘difference’ is a constructed and contextual concept, one that shifts depending on the site of government policy. Within tourism materials and official statements, ‘cultural and ethnic difference’ appears to be a good thing for society (FCO 2012). But behind bars and in the eyes of (at least some of) the people who implement government policy, difference is not represented as asset to British culture. Rather, differences between people are viewed as a problem and as a way to divide up the penal population (*ibid.*; HMPS 2008; MoJ and UKBA 2009). Such variation in the approach to identity makes it all the more important to ask what ‘difference’ means in specific contexts and to specific people. Do prisoners and staff see difference the same way? Does the idea of

¹²⁷ There is some reason to believe that the government is moving away from its longstanding public commitment to ‘multiculturalism’ (See Hall 2001). In February of 2011, for instance, Prime Minister David Cameron declared that, ‘multiculturalism has failed’ (MSNBC 2011). At the time, Cameron blamed the ‘multicultural agenda’ for ‘Islamic extremism’ (*ibid.*). However, it is arguable that Cameron misinterprets ‘multiculturalism’ to mean the separation and isolation of ethnic communities within Great Britain. The fact remains that the British government has long upheld an official policy of ‘multiculturalism’, which it defines as the celebration of distinct cultures within one country (FCO 2012; See also Hall 2001).

difference work in a particular way within the penal institution? Does the prison itself render difference a pejorative concept? Or is there space for difference behind bars? These questions demand a closer look at the way that ideas about identity surface within the daily experience of imprisonment.

The Queen's English

It is extremely difficult to make general claims about the way that race works within the prison, particularly in the context of a penal policy like hubs and spokes (MoJ and UKBA 2009). On one hand, the new policy on foreign national prisoners reinforces an antiquated and essentialist understanding of race.¹²⁸ The policy suggests that a person's race is consistent and intelligible to those who meet him at reception into the penal estate. It also cements a crude analogy between race and nationality in which the two concepts are neither fully conflated nor ever completely dissociated, but always already aligned. On the other hand, this policy also carves out lines of identification that cross, complicate, and soften racial boundaries. In some of the immigration 'surgeries' I attended, men from Lithuania and Nigeria, Sri Lanka and Jamaica conversed with one another about the challenges of life as a 'foreigner'. Some of them told their migration stories to each other and many of them shared information about their immigration cases. As one man put it, 'it's relaxed in here because we're all in the same boat'.

By foregrounding the idea of foreignness, the hubs and spokes model thus seems to allow (and sometimes to force) prisoners who might otherwise face imprisonment separately to see themselves as part of the same experience. These men did not necessarily forge friendships or even behave this way outside of the immigration

¹²⁸ As postcolonial and critical race theorists have long argued, race is not a biological fact but a politicised, contingent, and fundamentally 'unstable' idea (Gilroy 2006: 14; See also Hall *et al* 1978; Hall 2001).

‘surgeries’.¹²⁹ But under the pressure of the new foreign national prisoner policy, they did sympathise with each other. In this sense, the hubs and spokes policy blurs the boundaries of ‘race’ while also affirming racial difference. This simultaneous blurring and hardening of race is one of the most theoretically challenging aspects of the hubs and spokes system, for it begs a series of questions about the lived effects of penal policy.

Many criminologists have grappled with such questions (Cheliotas and Liebling 2006; Crewe 2009; Genders and Player 1989; Goodman 2008; Phillips 2007; Phillips and Bowling 2007; Wilson 2003). In Britain, Coretta Phillips and Rod Earle have led the way in producing critical accounts of race relations between prisoners (Earle and Phillips 2009, Phillips and Earle 2010, 2011). Drawing on extensive ethnographic research, Phillips and Earle argue that race is a highly flexible idea inside the penal institution (*ibid*). They note that existing racial ties and identities are often subsumed within broader ‘territorial allegiances’, which ‘permeate the prison’ and develop from the ‘outside’ social world (Phillips 2012: 57).¹³⁰ Phillips and Earle thus contend that while ‘race’ matters a great deal within the prison, its meaning is also contingent on features of life beyond the penal institution, as well as on the particular context of the prison regime (*ibid.*; Phillips and Earle 2010, 2011).

This account resonated in the prisons I visited. The prisoners I interviewed did not share a single understanding of race, nor did they agree on what it means to be a citizen. Instead, the concepts of race and nationality were frequently contested and were

¹²⁹ My research was limited by the fact that I did not have access to prison wings in most prisons. I did spend time observing the wings (as well as the library and education facilities) in the Category C facility I visited. Still, I did not—and perhaps could not as a researcher—gain insight into the way that prisoners interacted with one another outside the particular spaces where I met them. Chapter two considers these and other limitations of prison ethnography in more detail.

¹³⁰ See also Henderson *et al* (2000). For the American counterpoint, see Goodman’s (2008) article ‘It’s Just Black, White, and Hispanic’. Goodman presents a very rigid account of race in the California prison system. See also Diaz-Cotto 1996.

inextricably related to prisoners' beliefs about other aspects of identity such as class, ethnicity, and religion.¹³¹ Foreign national prisoners had a remarkably broad set of responses to my questions about their racial identities.¹³² Prisoners answered in many different ways when I asked what their races were—some said 'black'; others told me 'Jamaican', 'white', 'British', or 'it depends'. Several South Asian prisoners, such as Rus, described themselves as 'coloured', while others prisoners said they were 'white Polish' or 'Lithuanian'. One man told me, 'I don't have a race'. The people I interviewed also offered nuanced descriptions of race relations between prisoners. When I inquired about whether race affected friendships behind bars, one prisoner, an 18 year-old born in Kigali and raised in London, replied, 'depends, innit. You could be friends, but at the end of the day, it depends what the situation is'. Gus had a slightly less flexible but equally illuminating perspective on the same question. Blurring race, nationality, ethnicity, and religion, he reported that, 'races stick together: Chinese, Arabs, Muslims, Africans'.

These claims capture (yet also condense) the complexity of race within the contemporary British penal institution. In a year of fieldwork, I never found two prisoners who understood or articulated race in the same way. I did discover, however, that conversations about racial identity could not be isolated around the notion of race. Instead, prisoners' discussions of race were infused with ideas about social class and national belonging. Thomas, for instance, offered this account of the prison hierarchy: "An English guy with an English accent gets more respect than any foreigner." Then, laughing and shaking his head, he added, "The white man is in the best position.

¹³¹ For more on the relationship between race and religion, and specifically on the link between blackness and Islam within the prison, see Coretta Phillips' (2012) writing on gangs and the HMIP (2010a) report on Muslim prisoners' experiences. Mark Hamm (2009) has also written about this topic.

¹³² For a list of those questions, see chapter two (pages 85-87).

Always.” Another man I interviewed, Noishime, explained social relations within the penal institution along a similar schema. He told me:

The way I see it, we’re categorised. If you’re a white foreigner you get less than British prisoners, but more than Africans.

This ranked rendering of prison life emerged again during an exchange between two prisoners in the ‘all foreigner’ prison I visited.¹³³ One of the prisoners, a black British citizen with a strong British accent, listened as another prisoner, a Jamaican national who had recently immigrated to the UK, recounted having had his stereo taken by prison staff. ‘I wouldn’t experience that’, the first man said. He added:

I notice differences in how the officers speak to me because of my accent. I think it goes deeper than communication. They don’t perceive me as much as a foreign national. Their reaction to a Jamaican inmate with a thick accent is different.

These descriptions suggest that the ideas of race and nationality are linked not only to physical appearance but also to a prisoner’s accent and affect, and through them, to social class and notions of culture more broadly conceived. In other words, race is both embodied and intersectional (Butler 1999; Crenshaw 1993); it is not only about how a prisoner looks, but also how he defines himself, how he speaks, how he dresses, and where he was born (Gilroy 2002; Hall 2001).¹³⁴ One of the prisoners I met in an immigration surgery captured this layered understanding of identity in a short sentence.

He told me, ‘if your accent is not the Queen’s English, you’ll be in here’.

¹³³ See chapter four for a detailed account of my visit to HMP Canterbury, which is supposed to hold only foreign nationals facing deportation.

¹³⁴ Legal theorist Kimberlé Crenshaw coined the term intersectional during the early 1990s in her account of workplace discrimination against women of colour (Crenshaw 1993). Crenshaw’s concept aims to capture the way that different aspects of individual identity—race and gender, for instance—interact with one another. She notes that identity is not singular, but is rather composite and complex (*ibid.*). This concept has been immensely influential in feminist research; it has also been critiqued and developed since Crenshaw introduced it. For more on that term and its history see: Bosworth and Kaufman 2012; Grabham *et al* 2008.

The intersectionality of race—that is, its basic connection to many other aspects of identity—contributed to the flexibility in prisoners’ claims about their own races. Prisoners’ varied, complicated responses to my questions testified to the composite nature of individual identity. These prisoners spoke about their own identities in ways that made clear that ‘race’ is never fixed, never stable, and is precarious in any social space (Phillips and Earle 2011). At the same time, however, the porousness of race in these interviews also seemed to stem from the particular pressures of prison life. Always constructed and contested, race appeared to become an especially slippery concept for prisoners within the small and intensely hierarchical world of the prison. Indeed, many prisoners suggested that incarceration reshapes racial divisions that are entrenched in the wider social world.

A Nigerian national named Tosin, for instance, said that within the confines of the prison, ‘white guys can talk with blacks, share milk, do sports, shake hands’. Another prisoner explained that imprisonment blurs national and cultural boundaries as well as racial ones. As he put it:

In a crowded situation, Africans and West Indians will get along. In London, with the more diverse population, it’s different. But in prison black people will all group together.

Coretta Phillips and Rod Earle have written about the relationship between the diversity of places like London and the experience of race in British prisons (2010, 2011). They point out that interaction across racial and ethnic boundaries is a defining feature of life in dense urban spaces, especially for young people, and that this familiarity with ‘difference’ informs identification processes within the prison (ibid.). One prisoner I met, who was born in Zimbabwe and asked to remain anonymous, offered a description

of racial identity that was similar to the one articulated by Phillips and Earle (*ibid.*). He argued that a prisoner's race and nationality 'depends on the group':

Race doesn't matter here as much as in the US. If you're with somebody from Africa you're going to connect. One guy on my wing from Kenya relates to Jamaicans because he grew up in London. It just depends on the group. Depends on your nature as well.¹³⁵

This prisoner's claim suggests that imprisonment does not simply harden and highlight racial boundaries. To the contrary, the pressure of imprisonment also reconfigures and in some sense softens existing modes of identification. Augustus saw this as the principal effect of incarceration. He explained:

In prison, it's not about race so much; it's about the position you're in. If you come from a poor place, you have a rough upbringing, then you can get along irrespective of colour. You do the same things: smoke cannabis, do drugs, go to school together. You forget the person is black or white.

While these accounts do not overshadow claims about racial discrimination between prisoners, they do suggest that the tenor of prison culture has a substantive effect on the experience of race behind bars. That is to say, the relevance and meaning of race seems to shift with the context of the prison regime. Race, like many features of identity, is crucially contingent.

Given this contingency, it makes sense that the newfound focus on foreignness in prison policy has affected race relations within the penal institution. The previous chapter demonstrated that the hubs and spokes policy has directed institutional focus toward foreign nationality, and in doing so, has constructed the 'the foreigner' as a distinct category of existence in the prison. This process has altered the possibilities for

¹³⁵ This testimony raises questions about the difference between British and American prisons. The scholarship on America penal institutions suggests that race operates in a much more static way in the United States than in does in Britain (Goodman 2008; Diaz-Cotto 1996; Henderson *et al* 2000). Phillip Goodman's (2008) work on the California prison system, for instance, portrays the divisions between 'black, white, and Hispanic' as thoroughly entrenched in the American penal project.

social interaction between prisoners, and in some cases, has allowed prisoners to identify as ‘foreigners’ across otherwise established racial boundaries. Patrick described how these empathetic interactions unfold. He told me that being designated a (potential) foreign national enables identification ‘across races’ because,

You think, I could be with you for a while. We could just be going to Colnbrook or Dover. You’re facing the same struggles as me.¹³⁶

Other prisoners I interviewed made similar observations. One man I met in the all-foreign national prison told me that being classed with other ‘foreigners’ creates a sense of solidarity between prisoners, despite their races or nationalities. He explained:

There are people here from Iraq, Afghanistan, people who know their families have been killed. I feel for them. In the previous prison, you don’t talk about immigration topics. In this prison, you’re all going through the same things, so you can talk about your immigration cases on the wings. In this boundary, we know we are all foreign nationals. In an English prison you get an inferiority complex about not being born here. Here you’re all the same.

While this prisoner focused on the qualities of life in an ‘all-foreign’ prison environment, his claims echoed testimonies that I heard from prisoners in other facilities as well. In one Category A prison, for instance, a prisoner said that being ‘flagged foreign’ changed his approach to the people around him. A British citizen who had been misidentified as a foreign national, that prisoner told me that despite his citizenship status, ‘I find myself pulled toward them. I find myself in the same boat as the people being deported’. Damian agreed with this account. He found that identifying with other foreign nationals was a way to connect with fellow prisoners and to cope with life in the penal institution. Damian described this coping strategy when I asked how he handled the stresses of incarceration. He responded:

¹³⁶ Colnbrook and Dover are two Immigration Removal Centres run by the UK Border Agency.

I give help to other foreign nationals; I listen to their cases. I get on with everybody. If you don't speak English, I try to point you in the right direction. Everyone's got the same issue. We're all vulnerable in here.

Damian's reply suggests that the prison's recent emphasis on foreignness has rerouted prisoners' modes of identification, opening and even demanding new methods for 'psychological survival' (Cohen 1974). His comments also illustrate that the hubs and spokes policy has (at least to some degree) enabled empathy by creating a sub-criminal class of prisoners known as 'the foreign nationals'. The effort to identify 'foreigners' has thus had curious and seemingly contradictory effects. While that effort has racialised citizenship, it has at the same time opened avenues for coping and cooperation between the people held as 'foreigners' behind bars.

The new policy on foreign nationals has also encouraged prisoners' attempts to pass as British citizens, which was one of the most subtle and complicated phenomena I witnessed during my fieldwork. During our discussions, several of the prisoners I met explained that they had tried to avoid deportation (and immigration problems more generally) by posing as British citizens when they came into the prison system. As they described it, this effort involved taking on pseudonyms that sound 'less foreign' and even affecting British accents, since, as Gus put it, 'foreigners' accents shine on them like a big torch'. One prisoner, who asked to remain anonymous, told me that he had witnessed this process many times, and had tried to speak with an accent to avoid immigration authorities when he was first incarcerated. He summarised his experience:

At reception, people are onto how it works, so they'll say they're English, act English. But they'll watch you on the wings to see who you associate with and listen to your phone calls. They have set officers to deal with this on the wing. They're all working together, the Home Office and the Prison Service. It's all in conjunction.

Another prisoner I interviewed offered a parallel account. He told me that having an accent is the main way to ‘blend in’ in British society, and moreover, is a way to overcome racial discrimination:

Polish people, Czechs, Croatians. That influx of people, they tend not to blend into this country. Blacks and second generation immigrants can blend in. That’s the difference between being English and not—when you sound English. That’s when people become blind to colour. Your children go to school, watch soap operas, become fully integrated English people. They can walk along and marry an English girl.

This man’s testimony suggests that ‘sounding English’ is a key survival strategy, not only within the prison, but also for migrants new to the UK.

John, a prisoner I met in a Category A prison near the beginning of my research, had learned this coping strategy outside the prison. John left Nigeria in 2001 after his entire family died in what he described as ‘a massacre at a Church’. During that massacre, John watched as his sister was doused with petroleum and set on fire. He fled the church and then the country, settling on the UK as his new home. Upon arriving in London, John quickly taught himself a British accent in order to fit into the community. He credited that accent with helping him ‘run far away and forget about home’. Eman, another prisoner I interviewed, described his approach to the prison in similar terms. Eman was born in Rwanda, and was identified by prison staff as a foreign national when he entered the penal estate. Eman did not see himself as a ‘foreigner’, in part because he spoke with a British accent. ‘I’m not a foreigner,’ he told me. ‘I’m a free person. As long as I can speak, I’m black British’.

John and Eman’s claims link the British prison to ethno-sectarian violence and identity-based conflicts in countries thousands of miles from the UK.¹³⁷ On a more

¹³⁷ These men’s claims about conflict in Nigeria and Rwanda also link the contemporary British prison to the legacies of British colonialism. Chapter six explores those colonial legacies.

local level, they also capture the import placed on affect, physicality, and speech among foreign nationals within the prison. The way prisoners comport themselves within the penal institution matters a great deal, not only to social dynamics behind bars but also to prisoners' futures beyond the prison. Faced with the prospect of deportation, and more immediately with the stigma of being 'foreign', many prisoners affect a British identity. Like the characters in Nella Larsen's novel, they pass and perform, mimic and imitate 'British' behavior in order to avoid migration control. These acts of passing provide a window into the complex relationship between identity and incarceration.

Undoing Citizenship¹³⁸

There are multiple ways to interpret the practice of passing in prison. On one hand, this practice can be read as an act of resistance, albeit one with painful consequences for prisoners. Prisoners who 'pose' as citizens resist the government's deportation policies, and in the process, illustrate that nationality and citizenship are constructed and unstable ideas. In this sense, foreign national prisoners' efforts to 'appear' and 'seem' like British nationals contest the constraints of border control. On the other hand, though, these efforts at passing also unfold against—and perhaps depend upon—remarkably rigid beliefs about gender and sexuality. In my experience, the ambiguity of racial and national identity within the prison sits in stark contrast to a widespread endorsement (or at least claimed endorsement) of sexism, homophobia, and 'masculine posturing' (Phillips 2012: 56; See also Messerschmidt 1993; Newburn and Stanko 1995; Sim 1995). Focusing on prisoners' attempts to pass as British can help scholars tease out these links between race, nationality, gender, and sexuality.

¹³⁸ This section title alludes to Judith Butler's book *Undoing Gender*, which examines the construction and contestation of gender norms (2004b).

Feminist and queer scholarship understands the practice of passing as a creative form of resistance to power.¹³⁹ Scholars such as Judith Butler (1993, 1997a, 1999, 2004b), Eve Sedgwick (1991, 2004), and Michael Warner (1999) have demonstrated that passing, and the performance of identity more generally, is a response to hierarchical and conformist power structures (ibid.). Though these theorists have written little, if at all, about the contemporary prison, their work offers a fresh perspective on the interactions that I witnessed between prisoners and staff in British penal institutions. Feminist and queer readings of identity suggest that prisoners' responses to the effort to find 'foreigners' are, at least in one crucial sense, a way to rewrite the constraints of migration control.

This claim makes more sense after a brief diversion into literary theory. Feminist thinkers like Judith Butler and Brian Carr position the practice of passing as an attempt to negotiate life in a racist and heteronormative world (Butler 1993; Carr 2004). Taking Nella Larsen's famous novel (1929) as an example, these scholars contend that the effort to appear white, or for that matter to appear heterosexual, is a kind of theatrical performance of belonging (ibid.). Passing, in other words, is a willful movement across the lines of identity. This performance illustrates the force of social norms: they are powerful enough to make people conform. At the same time, the practice of passing also demonstrates the porousness of identity categories—for if identity were stable, passing would not be possible. In the feminist view, then, passing is a testament both to

¹³⁹ In what is for many a controversial move, I have chosen to combine the scholarship on identity under the heading 'feminist and queer theory'. There are active debates about whether the writing on performativity and passing can be classified as feminist and whether queer theory is a development or a diversion away from the core ideas of the feminist movement (See, e.g., Eng *et al* 2005; Gamson 2000; Jagose 1996; Turner 2000; Warner 1999). Chapter seven considers those debates, which I have also written about elsewhere with Mary Bosworth (Bosworth and Kaufman 2012). This section refers to 'feminist and queer theory' together in order to acknowledge the contributions and intersections of both bodies of writing.

the import of race, gender, and sexuality and to the fundamental instability of a society based on exclusionary ideals.

This account of passing develops from and dovetails with feminist and queer work on the concept of performativity (Butler 1993, 1997a, 2004; Warner 1999). That concept, too, is worth closer analysis from prison scholars. Pioneered by philosopher Judith Butler, performativity is a thesis on the construction and contestation of ideas about gender (ibid.; Lloyd 1999; Oliver 2003; Sedgwick 2004).¹⁴⁰ In books like *Gender Trouble* (1999) and *Undoing Gender* (2004b), Butler argued that the concept of gender—and with it, dominant narratives about what it means to be a man or woman—are produced through the repeated performances of gender norms, such as putting on make-up or using gender-specific restrooms (See Bosworth and Kaufman 2012). According to Butler, these performances of gendered behavior create the notion of gender, making it intelligible to people in a shared social world. In other words, gender is at its base ‘an act, a part played out and made real in the contours of daily life’ (ibid.).¹⁴¹

Butler’s performativity theory is at once a critique of gender and, as I have argued elsewhere, a ‘roadmap for its transgression’ (ibid). By demonstrating that gender is constructed through the performance of social norms, Butler opened space for gender to be performed otherwise—that is, for performances that resist, and in the process undo, the very idea of gender difference. The paradigmatic example of such a performance is drag, which Butler explored in both *Gender Trouble* (1999) and *Bodies That Matter* (1993). As she explained in the latter book:

¹⁴⁰ Butler’s thesis builds from British philosopher J.L. Austin’s (1975) work on ‘performative utterances’ and ‘speech acts’, forms of linguistic interaction that carry particular ontological and social weight (and ultimately constitute actions). Butler develops Austin’s ideas in order to argue that gendered behavior produces, rather than flows from, the concept of gender.

¹⁴¹ This quotation does not yet have a page number. It is from a forthcoming chapter in Richard Sparks’ and Jonathan Simon’s *Handbook of Punishment and Society* (2012).

The critical promise of drag does not have to do with the proliferation of genders, as if a sheer increase in numbers would do the job, but rather with the exposure or failure of heterosexual regimes to ever fully legislate or contain their own ideals. Hence, it is not that drag *opposes* heterosexuality, or that the proliferation of drag will bring down heterosexuality; on the contrary, drag tends to be the allegorization of heterosexuality and its constitutive melancholia. [1993: 237]

In this passage, Butler positioned the act of drag as a parody of heterosexuality. She argued that drag is a send-up of dominant culture, one that illustrates, and in doing so contests, the unstable presumptions upon which a heteronormative society depends. From this perspective, drag is a mode of resistance to the constraints of heteronormativity. It is, moreover, a *creative* form of resistance to dominant culture. As Butler makes clear, the subversive performance of gender norms is not simply a rejection of heteronormativity (*ibid.*). Drag is not only counter-cultural. It is also an imaginative project, a form of gender passing that can expand the possibilities for being in the world. By testing the limits of gender, drag demonstrates the potential for a less oppressive society (*ibid.*).

While these claims about drag initially seem to steer scholars rather far from the ground of prison studies, there is much to borrow here. Butler's analysis can be extended by analogy to the construction of citizenship within the penal institution. Building from her account, criminologists might reread foreign national prisoners' attempts to pass as British as an instance of resistance to migration control, and to the concept of citizenship itself. When prisoners 'act out' Britishness for prison and immigration authorities, when they pretend to belong within the nation-state, they resist the boundaries set out in penal policies like hubs and spokes. These prisoners actively refuse to participate in border control. In doing so, they insist that they can define (and redefine) their own identities. This is a pragmatic and deliberate response to the laws

imposed upon non-citizens. It is also an assertion of agency in the face of system that tells prisoners that cannot decide who they really are.

On a broader level, passing is also a way for prisoners to contest and expand the notion of citizenship. Prisoners' efforts to 'seem British' illustrate that citizenship can at times be an embodied set of behaviors as much as a legal status. That is to say, prisoners' actions at reception into the penal estate demonstrate that citizenship is in some fundamental sense about the performance of social norms. These norms intersect and interact with beliefs about race. The prisoners I met made this connection between race and the performance of 'Britishness' clear. One man I met, for instance, said that he understood how to enact the norms of 'British behavior' because he had experienced life as a black migrant in Great Britain. Originally from Nigeria, Roland told me that he had 'gone through a lot of what I could call a racist life' in the UK, and as a result, had learned to be sensitive to how those in power wanted and expected him to behave.

Roland explained this experience through a story:

I went through a racist life...I'm very good at playing tennis. I was playing and I won, and one guy comes up to me and says where did I come from. He could see I'm from Africa, and he was white. He asked if I'm a gangsta. He said I have to pretend that I don't know how to play tennis when I'm with gangstas. He said he's free to tell me this because this is his country, he was born here, it's not my country.

Interactions like these taught Roland that fitting into British society involved behaving in certain, contextual ways—namely, ways that align with racist and xenophobic assumptions. Drawing on that lesson, Roland, like many other prisoners, attempted to pass as British when he entered the prison.

It is unlikely that these attempts at passing succeed, though it is impossible to know how many prisoners actually 'slip through' the hubs and spokes system. But the result of these efforts is less important than what they can tell scholars about role that

identity plays in imprisonment. The mere existence of a group of people who imitate Britishness at reception, however ‘realistic’ or ‘successful’ those imitations are, suggests that the options for identity within the prison are extremely limited. Upon entry into the penal estate, prisoners quickly learn (if they did not know already) that they cannot be identified with one nation and be a legal national of another, at least when interacting with prison authorities. Within the context of hubs and spokes, prisoners cannot belong to multiple identity groups; they cannot be ‘a little more British than Jamaican’ or ‘foreign and British’ at the same time. These descriptions may be the realities of prisoners’ lives in the prison and could be the day-to-day experiences of identity they had outside prison walls. But behind bars, when confronted by immigration authorities, prisoners’ identities have to be fixed.

Instances of passing also demonstrate that the practice of incarceration is deeply intertwined with normative ideas about nationality and race. In the context of these prisoners’ narratives, the prison begins to look like a place where the meaning of Britishness is tested out, negotiated, and ultimately created. When prison and immigration staff endeavor to identify the ‘real’ citizens in the prison population, they perform, and hence produce, the norms of citizenship. These staff members ‘act out’ the law—specifically, in this case, laws like the 2007 UK Borders Act and the 2009 Borders, Citizenship and Immigration Act (UK).¹⁴² In the process, prison staff members connect these laws on migration control with normative assumptions about Britishness. Conversely, when prisoners pretend to be British, they parody those norms. Drawing on the basic flexibility and instability of identity, prisoners perform acts of national belonging that ‘allegorize’ the border controls to which they are subjected (Butler 1993: 237).

¹⁴² See note 59 on this legislation.

Attempting to pass as a citizen is, in other words, a kind of drag. Moreover, it is form of drag that challenges the state's power to control migration. As feminist accounts of identity help prison scholars to see, the performance of citizenship at reception into the penal estate is not only a way for prisoners to reject their own classification as either foreign or British nationals. These performances are, on a deeper level, an embodied means by which prisoners insist that national and racial identity cannot be as fixed as migration control policies demand. Doing citizenship 'in drag' thus has a productive potential as well as a critical one. At least in one sense, this practice is a way to undo the structural assumptions about race and nation that gird contemporary punishment regimes. That is not to say that passing is painless for prisoners, or that their performances of Britishness will end racialised presumptions about British national identity. Prisoners' efforts at passing will not change the law, at least not directly.¹⁴³ But these efforts *can* reveal the connections between laws, social norms, and exclusionary visions of British society. Like drag, the practice of passing can remind scholars and activists that there is space (and good reason) to trouble the idea of citizenship.

That project—troubling and questioning the meaning of citizenship—leads quickly from an analysis of race and nationality to a series of questions about gender, sexuality, and other aspects of identity. For while prisoners' attempts to 'pass' as British challenge racialised presumptions about citizenship, they seem to have significantly less subversive effects on the concepts of gender and sexuality. Indeed, at least when I was speaking with prisoners, the flexibility of race and nationality contrasted with a notably inflexible approach to gender. Despite saying and demonstrating that race and nation are

¹⁴³ Prisoners' efforts to pass as British cannot change law in an immediate or directly causal sense, which is the sense I refer to here. I would claim, however, that thinking critically about the practice of passing could be a strategy to challenge existing legal guidelines. In this longer term and broader sense, an analysis of passing *could* change the law.

contingent concepts, the prisoners I met almost universally subscribed to sexist and homophobic visions of the world, as well as to a ‘hyper-masculine’ code of prison behavior (Sim 1995; See also Bowker 1997; Crewe 2009). Many, many prisoners, for instance, told me that being gay was completely unacceptable in the prison environment and that anyone who had ‘hurt a woman or child’ would be alienated behind bars.

Criminologists have explored these sort of claims about gender within the prison (ibid.; See also Bosworth 1999; Carrabine and Bosworth 2001; Britton 2003; Carrabine and Longhurst 1998; Daly 1994; Hannah-Moffat 1995; Hannah-Moffat and Shaw 2000; Howe 1996).¹⁴⁴ Scholars like Mary Bosworth (1999, See also Carrabine and Bosworth 2001), Kelly Hannah-Moffat (1995, 2001) and Adrian Howe (1996) have demonstrated that the practice of imprisonment is infused with ideas about gender and sexuality. In my research, such ideas emerged when I asked prisoners how they made friends, or who was ‘at the bottom rung’ or ‘the worst off’ in the prison hierarchy. One man responded, ‘I’m friends with everyone except the gays’. Another prisoner told me:

You learn about other prisoners over pool, table tennis, cards. They talk to each other. When you see someone who stays in his cell you ask, ‘why he is not coming out of his cell? Is he gay? Is he scared?’ That guy is either gay or scared.

This prisoner described a social regime in which homosexuality is a failure—or perhaps a refusal—to take part in the norms of prison life. He suggested, in other words, that heterosexuality is a structural principle of imprisonment.

This principle makes life extremely unpleasant for those prisoners who do identify as homosexual. One man I interviewed offered this account:

¹⁴⁴ Mary Bosworth and I have noted elsewhere that the criminological account of gender is rather too heavily focused on masculinity and on the differences between men’s and women’s prisons rather than, for instance, on gender as a principle of imprisonment (Bosworth and Kaufman 2012). This section aims to address that imbalance by asking how beliefs about gender and sexuality structured the penal institutions I visited.

Being gay in prison is hard. People taunt you, staff take the piss. They're verbally abusive, call you a fag. You get a sausage and they say, 'you can come to mine and get fresh sausage'... 'Give us a blow job', and then somebody pulls their penis out. People force themselves on someone; it's been known.

This prisoner was the only openly gay person I met in a year of fieldwork. He spoke freely about forms of discrimination and violence that many prisoners were reticent to discuss. For the most part, the prisoners I encountered, who articulated race and nation in countless different ways, were quick to assert their conformity with strict gender and sexuality norms. Of course, it is important to note again that these assertions were made to me, a woman, within the highly charged space of the prison. My suggestion is not that all prisoners subscribed to sexist and homophobic ideas outside of our interviews. Rather, the point is that the people I interviewed seemed to feel significantly less comfortable saying that gender was nuanced than they did explaining that race and nationality were contingent. It was less acceptable to deviate from gender norms than it was to challenge assumptions about race and nation.

Prisoners' assertions of gender conformity took several different forms. First and most prevalently, prisoners told me many times that men must protect women and children. This 'rule' implies that women and children are inherently vulnerable, weak members of society. Prisoners often appealed to such 'rules' as an explanation for why 'sex offenders' are discriminated against within the prison. One man told me:

If a foreigner is in for rape, we wouldn't be friends. They're most likely to get killed in prison. They have to be in the secure unit. Sex offenders don't go on normal location.

This prisoner's comments suggest that people convicted of 'sex offences' have violated a dominant discourse on gender, one that unites the rest of the prison population. In particular, 'sex offenders' appear to have contravened the dictate that 'strong, real,

masculine' men should 'protect' women. As Mary Bosworth has pointed out, such claims about masculinity are a 'paradoxical resource' for prisoners, whose 'ability to reap the full benefits of masculinity is always held in check by the authority of the prison staff' (Bosworth and Kaufman 2012).¹⁴⁵ Bosworth notes that prisoners are 'entirely dependent on the institution for all their needs', and this 'state of dependency is clearly at odds with the primary tenets of masculinity' (ibid.; See also Crewe 2006, 2009). Prisoners' angry claims about disliking 'sex offenders' thus read as an assertion of masculinity in the face of a prison system that renders men subjects of power.

The prisoners I interviewed also asserted their conformity with gender norms through a set of claims about sexuality. As I recounted earlier, the prisoners I met often described a regime of 'compulsory heterosexuality' in which it was completely unacceptable (and at least in some cases dangerous) to express sexual desire for other men (Rich 1994).¹⁴⁶ Many of the prisoners I interviewed told me things like, 'race doesn't matter as long as you're not gay', 'in prison you can't be gay', or 'we all like women here'. Other prisoners implied that being gay was a form of social deviance. One man, for instance, came into our second interview and began to tell me how his day was going. He sat down and said:

Jesus Christ, I'm worried about the gays. Today, someone said to me, 'you look good'. If you are gay, unlike in America, you are a dead man. They will beat the shit out of you. In England, it's all about macho this, macho that. And because this is a hold prison with short sentences...rapists and pedophiles? I stab them every day if I have to. I feel a victim of this.¹⁴⁷

¹⁴⁵ See note 141.

¹⁴⁶ The late feminist poet Adrienne Rich developed the term 'compulsory heterosexuality' in her work on 'lesbian existence' in a heteronormative society (See Rich 1994).

¹⁴⁷ A 'hold' prison refers to a remand facility that incarcerates unconvicted prisoners pending trial.

This prisoner's testimony raises a series of issues. His unsolicited commentary suggests that being classified as gay in prison is in some way similar to being identified as a rapist or a pedophile. Homosexuality, rape, and pedophilia are, of course, three completely different things, but this prisoner nonetheless drew a connection between them. This rhetorical move is both telling and troubling. Scholars have noted that the concept of a 'sex offence' has long been used to classify—and in doing so, to construct—the line between 'deviant' and socially acceptable forms of sexuality (Foucault 1978; Laqueur 1993; Singy 2006, 2010, 2011). By linking 'sex offences' to 'being gay', this prisoner thus implied that homosexuality is aberrant and unacceptable within the prison.

Interestingly, this prisoner also aligned his phobic beliefs about 'the gays' with his understanding of British culture. 'It's all about macho this, macho that', he explained. This claim aligns homophobia with British national identity; it suggests that homophobic 'macho' behavior is a constitutive part of 'British culture'. Several of the other prisoners I interviewed drew a similar connection between sexuality and nationality, most often as a way to explain to me, the American, what life was like in England. Another man, for example, told me matter-of-factly that 'Britain is a country where they never liked the gays'. In a narrative with illuminating parallels, a Jamaican national prisoner also described homophobia as a defining feature of his geographic identity:

In the Caribbean, we kill gay people over there. We have them, but they undercover. Gays do not belong to the country. In my country, they prefer lesbians. Man on man, they'd shoot him. Over here they got gay rights. If any gay man come up to me, step off.

While this prisoner was speaking about the Caribbean rather than the UK, he, like the other prisoners I interviewed, used homophobia as a way to distinguish the culture of the place he called home.

These claims about gender and sexuality warrant further enquiry. Prisoners' testimonies could form the basis for an entirely separate study of the relationship between heterosexuality, masculinity, and homophobia in men's prisons.¹⁴⁸ What is clear from the few testimonies here is that national identity is bound as closely to ideas about gender and sexuality as it is to notions of race. Prisoners' discussions of citizenship were infused with their beliefs about what it means to be a man, how 'real' men behave, and how sexual desire should be expressed. Moreover, prisoners' conceptions of gender and sexuality—or at least their representations of those ideas to me—appeared remarkably static in contrast to the fluid presentations of race that I witnessed. Ultimately, the flexibility of race and nation within the prison seemed to unfold against, and perhaps to depend upon, a backdrop of visceral sexism and homophobia. That backdrop deserves closer examination from scholars concerned with identity behind bars.

Conclusion: An Intersectional Approach

For many years, scholars of imprisonment have worked to illuminate the connections between race and punishment (See, e.g., Bhui 2007, 2009; Bourgois 2003; Phillips 2007; Philips and Earle 2010; Mauer 1999; Tonry 1996). There is considerable and compelling criminological writing on race within the prison and within the criminal justice system more broadly (ibid). However, as Mary Bosworth and I have noted in our

¹⁴⁸ Prison scholars have done much to explore this line of thought. See: Bosworth 1999; Carrabine and Bosworth 2001; Britton 2003; Carrabine and Longhurst 1998; Daly 1994; Hannah-Moffat 1995; Hannah-Moffat and Shaw 2000; Howe 1996. See also note 144.

recent writing on prison theory, that scholarship on race ‘tends to fill gaps in our understanding of ethnic minorities in the criminal justice system’ rather than to ‘take the intersections of identity as its starting point’ (Bosworth and Kaufman 2012).¹⁴⁹ The criminological account of race has, in other words, focused somewhat myopically on one aspect of identity and less than it might on the irreducible links between race, nation, gender, sexuality, and class.

Countering that trend, this chapter has demonstrated that such links are crucial to the practice of imprisonment in a late modern, globalising world. The hubs and spokes policy is not just about nationality, nor any other single aspect of identity (MoJ and UKBA 2009). Quite to the contrary, the new policy on foreign national prisoners is deeply intertwined with ideas about race, gender, sexuality—and as I demonstrate in the next chapter, with ideas about colonialism and class as well. The implementation of this policy is, moreover, about the complex interaction *between* these elements of each prisoner’s identity. Accordingly, the hubs and spokes policy cannot be understood from ‘the perspective of race’ or ‘the perspective of gender’ alone. Rather, criminologists need to take a dynamic, comprehensive approach to the treatment of ‘foreigners’ behind bars. Without such an approach, scholarship on race in the prison threatens to overlook key questions: how is race related to masculinity and sexuality? How does nationality fit into this picture? How does homophobia overlap with xenophobia and racism behind bars, and how do penal policies effect that interaction?

Asking these questions is one way to begin theorising the complexity of late modern social exclusion. It is also an attempt to advance an ‘intersectional’ approach to prison studies (Crenshaw 1993). Over the past two decades, feminist writers have called on scholars to become more attuned to the interactions between different aspects of

¹⁴⁹ See note 141. There are not yet page numbers for this forthcoming article.

identity, particularly as those interactions surface in the institutions of criminal justice (ibid.; See also Hannah-Moffat 2001; Grabham *et al* 2008). Criminologists and legal scholars have noted that race, gender, and class intersect in the processes of discrimination (Crenshaw 1993), policing (Boogaard and Roggeband 2010; Vargas and Alvez 2010), and imprisonment (Bosworth 1996; Hannah-Moffat 2001) that make up the justice system.¹⁵⁰ At the same time, some feminist thinkers have also critiqued the concept of ‘intersectionality’, arguing that it presupposes a break between distinct ‘parts’ of identity—such as race and gender—that are in fact irreducible (Hunter and De Simone 2008; Rahman 2008).

Examining life within the prison could help to develop both of these lines of thought. By asking how identity works behind bars, prison scholars could explore the exchange between race, gender, nationality, and many other ‘elements’ of identity. In doing so, criminologists could illustrate that these concepts matter—and more to the point, that they cannot ever be separated, especially within a small and power-laden institutions like the prison. Criminologists can, in other words, push both intersectionality studies and prison studies forward by putting these two bodies of work into conversation with one another. That project, which I have attempted to begin here, continues in the next chapter as I examine the links between colonial identities, race, and imprisonment practices.

¹⁵⁰ It is worth noting that almost all of these cited pieces are written by women. As Mary Bosworth and I have commented elsewhere, the enquiry into intersectionality (and into gender at all) within criminology is heavily tilted toward women scholars, who tend write about women’s particular experiences of the justice system (Bosworth and Kaufman 2012). Bosworth and I have called for a broader account of gender within criminology and for a wider turn to the concept of intersectionality in the field of prison studies (ibid.).

Chapter Six: Political Amnesia

JB was born in South Lagos, Nigeria. He grew up in a Christian family and attended church until his mid-twenties. Then his life changed. One day, approximately ten years ago, JB came home to find his house burned to the ground and his entire family dead. ‘Me, war,’ he told me.

Me no father now, no brother. No sister, no brother. They kill my family. Me found my family. They put house on fire. Dead.

After discovering his family, JB joined in the sectarian violence. ‘Me fight then too with my Christian brother. Revenge back,’ he explained. Leaning in across the square table between us, JB pulled up his sleeves to reveal deep scars along his right bicep. He turned each of his palms up and traced the scars that ran from his middle fingers to his wrists. ‘These people want to kill me’, he said. He wrapped his hand around an imagined blade and banged his fist down on the table. ‘So I leave’.

In order to flee Nigeria, JB enlisted what he described as a ‘British white man’ who lived in Lagos. He became that man’s driver and after several months asked for help coming to the UK. This plan worked; at age 27, JB managed to come to London. He repeated the date of his arrival over and over, punctuating our interview with its rhythm: 2003, May, eight; 2003, May, eight.’¹⁵¹ After landing in London on that day, JB lived on the street. ‘Five years, sleep on street, wash clothes for hand cash’, he recalled. Eventually, a friend helped him find a job at Sainsburys, where he worked on the false passport for which he would ultimately be arrested. JB told me that he was a hard worker at Sainsburys, made good money there, and was thankful for his job. He

¹⁵¹ This date has been changed at JB’s request but the form of his testimony remains the same as it was in our interview.

explained that the job helped him support his girlfriend, and later, to support their infant son Matthew. When I met JB, Matthew had just turned five and his partner had recently given birth to two more children, twin girls. One of those girls died in the hospital shortly after her birth. The other survived, though with a heart condition that required an emergency operation. JB and his partner decided to name their surviving baby after the movie theatre where he had seen his first images of life in England. JB loved films, he told me; so he called his daughter Odeon.

JB's story, like many of the migration narratives I encountered within the prison, foregrounds questions about where migrants come from and why they choose to move to Britain. His particular experience of migration from Nigeria, aided by a 'British white man' and motivated by images of British life, also raises concerns about Britain's colonial legacy, and the prison's place within it. What should we, as scholars of imprisonment, make of JB's life? When offering sociological accounts of penality, how are we to understand the story of a man who was born in a former British colony, migrated to England, named his child after the largest British cinema chain, and wound up in prison for forging a document that claimed he belonged in the UK? These are difficult questions, for they challenge scholars to consider the prison's role in creating the boundaries of a 'post-colonial' British society.

Taking up that challenge means considering (and troubling) some of the concepts involved in migration narratives. The chapter that follows delves into the legacy of British colonialism and into the 'post-colonial' realities of the British prison. As many scholars have noted, terms like 'colonial' and 'post-colonial' may obscure as much as they illuminate (Bhabha 1994; Gilroy 1993; Gregory 2004; Hall 2001; Said 1978; Spivak 1988). Stuart Hall writes that enquiries into the meaning of 'the post-colonial' typically 'take us on a detour through a conceptual labyrinth from which few

travellers return' (2001: 213). Without treading too far down that path, it is crucial to acknowledge, as Hall and many others have done, that colonialism is not a clearly defined phenomenon and that questions about 'post-colonialism' often imply too clean a break between a 'colonial' past and a 'post-colonial' present (ibid.; Bhabha 1994; Chakrabarty 1995; Gregory 2004; Huggan 2001). As Hall puts it:

...the "post-colonial" does *not* signal a simple before/after chronological succession. The movement from colonization to post-colonial times does not imply that the problems of colonialism have been resolved, or replaced by some conflict-free era. [2001: 213]

My analysis follows this logic.

When mentioned in this chapter, the term 'colonialism' refers both to historical processes of economic and political 'domination' and to the discursive processes of 'ideological formation' involved in imperialism (Slemon 1994: 15) The concept of colonialism describes not only a political history, but also a sociological relationship between different cultures. The term 'post-colonial', on the other hand, refers to the period after WWII when anti-colonial movements and war debts contributed to the decline of the British empire (Brown 1998; Ferguson 2004; Hansen 2000). As I use it, the phrase 'post-colonial' does not imply an end to the 'problems of dependency, underdevelopment and marginalization' that defined the 'high colonial period' (Hall 2001: 213). Rather, 'the post-colonial marks the passage of one historical power-configuration...to another' (ibid.). This chapter examines that power configuration as it surfaces within the prison—and more to the point, asks how the prison participates in the creation of a 'post-colonial' reality. I am interested, in other words, in how the management of foreign national prisoners relates to the construction of a post-imperial British national identity.

This enquiry draws on an immense body of scholarship on colonialism and its effects (See Ashcroft *et al* 1995).¹⁵² The chapter also builds from existing criminological writing (See, e.g., Agozino 2005; Bowling 2009; Cuneen 2001). In recent years, scholars such as Biko Agozino (2005), Harry Blagg (2008), and Chris Cuneen (2001, 2011) have studied the connections between criminal justice and colonial practices. Their work provides a much-needed ‘postcolonial perspective’ in criminology (Cuneen 2011). At the same time, the criminological writing on colonialism, like the scholarship on race that I examined in the previous chapter, also has shortcomings. Where criminologists have explored the concept of colonialism, it has most often (though not always) been to assess the discriminatory treatment of minorities in former colonies (Agozino 2005; Blagg 2008). Criminologists tend to examine the conditions in once colonised spaces rather than, for instance, applying a ‘post-colonial’ critique to ‘domestic’ (British) institutions such as the prison. This approach can obscure the changes that globalisation and decolonisation have wrought on more ‘traditional’ sites of criminological analysis. It also threatens to reproduce the marginalisation that post-colonial theory seeks to upend.

This chapter begins from a series of questions about how the legacies of colonialism shape the contemporary British prison. Specifically, the chapter is organised around three questions: How, if at all, is the discourse on ‘foreign criminals’ linked to the legacy of British colonialism? How does that link play out within the actual day-to-day life of the British prison? What can the connection between incarceration and colonialism tell scholars about the prison’s place in a late modern and ‘post-’ colonial world? To answer those questions, the chapter begins with a close reading of the

¹⁵² Bill Ashcroft, Gareth Griffiths and Helen Tiffin (1995) have compiled a collection of some of the most famous and thought-provoking writings on colonialism. That collection provides a solid introduction to postcolonial theory. It brings together works like Homi Bhabha’s *The Location of Culture* (1994), Gayatri Spivak’s ‘Can the Subaltern Speak?’ (1988), Frantz Fanon’s *The Wretched of the Earth* (2004) and Edward Said’s *Orientalism* (1978).

language used to describe foreign national prisoners. Returning to the scandal of April 2006, I demonstrate how accounts of the ‘foreign prisoner problem’ follow a long-standing tradition of anti-immigrant rhetoric that dates back to the decline of the British Empire. I trace the links between that rhetoric and actual trends in migration, particularly from former British colonies, arguing that contemporary fears of foreignness cannot be dissociated from the history of British colonialism.

The second section of the chapter recounts prisoners’ own narratives about colonialism and British rule. Many of the prisoners I met spoke at length about the effects that colonialism had on their ‘home’ countries and on their decisions to migrate to the UK. These narratives carry the chapter from stories like JB’s toward a set of critical claims about what Stuart Hall calls ‘collective amnesia’ (2001: 219). Building from Hall’s work, I argue that penal policies like hubs and spokes perpetuate amnesia about the politics of imprisoning foreigners. I then reflect on the implications of this reading of the prison, both for prison policymakers and for scholars interested in the sociological effects of imprisonment. In the end, this chapter asks how people concerned with the prison can address the persistent and deeply complex relevance of the British colonial past.

‘The Problem is Still With Us’

The public discussion about foreign national prisoners was linked to Britain’s colonial legacy from the start. When the ‘foreign criminal’ scandal broke in April 2006, many newspaper reports framed Home Secretary Charles Clarke’s blunder as a crisis not only

in crime control, but also in the nature and meaning of Britishness (ibid).¹⁵³ These reports drew connections between the ‘problem’ of foreign offenders and a widespread ‘failure’ to control British borders (Daily Mail 2006b, 2006c; Slack 2009). They suggested, in sum, that the scandal was part of a larger breakdown in British society. This representation of foreign prisoners builds on a long history of xenophobic sentiment, one that was refined in the aftermath of British colonialism (Gilroy 1987).

As I illustrated in chapter three, most media accounts of the foreign national prisoner scandal emphasised the threat posed by the 1,023 prisoners who were released rather than deported under Charles Clarke’s watch (BBC 2006e; Daily Mail 2006a; Johnston 2006b).¹⁵⁴ Nearly every newspaper article on that scandal underscored the danger of ‘improperly’ releasing criminals into the UK (ibid.). At the more dramatic end of the spectrum, several reports also implied that the release of ‘foreign’ prisoners reflected a crisis in British national identity (See, e.g., Daily Mail 2006c). These reports were not always explicitly linked to fears about black migration from former British colonies—at times, they were more broadly xenophobic, and more clearly connected to anxieties about Eastern European migrants and EU integration policies.¹⁵⁵ Two articles published in the *Daily Mail* just after Clarke’s announcement, for instance, wove seamlessly between pronouncements about ‘murders, rapists, and paedophiles’ and xenophobic questions about why any foreigners ‘are here in the first place’ (Daily Mail 2006b; Slack 2009). Amplifying this message, the *Daily Mail* ran its first story on the ‘crisis’ alongside another xenophobic headline, this one directed at ‘white’ migrants from Poland: ‘UK Lets in More Poles Than There Are in Warsaw’ (Daily Mail 2006c).

¹⁵³ For a more detailed account of this scandal’s political origins and bureaucratic aftermath, see the first section of chapter three.

¹⁵⁴ See note 57.

¹⁵⁵ I explore the connection between these anxieties and British colonialism later in the chapter.

The *Mail* continued to publish these anti-immigrants headlines as the scandal unfolded. The next day, for instance, the paper released an editorial that extended its coverage of Clarke's announcement into a wider critique of the 'harmonisation' of EU migration policy (Daily Mail 2006b). That editorial dubbed the 'misplaced foreign criminals' 'manifest undesirables' and declared that 'they should have been at least considered for deportation twice over' (ibid.). Titled, 'it's Not Only the Foreign Criminals Who've Vanished, But Also Any Pretence that Britain Controls its Borders or, Indeed, Its Very Destiny', the editorial linked migration 'since the EU's borders were thrown open' to an increase in crime and subsequent 'gross overcrowding' of the prison system (ibid). It then connected both 'problems'—migration and crime—to a 'crisis in national identity' (ibid). The only solution to that 'crisis', the editors argued, was a more aggressive detention policy (ibid.). Advocating for increases in immigration detention, the article concluded, 'Alas, the problem is still with us'.

This presentation of the 2006 scandal captures both the stakes and the complexities of the public discourse on foreign national prisoners. The *Daily Mail's* treatment of the foreign national prisoner 'crisis' raises questions about how fears of European integration and immigration from Eastern European intersect with racist beliefs about black migrants from former colonies. I examine those questions in more detail in the pages that follow. For the moment, these headlines alone illustrate that the foreign national prisoner scandal quickly become a debate about the nature of 'Britishness' and 'British culture'. In the days and weeks after Clarke's announcement, the *Daily Mail*, like many of its less sensationalist counterparts, framed the management of the foreign national prison population as a question of what it means to be a British person and to protect the idea of 'Britishness' (BBC 2006e; Daily Mail 2006a, 2006b, 2006c; Johnston 2006b). In particularly explicit terms, the *Mail* positioned the release of

‘foreign’ prisoners as a failure to defend the British polity from the dangers of migrants who have ‘flooded’ into the UK and overwhelmed the country both with crime and with their ‘foreign cultures’ (ibid.).¹⁵⁶ Such reports suggested that immigrants have invaded a protected space in which they do not belong, and in doing so, have placed the country in peril and undermined its ‘very destiny’ (Daily Mail 2006b).

Many scholars have noted the bald inaccuracy of this rendering of the United Kingdom (Gilroy 2006; Hall 2001; Holmes 1997; Vertovec 2007). While the *Daily Mail* and other media outlets tend to present Britain as a clearly defined and culturally homogenous place, the presence of migrants in the UK is not a new phenomenon and the country’s borders have never been clear (Ferguson 2004; Hansen 2000). Britain is and has for centuries been a ‘composite’ nation with significant levels of immigration and a fraught relationship to its own boundaries (Holmes 1997). Moreover, as Stuart Hall points out in his recent writing, ‘there have always been many different ways of being “British”’ (Hall 2001: 217). Indeed:

Most national achievements—from free speech and a universal franchise to the welfare state and NHS—were won as bitter struggles between one kind of British person and another. Only retrospectively were these radical differences smoothly reintegrated into the seamless web of a transcendent ‘Britishness’.
[ibid.: 217-218]

Accordingly, Hall concludes that ‘the so-called homogeneity of Britishness as a natural culture has been considerably exaggerated’ (ibid.). This observation is perhaps particularly relevant today. London has evolved into one of the most diverse cities in the world, and while the capital does not represent the country as a whole, it does capture the contrast between xenophobic sentiments and daily realities. Recent studies place

¹⁵⁶ See Malloch and Stanley (2005) and Sales (2002) on the historical connotations of the term ‘flooding’ when used in reference to migrants. It is also worth noting again, as I did in chapter three, that the ‘foreign criminals’ released during Charles Clarke’s tenure in fact posed very little risk to British society under the ‘risk assessment’ schema adopted by the Prison Service. The Vine Report found that only 36 of the 1,023 prisoners had committed offences classified as ‘most serious’ (2012: 7). See note 57.

London's population at over 7.5 million, with residents from at least 179 countries speaking over 300 different languages (Baker and Mohieldeen 2000; GLA 2005; Vertovec 2007). There and elsewhere, Britain is an immensely varied place and Britishness is a fundamentally heterogeneous concept. As the anthropologist Steven Vertovec puts it, 'diversity is endemic to Britain' (2007: 1025).

Both Vertovec and Stuart Hall note that the heterogeneity of British society is related to the history of colonialism (ibid.; Hall 2001). Hall explains:

Britain was...the centre of the largest *imperium* of modern times, governing a variety of different cultures. This imperial experience profoundly shaped British national identity and British ideas of greatness and its place in the world. This more-or-less continuous intercourse with 'difference', which was at the heart of colonization, has framed the 'other' as a constitutive element of British identity. [2001: 218]

In this passage, Hall argues that Britain's national identity springs from its colonial past. He claims that imperialism positioned interaction with 'foreign' cultures as a part of the British national project, and hence, as an integral aspect of British national consciousness. In this sense, colonialism made 'difference' and 'foreignness' into defining features of Britishness. In demographic terms, British imperialism also established the linguistic, social, and structural bonds that gird contemporary migration patterns and configurations of urban space (Vertovec 2007; See also Bloch and Schuster 2002). As anthropologists, historians, and geographers have documented, the post-war period in Great Britain witnessed the wide-scale immigration of people from many parts of the world, including, notably, South Asia, Africa, and the West Indies (Chater 2009; Gilroy 2006; Hansen 2000; Panayi 2010; Vertovec 2007). Many of these immigrants held citizenship and initial rights of entry under 'post-colonial arrangements' (ibid.). These post-war migration trends contributed to the establishment of large Afro-

Caribbean and South Asian immigrant communities in the UK, especially in British cities.

The tone of British racism in the second half of the 20th century reflected these geo-cultural shifts. The previous chapter introduced Paul Gilroy's critique of British rhetoric on race and immigration.¹⁵⁷ Following Gilroy, I explained that post-imperial accounts of race often represented migration from former colonies as an invasion from foreign lands (Gilroy 2002: 53, 101; See also Chater 2009; Killingray 2008; Panayi 2010; Weber and Bowling 2004).¹⁵⁸ This account of immigration conflated discriminatory ideas about race with xenophobic conceptions of British national identity, and in doing so, cast immigrants from the British Commonwealth as part of a dangerous national 'problem'. Gilroy points out that the threat of crime played a pivotal role in this discursive process, for it provided a concrete fear around which such exclusionary ideas about British nationhood could cohere (2002: 49). As he explains, 'the gradual importation of statistics' on crime and immigration into official government rhetoric constructed 'the black presence...as a threat' against which a unified Britain had to protect itself (2002:49). The public discussion of crime and migration in the years after the dismantling of the British empire thus *created* the concept of a clearly bounded and 'naturally' white British nation (ibid.; See also Hall 1978; Lynn and Lea 2003).

Within this context, the coverage of the 'foreign criminal crisis' appears to reiterate an old narrative. Immigrants from former British colonies were a potent symbol of 'foreign criminality' well before April 2006. The foreign prisoner 'crisis' invoked

¹⁵⁷ See pages 180-1.

¹⁵⁸ As I noted in chapter five, the classic example of such rhetoric is Enoch Powell's 1968 speech to a meeting of the Conservative Political Centre in Birmingham (Powell 1968). That speech, which criticised both Commonwealth immigration and the notion of multiculturalism more broadly, has since come to be known as the 'Rivers of Blood' speech. In it, Powell, referring to the future of Great Britain should the nation 'tolerate' immigration, said, 'As I look ahead, I am filled with foreboding; like the Roman, I seem to see "the River Tiber foaming with much blood"' (ibid.).

imagery that was forged during a period of ‘post-colonial decline’ and cannot be dissociated from that historical context (Gilroy 2002: 49). Simply put, the rhetoric on foreign national prisoners is intertwined with the legacy of British colonialism, whether the *Daily Mail* mentions the British empire or not. In this light, the 2006 scandal was neither new, nor was it a crisis. It was the contemporary iteration of a longstanding tension between Britain’s multicultural reality and the whitewashed fantasy of national belonging that underlies British racism. It would be a mistake, though, to say that the response to foreign national prisoners is only (or simply) an outgrowth of British colonialism. While the scandal was implicated in that complex history, it was also about newer forms of anti-immigrant sentiment. In particular, the foreign prisoner ‘crisis’ drew on a set of ideas about migration that emerged during the end of the Cold War.

In the years leading up to the fall of the Soviet Union, the public discourse on immigration into the UK changed. The late 1980s and early 1990s witnessed the opening of Eastern European borders and the start of the Yugoslav conflict (Gibney 1994; Gilroy 2002; Panayi 2010; UNHCR 1994). These geo-political developments transformed the shape of migration into the United Kingdom, fueling new debates about British border policy. Migrants from the Soviet Bloc, once considered asylum seekers fleeing communist regimes, were increasingly framed as ‘bogus’ and ‘undeserving’ recipients of British aid (Bloch and Schuster 2002: 397). Both the government and media outlets began to refer to these immigrants as the ‘new asylum seekers’, a different and implicitly less worthy group of people than those who sought refuge in Britain in the past (ibid; Lynn and Lea 2003; Sales 2002). This new language propelled a series of

increasingly restrictive immigration laws.¹⁵⁹ It also reconfigured the narrative of Britishness that had developed during the decline of the British empire.

On one hand, there are obvious parallels between the racialised discussion of ‘New Commonwealth’ migrants that Paul Gilroy critiques and the post-Cold War rhetoric on ‘bogus’ and ‘new asylum seekers’ (Gilroy 2002; Sales 2002). Both discourses reaffirm an exclusionary vision of British national identity and ‘re-inscribe the state’ in the face of a perceived national crisis (Bosworth and Guild 2008). In the seventies, that crisis was a ‘flood’ of potentially criminal migrants from former colonies; in the nineties, migrants represented the dual ‘problems’ of European integration and the decline of the welfare state (ibid.; Given and Luedtke 2004). Both lines of thought suggest that immigration poses a threat to the well-being of the British nation-state. Moreover, both discourses depend upon an implicit link between immigration and crime (ibid.). As I described above, Gilroy (2002) has demonstrated that the spectre of crime (and in particular, an official emphasis on crime statistics) motivated formulations of ‘otherness’ in the aftermath of empire. More recently, Margaret Malloch and Elizabeth Stanley have critiqued ‘populist media accounts’ that encourage an ‘extensive association between asylum and criminality’ by tying asylum-seekers to ‘gang-warfare, drug trafficking, kidnapping, corruption [and] trafficking of people for the sex industry’ (2005: 54). In sum, there are important similarities between the post-colonial and post-Cold War presentations of immigrant ‘otherness’.

¹⁵⁹ During the 1990s, Parliament passed three separate laws aimed at reducing the number of asylum applications. The first was the 1993 Asylum and Immigration Appeals Act (UK), which restricted asylum seekers’ access to housing and extended a 1987 law that made carriers liable for undocumented and incorrectly documented passengers (1987 Carriers’ Liability Act (UK)). That 1993 Act was followed by the 1996 Asylum and Immigration Act (UK), which further curtailed asylum seekers access to welfare benefits, and then by the 1999 Immigration and Asylum Act (UK), which tied the remaining benefits available to asylum seekers to dispersal and food voucher schemes. Rosemary Sales (2002) has written about how these new laws shift the shape of state power.

There are, however, also tensions between these two discourses on immigration. Most notably, the rhetoric on ‘new asylum seekers’ complicates the claim that British xenophobia is solely (or even primarily) linked to race. The discussions of migration that emerged during the 1990s emphasised the ‘problem’ of white ‘economic migrants’, and specifically, the threat posed by immigrants who come to Britain for work and for the welfare state (ibid.; See also Gilroy 2002; Sales 2002).¹⁶⁰ This was, of course, a new lens on an old reality: Britain’s economy has always benefited from economic migration, and ‘white’ migrants—most obviously, the Irish—have long constituted a significant portion of the British population (Chater 2009; Killingray 2009; Panayi 2010; Vertovec 2007). The shift toward concerns about economic migration during the nineties was not an invention so much as the revision of existing anti-immigrant sensibility in Britain. It was a notable revision, though, for the public focus on economic migration during the 1990s altered the post-imperial linkage between racism and nationalism. As Paul Gilroy notes in his more recent writing, an emphasis on economic migration has ‘dislodg[ed] the Caribbean from the centre of British blackness’ (2002: xiii). Where before politicians like Enoch Powell railed against ‘black settlement’ from the New Commonwealth, now public figures warn of more varied set of ‘threats’ to the British nation (ibid.; See also Powell 1968; Sales 2002).

This rhetoric recasts—but does not eliminate—the ‘hidden racial narrative’ beneath immigration debates (Barker 1981; See also Lynn and Lea 2003). While claims about ‘bogus’ asylum-seekers foreground ‘white’ migration, many scholars have argued that the language of ‘non-racial refugees, and asylum-seekers’ is in fact highly racialised (Gilroy 2001: xxxv; See also Barker 1981; Bowling and Weber 2004; Gilroy 2002;

¹⁶⁰ The claim that immigrants come to Britain to ‘enjoy’ or ‘deplete’ the welfare state competes in popular discourse with arguments about ‘economic migrants’ stealing ‘British’ jobs (See Malloch and Stanley 2005; Sales 2002). As I point out in chapter four, these two claims conflict with one another and suggest that it is not migrants’ goals in the UK but rather their mere presence in the country that is at issue.

Lynn and Lea 2003; Malloch and Stanley 2005). These scholars claim that the discussion of economic migration, which at first glance seems to ‘uncouple racism from debates over immigration’, actually recodes racism by suppressing it (ibid.).

This suppression takes several forms. The first and most obvious is an official emphasis on ‘pure’ statistics in policymaking—that is, on the numbers (rather than the races) of those seeking asylum (See, e.g., Home Office 1998). Leanne Weber and Ben Bowling trace the subtle racism of this discourse (2004). They argue that although contemporary migration control is ‘justified in terms of *numbers*, the *origins* of these groups are central to the perception of them as a problem’ (ibid.: 197). The government’s strict focus on statistics is, in other words, a way to sidestep and obscure (rather than to address) the role that race plays in border control policy. Building from this claim, Weber and Bowling conclude that ‘uncontrolled non-white migration embodie[s] public fears about the diminution of national sovereignty arising from the loss of Empire and the encroachment of the European Union’ (ibid.). Here, the discussion of migration rates, familiar from post-imperial rhetoric, surfaces in a new guise to reinforce what is ultimately a racist concern about British national identity.

During the nineties, the suppression of race in public discussions of migration also unfolded through a newfound focus on nationality, culture, and ethnicity—that is to say, through the emergence of a new language of difference. Gilroy explores this language in his 2002 introduction to *There Ain’t No Black in the Union Jack*. He writes:

Today, Britain’s black and other minority settlers still constitute a problem, but its dimensions have altered. As a result of major changes that occurred both inside and outside the country, ‘race’ is rendered differently. [xii]

According to Gilroy, race has been re-framed as a ‘problem’ of culture, language, and perhaps most interestingly for this inquiry, nationality (ibid.). He argues that

globalisation has pushed the question of racial difference away from the biological notions of race that shaped 1970s rhetoric and toward coded terms like ‘taste and lifestyle’ (ibid.: xxv).¹⁶¹ Stuart Hall concurs with this account, noting that the rhetorical shift Gilroy describes has encouraged a rapid ‘subaltern proliferation of differences’ along ever-more-finely drawn ‘ethnic’ and ‘multicultural’ lines (Hall 2001: 214).¹⁶² Hall reminds his readers that this new metric for difference is no less racialised than its predecessors; as he puts it, ‘biological racism and cultural differentialism... constitute not two different systems, but racism’s two registers’ (ibid).

This historical perspective on the language of ‘difference’ complicates dominant criminological accounts of late modern social exclusion. While a growing group of criminologists have noted the links between migration control and British imperialism (See, e.g., Agozino 2005; Bowling 2009; Cain 2000, 2009; Cuneen 2011), much of the criminological writing on immigration frames border control as an instance of what David Garland calls ‘the criminology of the other’ (2001:137; See also Malloch and Stanley 2005; Murdolo 2002; O’Malley 1999; Sales 2002). According to Garland, a series of globalising shifts that took place in the 1980s and 1990s have propelled an attitude toward crime that ‘trades in images, archetypes, and anxieties rather than careful analyses and research findings’ (2001: 77-78, 135).¹⁶³ Chief among those archetypes is the ‘alien other’, an ‘imaginary figure’ constituted from and against an

¹⁶¹ Gilroy defines globalisation in broad terms as the regulation and expansion of financial markets, the growth of technologies, and the rise of ‘the knowledge economy’ (2002: xxv). See chapter one for a more detailed discussion of globalisation. See also Zygmunt Bauman’s (1998) discussion of the term ‘global’.

¹⁶² Hall’s analysis suggests that the British government’s embrace of ‘multiculturalism’, which I examined in chapter five, is also implicitly racialised (Hall 2001; See also, e.g., FCO 2012). In the context of Hall’s writing on the ‘subaltern proliferation of differences’, the government’s approach to ‘multiculturalism’ can be read as a way to address British race relations without speaking explicitly about race or about Britain’s colonial past. See note 127.

¹⁶³ According to Garland, these globalising shifts include: ‘advances in technology, transport, and communication’; changes in the ‘dynamic of capitalist production and market exchange’; restructuring of household and social ecology; and the ‘democratization of cultural life’ (2001: 77-8). Compare this definition of globalisation to the one Stuart Hall employs in note 161 (See also Hall 2002: xxv).

imaginary ‘us’ (ibid.). This archetypical ‘other’ surfaces in a public discourses that emphasise rational economic action and preventative policy and ultimately legitimate state punishment (ibid.: 137). Garland notes that the ‘alien other’ is routinely racialised, and that as a result, ‘whole communities are anathematized by talk of an undeserving “underclass”, locked into a culture and mode of life that is both alien and threatening’ (ibid.: 135).

This account is extremely helpful when attempting to understand the public response to the ‘foreign criminal’ scandal. Garland’s work, and perhaps even more so the work that has flowed from it, offers an illuminating way to think about how and why foreign national prisoners became the centre of a national scandal (Garland 2001; Malloch and Stanley 2005). But while these prisoners are part of a ‘criminology of the other’, they are also more than another case of exclusionary late modern logic. The fearful, dramatic response to the release of 1,023 foreign national prisoners finds its roots in beliefs about British national identity that have existed for more than fifty years. This response raises complicated questions: Do criminologists need to be thinking more about colonialism (and perhaps less about late modernity)? How does the relationship between colonialism and contemporary penal policies intersect with—or trouble—ideas about race? There are no simple answers to these questions, but the rhetoric used to describe ‘foreign criminals’ suggests that we ought to be asking them. Moreover, these are questions that the people within prisons asked me when I interviewed them about prison life. Turning to prisoners’ own testimonies illustrates the continuing relevance of British colonial history.

Colonial Amnesia

The people within British prisons bear witness to the enduring effects of Britain's colonial aspirations. While the Prison Service and Border Agency officials I spoke to rarely mentioned colonialism, the 'foreign' prisoners I met often offered unsolicited opinions about Britain's history and the nation's place in the global order. Prisoners from the West Indies, India, and Nigeria regularly commented on the role that colonialism played both in the conditions in their 'home' countries and in their decisions to migrate to the UK. These peoples' testimonies highlight some of the key problems with using the prison to identify (and potentially deport) a 'foreign' prisoner population. The statistics on this population illustrate these problems as well.

According to the most recently available Home Office polls, foreign nationals imprisoned in the British penal estate hail from 161 different countries (or 'disputed territories' such as Western Sahara, which is counted as a distinct region in Prison Service statistics (MoJ 2010a).¹⁶⁴ Of those 161 countries, the top four represented in British prisons are Jamaica (865), the Irish Republic (683), Poland (670), and Nigeria (649)—three of which are, of course, former British colonies or protectorates (ibid.).¹⁶⁵

¹⁶⁴ There is much to say about such statistics on the prisoner population. First and most importantly, these numbers are fluid—the prison population changes daily—and are likely slightly inaccurate, as it is extremely difficult to determine the nationalities of people held behind bars. See chapters four and five for more on the problematic process of finding 'foreigners' in the prison population. Hindpal Bhui (2004) has also written about this issue.

¹⁶⁵ The numbers drop off slightly after Nigeria. The list of nationalities represented in the penal estate continues: Vietnam (536), Pakistan (435), Somalia (433), Lithuania (404), Romania (400), India (374). For a full list, see MoJ 2010a. In addition to noting these statistics, it is worth examining the disparities between male and female prisoners from each of these countries. Of the top four countries represented in the penal estate, for instance, only one, Nigeria, has a percentage of female prisoners above ten per cent (Nigeria has 13 per cent). Three per cent of the prisoners from both the Irish Republic and Poland are female, while five per cent of prisoners from Jamaica are female (MoJ 2010a). In some cases, countries with relatively low numbers of total prisoners in the penal estate have a relatively high percentage of female prisoners. South Africa (13 per cent), Ghana (12 per cent), Germany (12 per cent), and Bulgaria (31 per cent) are among these countries. While this particular study focuses less on such statistics and more on the individual testimonies of incarcerated 'foreigners', there is much to be learned from these numbers. Further studies might, for example, explore why particular countries are over-represented in the

This over-representation of the British ‘imperium’ persists in the larger prison population as well: of the approximately 11,000 foreign nationals currently behind bars in England and Wales, nearly half, and possibly more, were born in countries with colonial ties to the British state (ibid.; Hall 2001: 218).¹⁶⁶ Many of these prisoners—particularly those who were raised in the UK, possessed British passports as colonial subjects, or were educated in British colonial schools—conceive of themselves as British.

One foreign national prisoner, for instance, explained to me that he had become British by attending British schools in India. This man, who asked to remain anonymous, told me that he had grown up in India and had migrated to the UK in his late teens. He described how the experience of life—and particularly education—in India had affected his sense of national identity:

I went to British school. I think of myself as British. If tomorrow they went to war with India, I’d fight on this side. All my family is here.

This man’s testimony suggests that some of the people defined as foreign under current migration and penal policies were, not so long ago, encouraged to see themselves as members and subjects of the British state. Moreover, some of the ‘foreign’ prisoners I met technically *were* British subjects when they were born. Gus, for example, was born in St. Lucia, which was a British colony until 1958 and is today a member of the British Commonwealth. When Gus was born there, he received a British passport. He and his

women’s penal estate or how these statistics have changed since they were first recorded in the early 1990s.

¹⁶⁶ See note 3 for a detailed breakdown of the claim that ‘approximately 11,000’ foreign nationals are currently incarcerated in British prisons. See note 11 for an explanation of the claim that ‘nearly half, and possibly more’ of the foreign nationals in the British penal estate were born in countries with colonial ties to the British state. As I describe in those notes, claims about the foreign national prisoner population depend on the definitions used when gathering and counting prison statistics. Here, the number of prisoners from former colonies is derived from Ministry of Justice statistics and from a report by Hindpal Singh Bhui of the Prison Reform Trust (Bhui 2004; MoJ 2010a).

grandmother immigrated to Britain in 1969 so that she could work in the country. While his grandmother cared for him and supported them both, Gus attended Catholic schools in London. In a strong British accent, he told me that he ‘read history and religion’ for his O-levels and had always thought of himself as a British person. ‘I’ve never seen anything but a British passport’ Gus explained. ‘I remember my mum saying, “you’re a citizen of this country”’.¹⁶⁷

This short summary of Gus’ life captures the complexity of ‘difference’ in a country that once governed a quarter of the world’s population (Maddison 2001: 97-98, 242; See also Brown 1998; Ferguson 2004). The collection of statistics on foreign nationals also underscores the problem with defining difference in a ‘post-colonial’ society. According to the report commissioned to investigate the foreign national prisoner ‘crisis’, the Prison Service began gathering figures on foreign nationality in 1993 (Home Office 2007: 33; See also Berman 2011). However, this date is actually when statistics on Commonwealth prisoners began to be reported (with varying degrees of consistency) to the Immigration and Nationality Directorate.¹⁶⁸ That is to say, 1993 was not when prisons began documenting *nationality*; it is when the Prison Service began to identify migrants from the British Commonwealth as foreigners. Statistics on non-Commonwealth prisoners existed years earlier: in July 1988, the Secretary of State for the Home Department reported the numbers of non-Commonwealth prisoners, but stated that ‘the recording of nationality for citizens of Commonwealth countries,

¹⁶⁷ Gus’ ties to Britain make it possible that he would not ultimately be deported to St. Lucia. For more on the decision to deport, see the UK Borders Act 2007 and the discussion at the beginning of chapter four. The relevant point here is not that Gus would in fact be forced to leave England, but rather that he had been identified as ‘foreign’ at reception despite having been born in a British colony and having lived in the UK for an extended period of time. See note 59.

¹⁶⁸ The Immigration and Nationality Directorate is now known as the UK Border Agency (UKBA). For more information on that name change and shifts within the Border Agency more generally, see chapter three.

Pakistan and Eire is not sufficiently reliable for estimates of their numbers to be given' (Douglas Hogg, *Hansard*, 15 July 1988, Col. 399).

Trends in recording and reporting prisoners' nationalities thus reflect discursive shifts in the conception of national difference.¹⁶⁹ These trends track changes in Britain's relationship to its former empire.

Whether or not prisoners are 'foreign nationals' then depends, at least in one important sense, on whether the Prison Service counts them that way.¹⁷⁰ Of course, the Prison Service is under external pressure when it collects information about the prison population (Vine 2012). While it takes place within the penal institution, the practice of identifying and counting foreign nationals is shaped by a number of factors beyond the Prison Service's control.¹⁷¹ For one, the definitions laid out in Border Agency policies direct statistics on the foreign national prisoner population (MoJ and UKBA 2009). Statistics on nationality are also affected by migration control legislation such as the 2007 UK Borders Act and the 2009 Borders, Citizenship, and Immigration Act (UK). These laws determine who will be counted as a foreign national and which people from within that 'foreign' population will be deported.¹⁷² Straightforward claims about the number of 'foreigners' held behind bars obscure these contingent aspects of statistic collection.

Such claims also obscure prisoners' feelings about the definition of 'foreignness' and the relevance of British colonial history. The prisoners I interviewed regularly

¹⁶⁹ In interviews, Prison Service officials did not recall the year that prisoners' nationalities were first recorded.

¹⁷⁰ The idea of race is (and has long been) constructed through the collection of prison statistics as well. See Bowling and Phillips (2002; See also Phillips and Bowling 2007) on the connections between race and statistics in the British context. See Tonry (1996) on the same links in an American context. See also Cook and Hudson (1994).

¹⁷¹ The process of collecting statistics on foreign national prisoners takes place not only in prisons but also in police stations and immigration detention centres (Vine 2012).

¹⁷² See note 59.

reminded me that colonialism had affected their lives in tangible ways. Some of the men I met invoked colonial ties to explain their decisions to immigrate to the United Kingdom. One prisoner, for instance, told me, ‘we have a connection to the UK because they were in Ghana’. Another man, GW, was born in Zimbabwe and had lived in England for ten years when I met him. He shook his head when I asked why he had come to England, then looked me straight on and said:

My country is how it is because of the British. We all know the truth...The British people know exactly what they’ve done to Zimbabwe.

GW was visibly angry about the fact that he was categorised as ‘foreign’ and identified for deportation when the British government had colonised his country. So, too, were many of the people I met behind bars. Another man, who was born in Guyana and had lived in the UK for several decades asked me:

How is it possible for people from British colonies to be here? I’ve been here since I was twelve years old. I’d go to my country now, they’d call me a foreigner.

Said had a similar fear about being defined as a foreigner when he considered himself to be British.¹⁷³ He put that fear in simple terms:

Shit, I can’t go to Somalia. I haven’t been there in twenty years. My father and mother live in Birmingham.

Said’s claim captures just how counter-intuitive and arbitrary migration control measures can feel to prisoners who identify with the UK.

Such prisoners were often vocal about the contradictions within contemporary immigration and penal policies. The people I met not only described feeling British and

¹⁷³ This prisoner was a different person than the man named Said who I introduced at the outset of the thesis.

identifying with Great Britain on an emotional level; they also wondered aloud how the government could reasonably (and legally) categorise them as ‘foreigners’ given the history of British colonialism. In one conversation, a prisoner named Scott reflected on the practice of identifying ‘foreigners’:

England is a racist country. They don’t even like Scottish, Irish, people from Europe. They say we’re taking their jobs. But Jamaica was a British colony. They don’t take their history into consideration. They don’t look back where they’re coming from. People from the Caribbean...coming here in the 50s and 60s and long before that.

Scott’s account aligned with several others that I witnessed within the prison. In a similar vein, a man named Senator explained to me that England has a long history of simultaneous conquest and xenophobia. ‘Remember, England used to have the first thirteen states’, Senator told me. He continued:

The mentality of England is they go to your country and take you over. But when you come here they don’t like you. Look at Africa. Look at the big diamond the Queen is wearing. It came from Ethiopia.

The Queen’s jewels came up in several other conversations as well. In an interview I had in the same prison several weeks later, a prisoner who asked to be called System told me:

The fucking Queen have the biggest fucking diamond in the world. It was stolen from India. Why is it that other people can’t handle stolen goods, but she can?

Side-by-side, these testimonies demonstrate that the Queen, and the national history she represents, plays an important symbolic role in prisoners’ understanding of their current treatment within the prison system.¹⁷⁴ The point here is not that the royal jewel in question came from Ethiopia or India, but rather that foreign national prisoners perceive

¹⁷⁴ For a related discussion, see prisoners’ comments on ‘the Queen’s English’ in chapter five (page 192).

a strain of hypocrisy in their confinement. These prisoners objected to being labelled ‘foreign’—and classified as ‘deportable’—when their ‘home’ countries had been colonised by the British.¹⁷⁵ They also challenged the idea that they could be imprisoned for being ‘criminals’ when the British government had routinely ‘stolen’ jewels and land during the period of colonial expansion.

In our interviews, System and Senator seemed to feel that colonialism was an under-acknowledged context for conversations about the meaning of crime and criminality in the United Kingdom. Another prisoner, who asked to remain anonymous, articulated this idea in particularly explicit terms. He drew a direct analogy between colonialism and criminality:

The British people are the biggest thieves...They took half the world. America, Jamaica, India...you name it. I learned to be a criminal from this country.

This prisoner was born in Jamaica and raised in England from the age of fourteen. When I met him, he had lived in the UK for 37 years and had possessed a British passport his entire life. He was mis-identified as a foreign national at reception ‘because’, as he put, ‘I’m black’.¹⁷⁶ Stories like these demonstrate that the ‘foreign’ prisoners currently incarcerated in England and Wales are connected to the British empire on many different levels, from emotional ties to the nation to a sense that British colonialism was itself a criminal endeavor. These peoples’ accounts illustrate that scholars—and anyone concerned with imprisonment—cannot separate the practice of finding and confining ‘foreigners’ from critical questions about British imperialism.

¹⁷⁵ Nicholas de Genova argues that in the context of the post-September 11 immigration ‘enforcement spectacle’, identifying a person as a ‘non-citizen’ or a ‘foreigner’ renders that person an implicitly ‘deportable’ member of society (2007: 435). As he puts it, immigration enforcement measures make all non-citizens into ‘culprits’ (ibid.).

¹⁷⁶ Chapter five examines the role of race in the process of identifying foreign national prisoners.

Indeed, these narratives suggest that the effort to find ‘foreigners’ can be read as a systematic exercise of what Stuart Hall calls ‘collective amnesia’ (2001: 218).

According to Hall, the British post-colonial condition is marked, among other things, by a ‘disavowal of “empire”’ which is framed as ‘a new beginning’ but realised as a widespread and more-or-less purposeful bout of amnesia about Britain’s colonial past (ibid.). Hall describes this ‘Cloud of Unknowing’ in his powerful essay on ‘the multicultural question’:

The old relations of colonization, slavery and colonial rule, linking Britain with the empire for over 400 years, marked out the pathways these migrants followed. But these historic relations of dependency and subordination were *reconfigured*—in the now-classic post-colonial way—when reconvened on domestic British soil...Most British people looked at these ‘children of empire’ as if they could not imagine where ‘they’ come had come from, why, or what possible connection they could have with Britain. [ibid.]

In this apt formulation, ‘post’ colonial Britain is shaped by an ironic sense of surprise at the stubborn, resurgent, embodied remnants of its past.

Hall’s description of ‘collective amnesia’ raises questions about how scholars understand and study the legacies of British colonialism (2001; See also Parry 1987; Slemon 1994). His writing suggests that ‘amnesia’ is the contemporary manifestation of an ongoing relationship between coloniser and colonised, and more to the point, between the different ‘cultures’ that were involved in the project of British imperialism. Hall’s critical question, in other words, is how colonial dynamics are realised, reworked, and reinscribed in contemporary British society. His claim is that colonial histories often play out in the present through a systematic and collective process of memory loss. This reading of colonialism emphasises the processes and structures (intentional or otherwise) through which colonial subject-relations are reproduced in 21st Century British society.

Many scholars have taken a similar approach to ‘the “question” of...colonialism’ (Slemon 1994: 15; See also Achebe 1973; Bhabha 1988; Griffiths 1994). Stephen Slemon, for example, points out that colonialism was not simply an ‘economic and political structure of cross-cultural domination’, but was also, crucially, a process of ‘ideological or discursive formation’ (1994: 15). As Slemon describes it, colonialism was ‘an apparatus for constituting subject positions through the field of representation’ (ibid.). From this perspective, thinking about the ‘aftermath’ of colonialism means more than just analysing structural economic inequality, though that line of thought is illuminating. Studying the legacy of colonialism also involves exploring ‘fields of representation’ and cultural attitudes toward migrants and toward Britain’s colonial history.

Chris Cuneen points out that such studies are relatively absent from the field of criminology (2011). In his recent writing, Cuneen contends that ‘the criminological enterprise lacks a coherent theoretical understanding of colonialism and postcolonialism’ (ibid.: 251). Accordingly, Cuneen calls on criminologists to advance a ‘postcolonial perspective’ in criminology (ibid.). He explains what this perspective would look like:

A postcolonial perspective in criminology does not need to eschew evaluative approaches or empirical research but it should proceed from a critical and reflexive framework...A postcolonial vision for criminology can engage with public policy formulations and debates, but it does so from a theoretical grounding that recognizes the importance of history, particularly through understanding the long-term impact of colonization and imperialism, and it does so through an analysis of the structures of sentiment and ideology that determine the intersections of race, crime, and punishment. [2011: 252]

Cuneen suggests that exploring the ‘structures of sentiment and ideology’ within contemporary criminal justice institutions is one way to bring criminology into conversation (and up to date) with existing bodies of work on postcolonial theory.

Within prison studies, this critical project could begin from an examination of the parallels between Hall's account of 'collective amnesia' and the implementation of migration control policies such as hubs and spokes (Hall 2001).

Hall's description resonates strongly with the practices that I witnessed in the contemporary prison. As post-colonial theorists have demonstrated, the 'old relations' of colonialism did not only establish migration pathways; they also established the 'structures of sentiment' that make many incarcerated foreign nationals 'feel British' (Cunneen 2011: 252; Hall 2001: 218; See also Ashcroft *et al* 1994). Many of the people behind bars who identify with 'British culture' do so because in their lifetimes, and for a much longer period of time, the British governed their 'home' countries. These people went to British schools; they often have British relatives; they grew up with an image of 'British culture' in their minds. The idea of 'British society' has served a significant rhetorical role in many 'foreign' prisoners lives' and formulations of themselves—how else to describe JB's decision to migrate the UK and name his daughter Odeon?

In short, many of the 'foreigners' in prison 'feel British' for a reason. Yet at reception they are re-categorised as foreign nationals. In the process of identifying 'foreigners', border agents and prison staff members collectively rewrite the concept of national belonging in a new mould. Following directions from their superiors and the dictates of the law, these staff members are, in effect, suggesting that the government has no idea why or how foreign nationals came to live in Britain. This process obscures the simple fact that imperialism has motivated migration patterns for centuries (Weber and Bowling 2004). Under policies like hubs and spokes, the prison thus becomes a space where the historical dynamics of colonialism get revised and recast. Every day, the local representatives of the British prison negotiate the boundary between the British present and the country's imperial past.

This negotiation process is not only an analytical viewpoint for scholars of imprisonment, though it does provide a provocative way to think about the purpose of the contemporary prison. On perhaps a more pressing level, the fact that prison policies suppress the history of colonialism (and its attendant ‘structures of feeling’) is also an important and real feature of daily life for the people confined in England and Wales (Williams 1978).¹⁷⁷ The prisoners I interviewed spoke about British colonial rule as a way to describe, understand, and contest their incarceration. For these prisoners, colonialism was an ‘ideological formation’ of the sort that theorists like Slemon (1994), Homi Bhabha (1988), and Frantz Fanon (1994) have described. The concept of colonialism was a way for prisoners to represent themselves, the histories of ‘their’ cultures, and their current subject positions within both British society and the British prison.

It makes sense, then, that the topic of colonialism surfaced in so many of my interviews. The prisoners I spoke with almost always raised the issue of colonialism on their own, unprompted by my questions. I did not enter any particular prison expecting to talk about the post-colonial condition, nor did I speak about colonialism or British imperialism before prisoners themselves mentioned those topics. Yet time and again, I wound up listening as prisoners told me that their incarceration—and especially their classification as foreign nationals—was illegitimate in the context of British history. Ultimately, prisoners’ desires to discuss colonialism constituted one of the more evident forms of resistance to the amnesia of migration control.

¹⁷⁷ Raymond Williams uses the term ‘structures of feeling’ in the 1978 book *Marxism and Literature* to describe the lived, experienced, cultural aspects of a particular historical moment. This term attempts to bring accounts of ‘lived experience’ into the broad (and originally Marxist) discussion about how unequal power relations get reproduced. My reference to Williams does similar theoretical work. I aim to explore and explain how the lived experience of incarceration interacts with the prison’s structural role in society.

Damian exemplified this resistance in one of several hour-long conversations that we had in the course of my fieldwork. During that meeting, Damian chafed at the government's decision to classify him as a foreigner. Shaking his head, he asked me:

How do you say I'm much different when Jamaica was colonised by the British, when my government is British? I don't see how they even try to give an answer for what they're doing.

Here, the amnesiac quality of imprisonment practices comes into full focus as the government's policy on 'foreign' prisoners disconnects Great Britain from its current commonwealth *and formerly domestic* Jamaican soil.¹⁷⁸ Within this frame, Damian's historical recollection resists the immigration policy that confines him, and the prison begins to look like a key mechanism for the country's coordinated effort to forget its past. Moreover, the paperwork on which this effort unfolds and depends—reception questionnaires, visas, deportation orders—starts to become legible as the banal mode of expression for a contentious national project. This reading was not lost on Damian. He put it as a question: 'why does it take a visa to come here when your forefathers didn't need one to come rape my country?'

Damian's question was entrenched in the politics and personal violence of British colonialism in Jamaica. Its underlying logic, however, might be extended into a broader critique of memory (and memory loss) in the late modern prison. Here and throughout, it is important to note that not all foreign national prisoners come from former British colonies, nor are all foreign nationals Afro-Caribbean, or even, despite

¹⁷⁸ When it was a colony of the British empire, Jamaica was in an important sense a British domestic space. Prior to the Immigration Act of 1971 (UK), British subjects had a right of abode within the United Kingdom and British police forces acted on Jamaican soil. During the 1940s, for instance, MI5—the intelligence organisation responsible for 'internal security'—operated in Jamaica (Andrew 2009; Travis 2003; See also Bowling 2009).

the racialisation of foreignness in prison, black.¹⁷⁹ Indeed, many of the foreign nationals most routinely forgotten in discussions of imprisonment are those from Eastern Europe and East Asia, who often face greater language barriers than the prisoners who learned English in British colonial schools (Bhui 2004). These prisoners' struggles within the prison were some of the most difficult to witness as an ethnographer.

Language barriers, which were accompanied by a complex set of cultural contexts, had a significant effect on scope and quality of my interactions with foreign national prisoners. While I spoke with men from Vietnam, China, Moldova, and Romania, I generally found that prisoners born in or identified with the British Commonwealth better understood my questions and were more willing to share personal information with me during interviews. For the most part, I also better understood English-speaking prisoners' answers to my questions. With non- and limited English-speaking prisoners, I resorted to communicating through translators, and through the gestures and fragments that characterise language gaps. In these instances, the residue of colonialism shaped the possibilities of my research. While I strived to get many prisoners' perspectives and to build my account from their words, this study might look very different if, for instance, I had interviewed predominantly Chinese prisoners, or I had better understood the Vietnamese people that I met. My claims about the way that race and nationality work within the prison might shift in the context of a different research experience. The omissions of this thesis are then just as important as the testimonies in it. Both illustrate the crucial relevance of identity within the prison.

The complex relationships between prisoners from former colonies and other foreign national prisoners provide a window into the link between colonialism and

¹⁷⁹ Chapter five examines the racialisation of foreignness within the Prison Service, with a particular emphasis on how the process of identifying 'foreigners' conflates race with nationality.

imprisonment. Given their greater familiarity with English, prisoners educated in British colonial schools are in some ways better situated to navigate prison life than migrants from Eastern Europe, East Asia, and other parts of the world. Prisoners from former colonies often find it easier to communicate with prison staff, and at least in some cases, these prisoners have established ties to the UK that make their deportation more ‘difficult’ for immigration authorities.¹⁸⁰ The aftermath of colonialism is thus far from straightforward. While British imperialism has clearly affected the daily realities of the penal estate, the contemporary prison is not a direct imprint of the past, nor is the break between past and present as clear as a blunt claim about neocolonialism would imply. As the geographer Derek Gregory (2004) notes, we live in a complex ‘colonial present’, one that recasts the legacies of imperialism in new and constantly changing forms. In the prison, that colonial present involves unevenly distributed language barriers, nuanced relationships between ‘old’ and ‘new’ migrants, and the evolving pressures of a migration control policy aimed at all ‘foreigners’.

Each of these facets of prison life is connected to the politically charged histories of colonialism and xenophobia in Great Britain. While it is near impossible to make a general claim about the effects of imperialism within the prison, it is evident from even a few visits to the prison that British history shapes the contemporary penal institution. Prisoners’ angry insistence on the relevance of colonialism, their sometimes heated exchanges with immigration officials, and the prison staff’s frustrated responses to prisoners’ language barriers all serve as a reminder that imprisonment has an historical

¹⁸⁰ Prisoners who have established families and other ties to the UK are, in theory, better situated to appeal their deportation under Article 8 of the European Convention on Human Rights, which protects the right to family life and a private life. (That Convention became UK law in the 1998 Human Rights Act). Human rights considerations are the most common grounds for the court to grant prisoners’ appeals of their deportation orders (Vine 2012). However, while prisoners from former colonies may have stronger (or at least more recognisable) ties to the UK, these prisoners will not automatically (or even likely) be allowed to remain in the country since ties to family do not preclude a prisoners’ deportation. See notes 59, 83.

and irreducibly political dimension. But these politics—as well as the Cold War politics that brought migrants to the UK—are obscured by an official penal policy that divorces the prison from its wider social context (Gibney 1994, 2008; Hansen 2000). The problem of colonial amnesia, though concrete and crucial, is then also a metonym for a larger concern about the prison’s systematic capacity to detach penal institutions from the politics in which penalty takes root.

The term politics is worth exploring here. In this context, the concept of politics refers not only to partisan battles about migration and penal policy, but also to the very personal politics of how prisoners define their own identities and negotiate their own senses of self. Feminists and critical race theorists have for some time argued that these personal aspects of subjectivity and self-representation are shaped by political questions about how power is embedded in social relations (Ashcroft *et al* 1995; Firestone 1970; Tax *et al* 1970). By critiquing ideologies such as racism and sexism, scholars and activists have demonstrated that the construction of identity is an inherently political process (*ibid.*). There are then multiple levels of politics involved in the practice of imprisoning ‘foreigners’, from the politics of prisoners’ personal identities to the partisan political debates that surround laws like the UK Borders Act (2007).¹⁸¹ Both kinds of politics get suppressed in the prison. This suppression occurs on a minute scale, day-by-day, in the local interactions—such as the identification of ‘foreigners’ at reception—which come together to efface the political nature of prison life. If Coretta Phillips and Rod Earle are right that ‘dehumanizing othering’ is the prison’s ‘principal social accomplishment’, it appears that political amnesia is its principal means to that end (Phillips and Earle 2010: 375).

¹⁸¹ Chapter three describes the partisan politics that motivated the foreign prisoner scandal, and subsequently, the creation of the new policy on foreign national prisoners. For more on the politics of racial identity, see chapter five.

Managerialism as Memory Loss

The concern, in other words, is that colonial amnesia is one strand of a broader tendency toward memory loss within the prison. The real problem, which empirical prison scholars have noted, is that the ‘interior life’ of the prison is chronically disconnected from political questions about who gets incarcerated, how and why we choose to punish people (Liebling 2004: xix). The daily operation of penal institutions involves classifying prisoners at reception, managing staff, making sure food is served and education courses are run. At least in my experience, this day-to-day reality does not typically include reflecting on the topics—power, history, inequality—that motivate critical prison scholarship.¹⁸² To the contrary, the practice of imprisonment often seems like an exercise in confining and controlling those people who ‘just happen’ to come through the prison gates. It is worth thinking about how this approach to incarceration unfolds. Taking the topic of colonialism as a starting point, criminologists might ask: how does it come to pass that the politics of imprisonment get effaced from prison life? How does incarceration become routine? *How does the prison ever get rendered as an apolitical space?*

There are many possible answers to these questions. One is that politics get obscured from prison life because prison officials’ focus with myopic intensity on the rules and regulations of penal policy. In the prisons I visited, prison and immigration staff, as well as policymakers, concentrated on the local provisions of the new foreign national prisoner policy. Staff members explained in detail how they completed the paperwork on foreign national prisoners and how the instructions for filling out that paperwork had changed since the introduction of the hubs and spokes policy. One line

¹⁸² See chapter one for a genealogy of these topics in prison studies.

officer told me that ‘foreign nationals take more time’ than other prisoners, and then went on to explain why: ‘it’s the problem of prison interpreters, and then they have medical issues but there’s the confidentiality issue. There’s different rules’. While talking about prison and immigration regulations, another officer said: ‘I would like this to be like a conveyor belt.’ A third staff member concluded, ‘being an officer now is less interacting with them and more about the paperwork’.

At times, prison staff members, and particularly those people who worked the most with foreign nationals, asked philosophical and ethical questions about the confinement of this prison population. Some staff members worried aloud about what would happen to prisoners after they had been deported or wondered why they held some people in prisons rather than immigration detention centres. For the most part, however, these concerns were considered beyond the scope of the penal institution. While some staff members raised broad questions about incarceration in our conversations, they typically returned to claims about ‘the reality of the situation’ or the daily demands of the job. One policymaker I interviewed exemplified this conceptual transition. During the course of a long discussion, that official paused and said, ‘should they ever be held in prison? There’s a question there, really’. After a beat, that policymaker continued, ‘there’s a constant focus on numbers. It’s £110 a night to keep someone in an IRC, and £130 in prison’.¹⁸³ In another exchange I witnessed, a foreign national coordinator spoke with a governor-grade official who had come to oversee that day’s immigration surgery. The official asked the coordinator, ‘how many are you getting rid of?’ She responded, ‘You’re not supposed to put it like that’. The official replied, ‘That’s what it’s about, isn’t it? Move them out. It’s the taxpayer’s money. Move them out and open new prison spaces up’.

¹⁸³ IRC is the acronym for Immigration Removal Centre, a detention institution run by the UK Border Agency.

This approach to incarceration, while concerning, is not something that prison scholars should criticise from the confines of our offices without acknowledging the difficulties of running an institution like the prison. My claim is not that the particular people involved in incarceration should be indicted for thinking about numbers and paperwork, but rather, that criminologists should consider how this conceptual approach affects the tenor of the penal institution. The critical question, in other words, is what an actuarial approach to prison management does to the actual prison—and specifically, how this approach creates and promotes the problem of political amnesia (Feely and Simon 1992, 1994). To return to Chris Cunneen’s diction, the question is how actuarial management is related to the ‘structure of sentiment’ that I observed within the prison (Cunneen 2011: 252). How does thinking of prisoners as numbers enable colonial and other types of political amnesia? Does managerialism encourage an approach to imprisonment that, over time, becomes an institutional ideology? How is that ideology related to the culture of amnesia within the prison?

These questions about the culture and affect of the penal institution emerged from my observations and interviews with prison staff. Some of the prison and immigration staff members I interviewed made claims that seemed almost willfully dissociated from the political and historical questions from which they arose. One immigration agent, for instance, explained in a placid tone that the UKBA caseworkers who make deportation decisions ‘had to’ work outside the prison because they ‘simply couldn’t’ interact with the prisoners they might deport. ‘I couldn’t go on the wing if I made the decisions’, that border agent told me. ‘If I made the decision and went on the wing, I’d be lynched’. Describing the document that she had to file to initiate an immigration hold, which enabled her to detain a prisoner beyond his criminal sentence, another border agent said to me, ‘the IS 91 is a godsend’.

These claims are tied to politics and history—the term lynching in particular has racial connotations—as well as to the actual people in the prison. Yet they were articulated as routine and commonplace bureaucratic concerns. In my experience, this was a characteristic representation of British imprisonment by policymakers and prison staff. One key feature—in fact, perhaps the defining feature—of the prisons I visited was they were surprisingly banal places. Punishing people was, in practice, often presented in terms of specific forms, deadlines, and key performance indicators. This understanding of incarceration turns the emotional and highly political act of locking people in metal rooms, sometimes indefinitely, into a curiously monotonous exercise. In my field notes one day, I wrote, ‘how can this be so boring? If I made a documentary about incarcerating foreigners, people would fall asleep’. During another visit, a Rwandan prisoner told me that he’d tried to commit suicide several years earlier. I asked him what had happened afterward and he replied, ‘they made a report’. At these points and many others, the politics of imprisonment were subsumed by the paperwork on which penal institutions are run.

Eamonn Carrabine calls this the ‘dull compulsion’ of prison life (2004: 38).

Damian called it torture. He told me:

The paperwork they’re using is just a bunch of words with no meaning. The only difference from Guantanamo is that you’ve got people lost in the system. You know Guantanamo exists. This type of torture is covered by paperwork.

It is crucial to note, as other scholars have, that comparisons between British imprisonment and the American detention camp at Guantanamo Bay Naval Base are often inaccurate (Bosworth 2010; Cole 2003; Rose 2004). Paperwork is not the ‘only difference’ between these facilities—the detainees at Camp X-ray ‘arrived soaked in their own urine’ and are held in ‘steel-mesh cages, open to the elements, ringed by a

razor-wire fence' (Bosworth 2010: 214; Rose 2004: 1-2). Guantanamo Bay plays a rhetorical and symbolic role in many prisoners' accounts of their treatment; Damian's particular claim is hyperbolic. His words do, though, highlight the degree to which the banality of imprisonment becomes constitutive of the prison experience.

For many prisoners, the government's routine approach to their own lives is a key 'pain of imprisonment' (Sykes 1958). The banal vision of the penal project is also central to the practice of political memory loss, for it is this understanding of incarceration that allows prisons to run without asking questions about how identity and imprisonment intersect. When prisons are understood as routine, bureaucratic spaces, prison staff and policymakers (and for that matter academics) do not have to explore questions about why only certain people are classified as 'foreigners', only some people get deported, and many people see their own nationalities and races in different terms than those laid out in penal policy. The banal approach to imprisonment obscures these lines of thought, each of which is, of course, highly political and inextricably connected to the history of British conquest and immigration. Treating imprisonment as a purely bureaucratic exercise thus encourages political 'amnesia' (Hall 2001).

Criminologists have commented on these issues in different forms. The phenomena I observed as banality—the routine, actuarial approach to incarceration taken by many officers, staff members, and policymakers—is consistent with what many scholars have described as late modern 'managerialism' (Brown 2011; Carlen 2005; Crewe 2009; Feely and Simon 1994; Garland 2001; McLaughlin and Murji 2000; O'Malley 1999). For these scholars, the object of enquiry is a conceptual frame in which imprisonment becomes a 'problem' of risk, one 'solved' through audits, performance indicators, and regulations. Criminologists connect this frame to a neoliberal ideology and critique it as part of the emergent 'culture of control' (Brown

2011: 87; Garland 2001). Most recently, David Brown has argued that, within a neoliberal framework, managerialism becomes an end in itself (ibid.). He explains:

...In relation to managerialism, the suggestion is that neo-liberal formulations of risk, KPIs and audit criteria with their emphasis on narrowly defined notions of 'efficiency' and 'cost', increase the tendency for audit measures to become inward looking ends in themselves, eschewing more broadly defined social aims and outcomes that were and are aspirations under social democratic regimes...[ibid.]

Brown's argument draws on Pat Carlen's critique of managerialism, in which she contends that 'too often, rules are eventually cherished and embellished as being ends in themselves—at which point they become "disciplinarity"' (Brown 2011: 86; Carlen 2005: 430). In both authors' work, the motivating concern is that criminal justice has, along with the rest of government, been disconnected from 'social democratic' and social welfarist aims over the last thirty-odd years (Brown 2011: 87).

This account resonates in British prisons. There is little question that the imprisonment of foreign nationals unfolds within a consumerist, managerial framework. The hubs and spokes agreement divides prisons into gold, silver, and bronze 'levels of service', each of which corresponds to a different amount of interaction between prisoners and staff (MoJ and UKBA: 20; 23). The Prison Service Orders on foreign nationals include an extensive flowchart of UKBA protocol, and the central goal of the foreign national policy was, in its own words, to establish shared 'KPIs to be used to monitor and measure performance' (HMPS 2007a, 2007b; MoJ and UKBA 2009: 5). Managerialism is an accurate and illuminating way to describe these practices.

The question is whether we might also think of them as instances of memory loss—as examples of an approach that, in effect, detaches the prison from its politics and its history. Casting managerialism in this light underscores the lived effects of an actuarial approach to imprisonment. Many scholars have noted the connections between

managerial governance and current, neoliberal political beliefs (Brown 2011; Carlen 2005; Garland 2001; McLaughlin and Murji 2000; O'Malley 1999). Fewer have explored the ways that managerialism divorces penal institutions from longer political histories, and more to the point, from the real people held within the prison. Positioning managerialism as institutionalised memory loss pushes scholars to consider what and *who* is being forgotten when the prison becomes another site for the calculation of risk. This rhetorical frame recasts the project of critical criminology. If imprisonment is an act of amnesia, the goal of scholarship is to remember, and in doing so to return, the politics to discussions of the prison.

Conclusion: Registers of Imprisonment

This chapter began with the story of one man named JB and it ends with him as well. JB's narrative was difficult to hear and seems impossible to retell in its full force. Stories like his are messy, complex, and personal. They are emotional; their moral lessons are not always clear. There is no easy answer to questions about whether and where to draw the boundaries of a society, particularly in a 'post'-colonial society such as Great Britain. But it is clear within the prison that these questions have human consequences. After I interviewed JB, I met with the border agent in charge of managing his case. That agent told me that JB would most likely be deported to Nigeria directly from the prison. It was too bad, she said, because she liked him and knew he would be separated from his daughter Odeon. 'But', she concluded, 'that's the way it goes'.

This chapter has asked how situation's like JB's become 'the way it goes'. In more academic terms, I have explored how deeply political practices—such as

deporting migrants who were once British subjects—becomes a routine aspect of running the nation-state. Today's prisons are operating on two very different registers—one highly emotional and political, the other managerial and banal. The gap between these two registers is a problem, both on a theoretical level and, as the next chapter explores in more depth, on an ethical level as well. I have sought over the last thirty pages to think about this problem in terms of memory loss and amnesia. The purpose of this approach, aside from recasting the managerialism debate, is to underscore the role that prison scholars can play in defining the penal institution. As academics, we can foreground the histories of incarceration that get suppressed within the prison. We can point out the politics involved in what seem like dull penal practices. Indeed, this might be the primary merit of doing sociological work on punishment. The real question for those who write about prisons is how such critical work begins. The next chapter argues that scholars can contest the amnesia of penal practice by turning to the embodied experiences of those behind bars.

Chapter Seven: The Bodily Remainder

The previous chapter argued that representations of the prison, both in the media and in penal policy, promote amnesia about the politics of imprisonment. My claim was that managerial prison practices encourage us to forget that putting people behind bars is a political act, one inextricably linked to the history of inequality in Great Britain. This chapter begins from a related question: How do we remember the politics of the British penal institution? If the problem here is political amnesia, how do we counter the memory loss that pervades the prison? As critical scholars, how do we return politics—and particularly the politics of race, gender, class, and colonialism—to public discussions of incarceration? This chapter builds from feminist theory, and specifically from feminist accounts of embodiment, to offer some answers to these questions.

Drawing on writing by Judith Butler (1993) and Elaine Scarry (1985), I argue that we remember the politics of the prison by turning to the bodies of the people held within it.

There is much to learn from an account of the bodies behind bars. Prisoners' embodied experiences are the material realisation of a society's ideas about what it means to be punished and to belong. Each day, prisoners live out the theoretical concepts that criminologists debate: punishment, retribution, citizenship, belonging, desert. Indeed, prisoners experience both the force and the basic limitations of these ideas. Detainees who cannot be deported because they have no identity documents or because they have family ties to the UK demonstrate the constructed and fallible nature of nationality.¹⁸⁴ Prisoners who are misidentified because they 'look foreign' embody

¹⁸⁴ See the Vine Report (2012) on the possible reasons for a foreign national prisoner's eventual release into the UK. Those reasons include lack of identity documents, which are required for deportation, and human rights claims. See note 83.

the racialised assumptions of citizenship.¹⁸⁵ Men and women who place razors in their mouths and threaten suicide to avoid deportation underscore that the prison is an affective place, one where feelings of pain, regret, fear and hope matter a great deal. Following Judith Butler, I call these feelings ‘the bodily remainder’ of penal policy and law (1997b: 92). I argue that scholars ought to turn to this ‘remainder’ to rethink the politics of the prison and of prison scholarship.

The concept of politics has a particular meaning in this context. As I described in chapter six, the term politics refers not only to the processes by which governments make decisions, but also to the principles that structure subjectivity in a shared social space (Butler 1997a; Butler and Spivak 2007; Crenshaw 1993; Graham *et al* 2008; Leftwich 2004). The idea of politics, in other words, includes not only partisan legislative battles and questions about the organisation of government, but also philosophical concerns about how people come to matter within a polity. The latter of these two lines of thought is closely related to questions about identity: How do we determine the edges of the subject? How do people come to be recognised as members of a political collective? What are the boundaries of subjectivity within the nation-state? These are political questions in the second sense of politics—they are, in short, questions about the *politics of identity* rather than the politics of governance (*ibid.*). This is the notion of politics with which the chapter is concerned.

My argument develops over three sections. First, I contend that the physical body plays an integral and too often overlooked role in the practice of imprisonment. Drawing on writing by Elaine Scarry (1985) and on Michel Foucault’s pioneering work on embodiment in *Discipline and Punish* (1977), I explore how the body surfaces in daily prison life and how the actual act of placing people in metal rooms for long (and

¹⁸⁵ Chapter five examines the racialised process by which prison and immigration staff identify foreign national prisoners.

sometimes indefinite) periods of time gets effaced from debates over punishment and migration control. That exposition grounds the second section of the chapter, which examines the lessons that live in and on the bodies of incarcerated ‘foreigners’. This section builds from prisoner testimonies to argue that the feelings and sentiments inside prisons raise challenging questions about the lived effects of penality. The third and final section of the chapter considers the political implications of a phenomenological enquiry into the prison. Ultimately, I argue that a material approach to the prison experience brings the politics of identity to the fore of debates about punishment.

Human Consequences

Chapter six explored and critiqued the ‘apoliticism’ of much penal policy and practice. Taking the complex legacy of British colonialism as a starting point, I argued that the daily actions of imprisonment—filling out forms, checking boxes, completing risk assessments—come together to obscure the fundamentally political and historical nature of incarceration, as well as the lives of the people being incarcerated. Accordingly, I argued that a managerial approach to the prison creates widespread ‘political amnesia’. This chapter aims to recast that argument in slightly different terms. In particular, I am interested in the way that political amnesia effaces the human body from discussions of the penal institution. I am concerned, in other words, with how and why the material dimension of incarceration is so often overlooked when scholars and policymakers talk about prisons and punishment.

My interest in the material body springs from Elaine Scarry’s work in *The Body in Pain* (1985). In the last quarter-century, Scarry’s text has become canonical in both literary and gender theory. Over the course of five challenging chapters, Scarry explores

how humans express and understand physical pain. A key part of her argument lies in the initial reading of two acts: torture and war. Scarry examines both behaviors, asking, as she puts it, how the ‘real pain’ involved in torture and war gets ‘converted...into the fiction of power’ (ibid.: 1). This question grounds a sharp reading of military (and other) euphemisms in the English language. How, Scarry wonders, does the act of waging war get translated into a disembodied language of ‘weapons’, ‘damage’, and ‘defense’ (ibid.: 65)? How do we lose sight of the fact that ‘the main purpose and outcome of war is injuring’ (ibid.: 63)? Scarry expounds upon this question in a chapter titled ‘The Structure of War’:

With the exception of periodic body counts or ‘kill ratios’, the intricacies and complications of the massive geographical interactions between two armies of opposing nations tend to be represented without frequent reference to the actual injuries occurring to the hundreds of thousands of soldiers involved: the movements and actions of the armies are emptied of human content and occur as a rarified choreography of disembodied events...The crossing of a river is not now an event enacted by many individuals—some of whom know how to swim and others of whom do not, some vulnerable to wet and cold and some relatively immune...—but is rather enacted by a single integrated creature who, if named, takes the name of a division or of the commander...If such descriptions were sustained over pages or even whole paragraphs, the text would become a mythology of giants lumbering across rivers and stalking through forests...[ibid: 70].

Scarry notes that this metaphorical, euphemistic rendering of war effaces the body from what is an essentially embodied exercise. As she points out, war is premised upon the vulnerability of the human (and most often working-class, male) body. That is to say, war depends on the very literal possibility of injuring particular people’s bodies. It is thus especially notable that discussions of war unfold in mythological terms, with little if any reference to the actual bodies at issue. As Scarry explains it, the mythologising of war ‘assists the disappearance of the human body from accounts of the very event that is

the most radically embodying event in which human beings ever collectively participate' (ibid: 71).

This argument is compelling on a number of levels, not least because Scarry's own writing is so rich. Perhaps her most notable contribution, though, is to point out the rather simple fact that wars are staked on 'actual (hence woundable) human tissue' (ibid.). At first this claim can seem almost redundant—of course wars involve bodies—and yet acknowledging this reality leads to Scarry's fresh insight into the relationship between power and rhetoric. One real merit of Scarry's writing, then, is that she identifies the body where it is so obvious as to have been overlooked.¹⁸⁶ Following Scarry's lead, scholars of the prison might make a similar observation about the body's role in the practice of incarceration (and in the case of this thesis, in the specific practice of incarcerating 'foreigners'). While policymakers and academics often speak of power and penalty in theoretical terms, we rarely reflect for more than a few lines on the fact that imprisonment is at its base the act of forcing certain people to live inside a metal cage.¹⁸⁷ Prison policies frame incarceration as a question of 'hubs' and 'spokes', 'risk levels' and 'speedy removal' (MoJ and UKBA 2009: 1). Academics write about 'the rise of risk' and 'cultures of control' (Garland 2001, 2003). These are interesting and important ways of thinking about imprisonment, but they do tend to eclipse a more

¹⁸⁶ Scarry uses almost exactly these terms to describe the process by which bodies are effaced from public discourse. In 'The Structure of War', she writes that the link between the bodies and the state 'can be overlooked by being too obvious' (1985:111). She notes, for example, that 'one's citizenship ordinarily entails physical *presence* within the boundaries of that country' (ibid.). That is one instance in which the connection between embodiment and power is 'so obvious' that it gets ignored. This chapter argues that imprisonment is another instance.

¹⁸⁷ Pat Carlen's critique of the resistance literature, in which she emphasises the harsh physical realities of imprisonment, provides an exception to this claim, as does Gresham Skyes' writing on 'the pains of imprisonment' (1958) and some of David Garland's early work on the prison (Carlen 1983, 2002a; Garland 1990b; See also Carlen and Worrall 2004). The body of work on mental health in the prison (and particularly in conditions of solitary confinement) also focuses on the physical effects of imprisonment (See, e.g., Borrill and Taylor 2009; Haney 2003; Liebling 1992). These are exceptions to a general claim about the tone of theoretical criminological writing and the relative dearth of research on the affective life of the prison.

material discussion of what goes on behind bars. That discussion is worth having, for the prison, like many other spaces, is intensely embodied.

Within the prison gates, meaning is expressed on and through the human (and in my research, the male) body. From the moment a person enters prison reception, his status as a prisoner is marked out on his physical self. Remand prisoners wear different clothing than sentenced offenders; prison staff members wear uniforms that mark out their position in the penal hierarchy; prisoners' limbs and orifices are prodded and searched for drugs by officers. Prisoners who are identified as foreigners—identified, often, by how they look and sound—can be physically moved into separate penal establishments and are then held in those separate spaces to demarcate their distinct role within the prison system.¹⁸⁸ These are all material acts made real on human bodies. On a more theoretical level, these people's bodies are also making possible the very idea of the criminal sanction—they are, when placed behind metal bars and barbed wires, giving form to the concept of punishment. To put it in the straightforward terms that Scarry adopts, the prison would not make any sense without the actual bodies held within it. These bodies go into the prison, reside there, and give it life.

Yet the discussion of prisons develops in largely metaphorical terms, particularly when it takes place in the popular press.¹⁸⁹ Newspaper reporters and policy writers speak of crime and punishment in tones that weave between hyperbolic and bureaucratic—we regularly read of 'crime waves' and 'national identity crises' in tabloid headlines, and then in policies find references to crime control as a problem of 'risk management' and 'service provision' (See, e.g., HMPS 2006, 2007a; MoJ and UKBA 2009). These rhetorical frames obscure the lived aspect of incarceration and

¹⁸⁸ Chapter five examines this identification process. Chapter three describes the creation of separate prisons for foreign nationals.

¹⁸⁹ For examples of this discourse in the popular press, see chapter three, which examines the coverage of the foreign national prisoner scandal of April 2006.

suggest that the actual practice of punishment lines up with the terms of our debates. But as I have shown throughout this thesis, the exchange between punishment practices and penal policies is rocky, inaccurate, and highly problematic. Many times, the people held behind bars fail to conform to the categories of penal policy. In some instances, a prisoner's physicality—the way he looks, how he talks, how he presents himself to prison staff—contrasts with the official picture of foreign nationality. In other instances, a prisoner's mere presence behind bars illustrates that citizenship and nationality are contested concepts. This is most obvious in the case of 'time-served' detainees, whose existence within the prison system demonstrates the limits, assumptions, and consequences of penal policies like hubs and spokes.

'Time-served' foreign national prisoners sit within prisons because they fail to fit any appropriate category of penal or migration policy. Some of these prisoners also remain in the penal institution due to sheer bureaucratic incompetence—because of delayed requests, under-staffing, or misplaced forms (Vine 2012). In both cases, these prisoners are the human aftermath of border control efforts and border-focused prison policies. Ex-prisoners detained within the prison are neither criminal prisoners nor are they simply detainees, for they are held within penal institutions under conditions nearly indistinguishable from criminal incarceration.¹⁹⁰ Of course, the parallels between criminal and immigration imprisonment do not make detainees into prisoners, nor do they necessarily make detention into a form of punishment. The question of what it means to punish is a difficult one. As I explained in chapter three, the conditions of imprisonment are not what qualify incarceration as punishment, at least not technically. Scholars like Lucia Zedner (2009) and David Cole (2003) argue that there are good

¹⁹⁰ See chapter three for a further discussion of the legal status of 'time-served' detainees and for a fuller consideration of the difference between penal institutions and immigration removal centres. As I note in that chapter, 'time-served' detainees are often transferred back and forth between the immigration removal estate and the penal estate, making the distinction between those two institutions even more conceptually hazy.

reasons to define punishment as a sanction that flows (only) from the criminal law (See also Ashworth 2006; Duff and Garland 1994; Harcourt 2007).¹⁹¹ In their view, detention is not a form of punishment; this is what makes it such a legally dubious practice (ibid.). On the other hand, immigration detention, particularly when it takes place inside the prison, seems and feels to many prisoners a good deal like punishment. It thus remains unclear whether detention can or should be called punishment.

What is clear is that ‘time-served’ prisoners cannot be described along the same terms as other prisoners—this is precisely why their experiences are so poignant. These prisoners literally, physically embody the ambiguity in discussions about punishment, citizenship, and nationality. They reside within the prison because penal and migration policies leave little room for the case of a man without a name, or with several names, or without a nationality. These men and women do not fit into the boxes on nationality questionnaires. Often, moreover, they purposefully refuse to comply with the boundaries set out in those questionnaires. As a result, every minute of their lives—waking up, eating, going to bed in a cell—illustrates that the policies we have enacted do not align with the world as it actually is.

Instead, those policies carve out the world as the British government wants it to be. The clash between that normative vision and the realities of globalised life results in hundreds of people sitting and waiting to be deported or, perhaps more likely, eventually released onto British soil.¹⁹² ‘Time-served’ detainees are, in this sense, a

¹⁹¹ See the conclusion to chapter three for a further discussion of this issue. In that conclusion, I explore the dangers of defining punishment as something that hurts, looks punitive, or ‘feels like’ punishment rather than as an outcome of the criminal law. Chief among these dangers, as Lucia Zedner (2009) has noted in conversations on this topic, is that punishment becomes an irretrievably vague concept rather than a way to distinguish between legitimate and illegitimate forms of detention.

¹⁹² The Vine Report (2012) describes some of the situations in which a foreign national prisoner would be released from the prison. That report cites a lack of identity documentation, prisoners’ appeals of their deportations on human rights grounds, and a lack of ‘accuracy’ in the referral process as three reasons why a foreign national would ultimately be released into Great Britain rather than deported from the UK (ibid.).

daily reminder that penal and border control policies have human consequences. They remind us, in person, that contested borders in the Western Sahara or the Gaza Strip and conflicts in Rwanda, Congo, Nigeria, or Sri Lanka have effects thousands of miles away—and moreover, that those effects take the form of real people living difficult lives in institutions that taxpayers build, fund, and govern. These ‘time-served’ people are what, following feminist philosopher Judith Butler, we might call the ‘bodily remainder’ of official decisions about how to punish and how to define the boundaries of the nation-state (1997b: 92).

The term ‘bodily remainder’ is worth examining in detail. On one hand, it is a reference to the fact that actual people get left behind when governments enact restrictive penal and migration policies. On the other hand, this term also implies a critique of the way scholars understand and study power within the penal institution. That critique springs from Judith Butler’s theoretical writing on subjectivity. In her fifth book, *The Psychic Life of Power*, Butler examines what she calls ‘the problem of bodies in Foucault’ (ibid.: 89). That problem is, essentially, that Foucault never clarifies the relationship between material bodies and his notion of discourse. Foucault argues in *Discipline and Punish* that the prisoner becomes an individuated subject through exposure to the disciplinary regimes of the penal institution (Foucault 1977; Butler 1997b: 84-85). Those regimes include, most notably, ‘inspection, confession, and the regularization and normalization of bodily movement and gesture’ (ibid.). Together, these daily behaviors constitute the ‘discursive matrix’ of the prison; when subjected to them, prisoners are formed as juridical selves (ibid.). Foucault argues, in other words, that prisoners become subjects by being subjected to the power relations of the prison.

Foucault is careful to note that this process plays out through the body (1977: 25). He pays much attention to the ‘methods of confinement and correction’ within the

penal institution and to how those methods involve the prisoner's actual, corporeal form (ibid.). But Foucault does not, as Butler points out, explain how that body can be at once the product of power and the preexisting, material canvas onto which power is written (Butler 1997b: 84). The problem, in short, is that Foucault needs the body to be both the expression of power and the site onto which power is expressed, or as he puts it, 'invested' (Foucault 1977). Butler articulates this dilemma:

Although Foucault wants on occasion to refute the possibility of a body which is not produced through power relations, sometimes his explanations require a body to maintain a materiality ontologically distinct from the power relations that take it as a site of investment'. [1997b: 90-91]

Foucault's stance on the material body thus remains ambiguous.¹⁹³ In light of Butler's critique, *Discipline and Punish* leaves scholars with a series of questions about how Foucault understands the body of the prisoner and the relationship between embodiment and subjectivity.

Butler attempts to answer those questions through what she describes as a 'psychoanalytic criticism of Foucault' (1997b.: 87). Drawing on the concept of performativity, Butler argues that the prisoner's subjectivity is produced by the body's 'sublimation' to the regulations of the penal institution (ibid.: 92).¹⁹⁴ She claims, in other words, that 'the prisoner' becomes a subject through his or her body's exposure to the routines of an incarceration regime. Wearing a uniform, walking in a line, waking to

¹⁹³ Foucault's account of embodiment becomes even more fraught when considered in the context of other works such as *The History of Sexuality* (1978). Butler contrasts Foucault's articulation of the body in *History of Sexuality* with his treatment of the body in *Discipline and Punish* (Butler 1997b; Foucault 1978, 1977). She notes that the *History of Sexuality* frames the body in more material terms; Foucault even suggests in that book that there is 'an "inside" to the body which exists before power's invasion' (Butler 1997b: 89; Foucault 1978). This incongruity between Foucault's two books further complicates any discussion about the degree to which he endorsed the existence of a material body separate from power relations.

¹⁹⁴ Chapter five introduces and explores the concept of performativity, which Butler developed in the 1990s. Butler's claims about the body's 'sublimation' to the penal regime build on that strand of her thought (1997b, 1999). Her claims also, of course, draw on a Freudian vocabulary of sublimation and consciousness. Butler (1997b) comments explicitly on Freud's influence on her theory.

a bell and writing a number after your name—this is what makes ‘the prisoner’ an intelligible category of being in Butler’s view. Without those actions, the prisoner, as a category of identity and as a subject, does not exist. Butler explains, ‘the subject appears at the expense of the body... The subject not only takes the place of the body but acts as the soul which frames and forms the body in captivity’ (ibid.: 91-92). The prisoner’s material body is thus ‘subordinated and to some extent destroyed as the dissociated self and the identity of the prisoner emerges (ibid.).

At first glance, Butler can seem more focused on the epistemological conditions for subjectivity than on the actual bodies of people in captivity. But her writing ultimately brings us to those people and to their experiences, for Butler’s strongest claim is her most straightforward one: the power of the prison operates through the physical body. In the end, Butler re-reads Foucault’s writing in *Discipline and Punish* (1977) with a focus on what exactly happens to the bodies that get placed in incarceration regimes. She argues that the power relations of the prison destroy and erase the material body, and in the process, create the individuated subject. This re-reading of Foucault leads Butler to ask: does any part of the material body remain? ‘If the body is destroyed as the...self emerges...then is there some part of the body which remains unsublimated?’ (ibid.: 92). The answer to this question is yes, some part of the body survives, and that part is what Butler calls ‘the bodily remainder’ (ibid.). She describes this ‘remainder’:

The bodily remainder survives for such a subject in the mode of already, if not always, having been destroyed, in a kind of constitutive loss. The body is not a site on which a construction takes place; it is a destruction on the occasion of which a subject is formed... The body is now to be understood as that which not only constitutes the subject in its dissociated and sublimated state, but also exceeds or resists any effort at sublimation...[ibid.]

Butler writes in a characteristically philosophical tone here, making an argument that is at its base about the ontological break between mind and body. This discussion can seem disconnected from the questions that shape prison studies, particularly when cast in Butler's dense terms. Her point, though, is relevant to a critique of power. Butler's argument is essentially that the process of constructing penal subjects is incomplete and material. This process, which renders the prisoner a subject of power, leaves in its wake a corporeal body *and that body reminds us that the prisoner is made by prison practices*. The corporeal body thus works as a constant reminder that power relations produce the very idea of the prisoner. Both consciously and unconsciously, the body bears witness to the construction of the self.¹⁹⁵

Butler's work on 'the bodily remainder' can be developed into a critique of imprisonment. If the body is a living reminder that power is productive, then the body is also a starting point for thinking about the many constructions that take place within the prison—the construction of nationality and foreignness, for instance, or the construction of citizenship. The prisoner's body illustrates the production of identity categories like 'British citizen' and 'sentenced prisoner'; it literally bears the imprint of these ideas. At the same time, the bodies that remain within the prison after the passage of penal policies also remind us that penal power is fundamentally unstable. The fact that bodies remain can thus do real critical work—it can help scholars to explore the way that power functions and falters within the penal institution. The body can be a starting point for critical questions about how penal power works and fails to confine its subjects.

The question is how such a critical examination of power might begin. Initially, it seems like quite a leap from Judith Butler's theoretical claims about 'the bodily remainder' to a concrete account of power and subjectivity in the prison. How does

¹⁹⁵ I consider questions about agency and consciousness in relation to 'the bodily remainder' later in the chapter.

Butler's writing relate to the everyday practices of imprisonment in the UK? What would it mean to study 'the bodily remainder' behind bars, or specifically, under a penal policy like hubs and spokes? Such a study would begin from a focus on the affective and emotional experiences of imprisonment. Judith Butler's writing links philosophical concerns about subjectivity to the material body, and through that body, to the affective dimension of incarceration. There is, in other words, an implicit connection between bodies and feelings in Butler's work.¹⁹⁶

The late literary theorist Eve Sedgwick, an interlocutor of Butler's, made this connection explicit (2004).¹⁹⁷ In her last book, *Touching Feeling*, Sedgwick argued that bodies and emotions are always interrelated; as she puts it, 'a particular intimacy seems to subsist between textures and emotions...even to talk about affect virtually amounts to cutaneous contact' (ibid.: 17). Theorists like Sedgwick and Butler have thus argued that thinking critically about the material body involves asking phenomenological questions about emotion and sentiment (ibid.). These scholars claim that affect and embodiment are always related. This claim is worth exploring in more detail as criminologists consider what it means to study the 'interior life of the prison' or to critique state power (Crewe 2009; Liebling 2004). In practice, examining the 'bodily remainder' of contemporary penal policies would mean asking questions about emotion and materiality—about the sentiments that shape prison life, yet often go unmentioned in critical prison scholarship. Those questions reveal a penal institution structured on feelings of hope, homelessness, and fear.

¹⁹⁶ This connection is particularly clear in *Bodies that Matter* (Butler 1993) and *Precarious Life* (Butler 2004a), though it is implied in *The Psychic Life of Power* (Butler 1997b) as well.

¹⁹⁷ Sedgwick's claims about affect and performativity are an explicit response to Judith Butler's work. In the introduction to *Touching Feeling*, Sedgwick lists *Gender Trouble* as one of the four 'difficult texts' with which her writing engages (Butler 1999; Sedgwick 2004: 2).

‘Body Language’

Prisoners spoke about the emotional, affective aspects of incarceration in nearly all of my interviews. These conversations often turned to the way that it feels to be confined and to be defined as a foreign national. Many prisoners told me that imprisonment changed the way they experienced the world, that living in the prison altered how they felt when they woke up each morning and went to bed each night. In some cases, prisoners also said that incarceration had eroded their senses of self and their beliefs about their own national, ethnic, and racial identities. These comments suggest that the power of the prison is exercised through feeling, and most importantly, through the sometimes radical rerouting of prisoners’ feeling about themselves.¹⁹⁸

The relationship between affect and power was clearest in my interviews with prisoners whose feelings about themselves had changed as a result of imprisonment. Many of the foreign nationals I met—or rather, the prisoners I encountered who had been identified by staff as ‘foreign’—said that confinement had affected their sense of who they were. I have introduced several of these prisoners already. In chapter four, for instance, I recounted the stories of Damian and George, both of whom felt differently about their national and cultural identities after being incarcerated.¹⁹⁹ As he explained it, Damian no longer felt British once he was placed in a cell: ‘It wasn’t until I got to prison that I realised I wasn’t British’. George, on the other hand, realised he was indeed ‘British now’ after looking at the other prisoners who identified as Ghanaian and feeling that he did not ‘fit in’ with them. Other prisoners I interviewed told me analogous

¹⁹⁸ This, of course, is Michel Foucault’s argument in *Discipline and Punish* (1977). Foucault claimed that the prison’s most profound effects were realised in prisoners’ senses of themselves, and specifically, in their adoption and internalisation of the regulations of the prison regime (*ibid.*). While I am more concerned than Foucault was (or at least appeared to be) with the degree to which these processes are material and embodied, my line of thought develops directly from his claims.

¹⁹⁹ See pages 161, 163.

stories. Gus reported that ‘being English... you can just feel it, hear it’. Deno, who had been imprisoned two months past the end of his criminal term when I met him, said to me:

Me not feel like a British person, understand? Everyday me wake up and write letters. Sometimes me smoke. Right now depression tablets. So much stress upon me head.

Thomas, another ex-prisoner, also ‘felt’ like he did not belong. ‘Would you say you’re British?’ I asked him. ‘I understand them more’, he replied, ‘but I don’t feel British. I could never feel British in a place like this’.

These testimonies are similar to many of the others I have presented in the thesis, but in the context of this chapter we can begin to see their connection to the material body. Deno, who believed he had a claim to British citizenship as the husband of a British citizen, did not ‘feel British’ because he woke up each day within a cell and wrote letters to a family from whom he was physically separated. These physical acts—separation, letter-writing, sleeping in a cell—encouraged Deno to feel ‘like a prisoner’, and moreover, like a ‘foreigner’ in a country where he once believed he belonged. Deno’s exposure to the material realities of the incarceration regime thus taught him a lesson about himself and about the force of the law. To return to Butler’s conceptual schema, Deno’s embodied performances of life in the prison constituted his subjectivity. They made him into a ‘foreign national prisoner’.

Seemingly small material acts like placing ‘depression tablets’ in your mouth thus have real epistemological effects—as Butler argues, these acts establish the conditions for subjectivity in a prison regime (1997b). Every day, Deno felt and treated a depression that sprung from (or at least was exacerbated by) his status as an imprisoned ‘deportee’. In this context, taking depression medication was not only a

routine morning event for Deno. It was also an act that reinforced his sense that the boundaries of the nation-state were real, and that he did not belong within them. The corporeal experience of imprisonment, with all its pills and pains and frustrations, is what made the concept of citizenship meaningful for Deno. The materiality of imprisonment informed his sense of self and shaped his belief that the nation-state was a concrete and powerful thing.

The material dimension of incarceration was significant for other prisoners I interviewed as well. A man named Victor, for instance, said that ‘handcuffs make me feel like I am a terrorist or a suicide bomber’. A prisoner named Roland told me, ‘I’m not a criminal. Of course you feel like one here. We hang together, do everything together’. An ex-prisoner named Patrick, who I interviewed several times, also focused on the emotional shifts prompted by incarceration. In our first interview, Patrick told me that he had viewed himself as a ‘free British person’ before his exposure to the penal institution. Once he was living in a cell, on the other hand, Patrick began to see himself as a prisoner and as a perpetual ‘foreigner’ who belonged neither in the UK nor in his birth country. ‘In here I am frustrated’, Patrick said. ‘I am scared about the prospect of going [to the Congo]. It’s like dropping me on mars or the moon’. In our final interview, Patrick described his imprisonment as a war of attrition. ‘They try to break you down’, he told me. ‘I’m in a psychological war with the Home Office’. After four years of post-sentence detention, Patrick was ultimately released into the UK. Damien’s narrative had a different ending—he was deported to Jamaica—but he described his imprisonment in similar terms. Like Patrick, Damien felt that incarceration was at its base a form of emotional ‘warfare’. When we first met, Damien had swallowed a razor to protest his

post-sentence detention.²⁰⁰ This incident had left Damien's stomach wounded, but he still wanted to appeal his deportation. 'Physically I am broken', he told me, 'mentally I am not'.

Such accounts hint at the extreme emotional pressures of prison life, particularly for foreign nationals facing deportation. These testimonies also demonstrate the importance of the prison's lived dimension. The stresses of incarceration emerge not only from the psychological feeling of being classified as a 'criminal' or being sentenced to state punishment, but also from the embodied experience of being behind bars—from the literal feeling of a cell or from the shame of seeing your child in a visiting room. 'I'm too embarrassed to have my son visit me in here', one man told me. 'That's my punishment being in prison. The best thing about my life became the worst'. Another prisoner, Noishime, said that the materiality of being in a cell brought on a depression that he constantly had to 'keep fighting'. Noishime reported that he had to leave his prison cell in order to stay sane:

I'm not a citizen of any country...I'm blaming the system big time. All I need was...by the end of the day you end up with depression...If you stay in your cell, everything comes back. Stress, depression, your whole life starts coming in, you start getting more depressed.

For Noishime, the physical confines of the prison cell exacted a psychological toll. Thomas felt the same way. He explained that he could not emotionally identify with Britishness and British culture when he lived out each day in a nondescript beige room with a toilet in the corner. As he put it, 'I could never feel British in a place like this'.

These testimonies capture the emotional effects of incarceration. They also echo existing criminological work on the 'pains of imprisonment' (Sykes 1958). For at least

²⁰⁰ Chapter four describes this incident in more detail. In that chapter, I also explore whether Damien's decision to put a razor in his mouth should be understood as a form of self-harm, as an act of protest, or as something else altogether.

half a century, scholars have documented the psychological and emotional consequences of incarceration (ibid.; See also Cohen and Taylor 1974; Flanagan 1995; Greer 2002; Liebling 1992; Liebling and Maruna 1999).²⁰¹ Criminologists like Alison Liebling (1992), Stan Cohen, and Laurie Taylor (Cohen and Taylor 1972) have demonstrated that being held inside a prison has a substantive, often deteriorating effect on prisoners' mental health. In a slightly different vein, Michel Foucault argued, as I described earlier, that the material realities of incarceration produce the prisoner's subjectivity and the very idea of 'the prisoner' (1977). There is a longstanding and diverse line of thought about the prison's effects on a person's sense of him or herself.

My research brings that work into conversation with questions about national identity. In the contemporary British prison, it seems that the embodied experience of incarceration is affecting prisoners' senses of citizenship and national belonging as much as it is affecting their beliefs about crime and criminality. The prisoners I met did not only feel 'like criminals' because they lived in cells; they also felt *foreign* as a result of their imprisonment. Often, prisoners felt this way because new penal practices, such as dividing up citizens and 'foreigners' at reception, had encouraged a sense that they did not belong within the country. In some cases, moreover, prisoners 'felt foreign' because the prison was itself a foreign space. Patrick, for example, told me that 'for somebody who's never been to prison before it's a foreign country. It can be very intimidating'. In this testimony, the prison promotes a sense of alienation by being a literally alien place. Over time, the embodied feeling of such alien confines is written onto the prisoner's body, and through it, into his understanding of himself.

The prison is thus a place where the look and feel of state power gets translated into ideas about identity. This translation process occurs on a small scale, in acts like

²⁰¹ Elaine Crawley (2004) has also written about the emotional consequences of incarceration for prison officers, who are a much less frequently studied group than prisoners.

raising your hand when an officer asks which prisoners need to see immigration solicitors, speaking to a translator, or dialing the telephone to call family members in Nigeria. Taken together, such acts constitute a form of language—a body language—that makes the person within the prison into a ‘foreign national prisoner’. This embodied form of communication was familiar to many prisoners, who explained to me that reading people’s bodies is a key way to survive behind bars. Leon, for instance, described how you make friends in prison:

You read faces. It’s about body language, facial expressions, how he talks and presents himself. Sometimes you don’t even need to have a conversation with a guy to know.

In a similar vein, Noishime told me that he read the officers’ body language to determine if they were racist:

You can tell...the guards give you the cold shoulder if you ask for anything. You see it in their eyes.

For another man I met, who asked to be called S, body language helped to determine whether it was safe to speak to new prisoners. He explained,

I’m good at judging by looking at other people’s faces. The first and last impression is just a face. Your face tells a lot of stories. It’s like love at first sight.

The idea of love inside the prison came up again in another interview several weeks later. This time, it was a description of relations between prisoners offered by a man who chose to remain nameless:

Criminals got a sense of love for each other. Criminals is one family, you know. Locked in the same cells, you develop what you call love.

These claims underscore the affective dimension of prison life. This prisoner said that being ‘locked in cells’ created a feeling of love between prisoners; S compared ‘reading’ other prisoners’ faces to falling in love at first sight. Both of these analogies suggest that the hierarchies and power structures of the prison play out in the register of sentiment—and often, in sentiments like love and hope as well as fear and frustration. These feelings inform prisoners’ identities and emerge from the physicality of prison life. Prisoner’s testimonies demonstrate that physical cues, as well as embodied participation in the ‘rules and procedures’ of the prison, are crucial modes of communication within the penal institution. These are the modes by which penal power comes to be real and concrete.²⁰²

It makes sense, then, that changes to penal policy have their most significant effects on the way that prisoners feel. One important and relatively overlooked result of the hubs and spokes guidelines (and more generally, the institutional shift in attitude toward foreign nationals within the penal estate) is that some prisoners feel more alone, more homeless, and less welcome in Britain than they did before the new policy took effect. Whether or not prisoners are ultimately deported, being identified as ‘foreign’ can shake a person’s sense of geographic and cultural belonging. This sentiment surfaced when I asked prisoners where ‘home’ was for each of them. While many people said ‘Birmingham’, ‘London’, or ‘Jamaica’, some prisoners told me that the concept of home no longer made sense now that they had been identified as ‘foreigners’ and lived behind bars. Deno, for instance, paused for a long time after I asked him

²⁰² Physical cues are also, of course, key forms of communication in ethnography. My interviews often hinged on prisoners’ physical responses to my questions—on whether they looked up at me when I asked where they were from or looked down and away from my face. In this sense, the way I felt and the way prisoners felt in interviews mattered a great deal to what being imprisoned actually means. It also mattered that I looked a certain way—short, female and white, to be specific—and that my physical presentation stood out against the people I was interviewing. My race and gender were relevant to the material experience of ‘doing ethnography’. See chapter two for a more detailed discussion of the limitations (and ethical implications) of ethnography. The third section of this chapter explores the links between embodiment and the politics of race and gender.

‘where is home?’ Eventually he shook his head, as if the question had no answer. ‘Right now the only thing I’m interested in is my baby’, he replied. A prisoner named Sam also said that he had no idea where he was at home. ‘I don’t know, to be honest’, Sam told me. ‘What I know is where my family is and they’re here. This is the only place I’d fight to stay’.

Sam’s response brings us back to Elaine Scarry’s (1985) claims about war and to the theme of embodiment. When pushed to identify his home, Sam turned to acts of his body—to fighting, and to family—as the measure of belonging. These are notably gendered acts: Sam invoked ideas about his role as a father and as a (potential) fighter to explain where he felt at home. When his identity as a British person was displaced, Sam thus drew on his identity as a man to make sense of his role in the world. The link between gender and nationality was particularly clear in this moment. As I argued in chapter five, aspects of identity such as gender, nationality, sexuality and race are not distinct, but are rather interrelated and ‘intersectional’ (Crenshaw 1993). As a result, shifts in one experience of identity have effects on other aspects of a prisoner’s sense of self—here, for example, when the experience of imprisonment challenged Sam’s national identity, masculinity and fatherhood became resources for him. This exchange registered for Sam as a question about his gender—that is, about what kind of body he had, and what was happening to it in the prison.

Another prisoner I interviewed, Victor, described the notion of home in equally embodied terms. In our first interview, I asked Victor ‘what is home?’, intending to find out whether he considered Britain (or another nation) the place where he belonged. Victor’s response proved more interesting than my question, though, for he replied, ‘my mouth cannot describe it’. At this moment, the liminality of incarceration became a literal, physical barrier to speech. The pain of imprisonment registered on Victor’s body

as a failure to capture what he felt, or rather, could not feel—the feeling of home.²⁰³ I responded to Victor by asking him *where* his home was. He replied, ‘How do you define home? It’s where you feel security. When someone chases you outside, home is where you run’. These claims illustrate the degree to which the prison operates through ‘structures of feeling’, by changing prisoners’ sentiments and perceptions of the world around them (Williams 1978).²⁰⁴

The affective element of incarceration also became clear in my interviews with ex-prisoner detainees, who told me that post-sentence detention had altered their sense of time. Thomas offered one of the most poignant narratives of this perceptual shift. Born in Jamaica, Thomas migrated to London in his early twenties and had three British children over the course of thirteen years. He was incarcerated in 2003. When I met him in 2010, Thomas had been imprisoned four months past the conclusion of his criminal sentence. He had signed a deportation order to return to Jamaica and he said that he wanted to go home. The problem was that Thomas had sent his passport to the Border Agency, which had lost it, and the Jamaican embassy would not accept his return without official travel documents.²⁰⁵ So Thomas was stuck within the prison, indefinitely, waiting for his case to unfold. This situation was incredibly frustrating for him. Thomas recited from memory the message that plays on the Jamaican embassy phone line and repeatedly pulled out a photocopy of his Jamaican birth certificate.

Thomas had been, he told me, a relatively calm prisoner during the ten years of his criminal sentence. But now he was anxious and angry. He explained:

²⁰³ Jean-François Lyotard (1981) calls the gap between feeling and speech ‘the differend’. For Lyotard, this term describes that which cannot be articulated in speech, that which is only ever realised on and in the body. This phrase has been used to analyse survivor accounts of the Holocaust (Assmann 2006; Frisch 1990; Hirsch and Spitzer 2010). In this context, it is a helpful way to understand Victor’s incapacity to describe the feeling of home.

²⁰⁴ See note 177 on use of the term ‘structures of feeling’ (Williams 1978).

²⁰⁵ UKBA officials told me that lack of official identity documentation is a common barrier to a prisoners’ deportation. The Vine Report (2012) verifies this claim.

I think they find me easy to deal with so I get put to the side. So I'm planning to go to the block on Monday. I'll refuse to bang up, maybe see the governor, protest. When I was doing my time I was relaxed. I have to be in their face every day now because I have to go. I'm that guy now.

Thomas said that this change in his attitude resulted from the difference in how it felt to serve time as a prisoner and as a detainee. 'Ten years is a long time', I said, referring to his criminal sentence. He replied:

Time stop, innit. Six and half years feels like one. When I came here in February, I thought I'd be leaving in two weeks...It's harder without a date. I know I'm not going this month, so you put it on the next month...When I'm doing my time, I'm fine. But my time finished and I need to go.

Several of the other 'time-served' prisoners I spoke to concurred with Thomas' claim that it was harder to serve indefinite time than any concrete prison term. Patrick, who had been detained on and off for nearly four years post-sentence when I first interviewed him, told me 'All I can do is just sit here. If I do anything else, I'll go mad'. He continued:

In prison, you have something to look forward to. You have a date. It's harder now. You see people born in England going home and you're still here. You think to yourself, hold on, my crime was eight years ago. I've done the full sentence. I'm doing extra time, for free.

Perhaps the frustration of doing 'extra time' is why so many 'time-served' prisoners end up being what prison staff called 'difficult' and 'challenging' members of the prison population. These prisoners have a distinct experience of incarceration; they are not counting down to a release date, but are rather waiting in limbo, watching each day pass without any sense of when their imprisonment might end. For people like Thomas, this experience creates hope for the future and then dashes that hope each day—so 'I just put it on the next month', he concluded. This cycle of hope and disappointment continues

over and over again. As a result, imprisonment becomes a prospective and demoralising exercise.²⁰⁶ Deno explained this process: ‘If them know they was not gonna take me out of the prison, them supposed to notify me. They build up me hope and then at reception them mentally play with my mind’.

The stress of this experience is realised on and in the corporeal body. Many of the ‘time-served’ prisoners I met reported that they were depressed, lethargic and unhappy. Several had attempted suicide. Noishime, a Rwandan migrant, told me that he had tried to kill himself in 2004:

I had just had enough. After my friend was taken [and deported from an IRC] they said they were gonna force me to that. I said “what’s the point?”. But they don’t do anything when you try to commit suicide. Just put it in your record. I’m not gonna tell them. I have something to live for now, my kids.

Another foreign national prisoner I interviewed, who asked to remain anonymous, explained that threatening suicide was a way for him to get the attention of prison staff:

Me tell them I’m gonna kill myself if them not move me from the prison and carry me to immigration centre...me not gonna kill myself...I need the attention. I will never kill myself. The bible say you not supposed to kill yourself...So if them find me dead, it’s the system that killed me. The prisoners and the authorities. It’s them who made me get dead. Me not want to commit myself further, but they push me, push me, because they want to me to get mad and write a bad report.

This prisoner represented suicide both as a form of communication to prison authorities and, alternatively, as the culmination of the stresses of prison life. In both iterations, his body expressed the psychological effects of incarceration. In another interview, a

²⁰⁶ Many scholars have noted the importance of time (and specifically the malleable perception of time) in the penal institution. More than three decades ago, Foucault (1977) mined records on prisoners’ daily schedules to critique the structure of penal discipline. More recently, Greg Moses has written about ‘lived time’ and the need to view ‘time as experience’ inside the prison (2007: 71-76). Criminologists have also commented on the shift toward prospective and preventive—that is, forward-looking—modes of incarceration in recent years (Ashworth 2005; Zedner 2009). Juliet Stumpf (2011) writes about this prospective shift in the particular context of immigration law.

prisoner broke down in silent sobs when I asked him how he coped with life behind bars. We sat in the interview room together for half a minute until I broke the silence: ‘I’m sorry’, I told him. ‘Thank you’, he said. This was a difficult shared moment, a window into the intensity of prison life. I encountered that intensity again when another prisoner told me that he had sewn his mouth shut—literally silenced himself—using what a prison officer called a ‘housewife kit’.²⁰⁷

Thomas had not self-harmed in these ways, but the anxiety of indefinite imprisonment surfaced on his body nonetheless. Over the course of our two-hour interview, Thomas seemed relatively relaxed, a fact which I mentioned to him. ‘What can you do?’ he said. ‘The desire for revenge eats at you, makes you want to do something stupid’. Eventually, our conversation turned to standard ethnographic questions about the penal institution: what is the food like? How many people on your wing? How is the dental care? This last question prompted an unexpected reply. Thomas told me that the dentist was actually very important to him because he had been grinding his teeth in his sleep:

Because I am suffering in silence I grind my teeth. Down to the nerve. I asked the dentist to just pull my teeth because I couldn’t eat. I need medicine to kill the nerves.

Thomas’ embodied experience of imprisonment bears witness to the full affective force of penal power. As he slept, Thomas’ jaw registered the pain of detention without a clear end.

These accounts are worth sharing simply to give those outside prison walls a glimpse of what it is like to be inside a penal institution. They also bring us closer to a

²⁰⁷ This reference to prison sewing kits is notably gendered, which makes the fact that prisoners use them to self-harm (and to protest their incarceration) all the more complex. The term ‘housewife kits’ connects prisoners’ protests against deportation and incarceration to concerns about masculinity and normative gender roles. I explore those concerns more in the third section of this chapter. The conclusion to chapter five also examines the role that gender plays in the imprisonment of foreign nationals.

concrete analysis of the ‘bodily remainder’ of penal practices (Butler 1997b). The emotional and physical toll of incarceration does not always come across in discussions about penal policy, but it is where the life of the prison lies. For those inside it, the penal institution is about dental care, living conditions, and the feeling of seeing your family after a long time apart. This embodied dimension of prison life is important to understanding the practice of imprisonment—indeed, it is just as important as theoretical debates about the meaning of penality. More to the point, the affective dimension of the prison is important *to* theoretical debates about penality, for it is in prisoners’ material experiences that the state becomes real. The power of the nation-state is affected on actual people; it is felt; it is a phenomenon that makes sense because bodies respond to it. Thomas’ teeth, Damian’s stomach, the anonymous prisoners’ tears—this ‘bodily remainder’ bears the mark of, and makes possible, the construction of the state (Butler 1997b: 92). The ‘bodily remainder’ also links the state to the concept of the nation, for it is people like ‘time-served’ prisoners who demonstrate that the state’s boundaries align with the nation. There is, in other words, a connection between the body, the prison, and the nation-state. Understanding that connection is key to critiquing how power actually works behind bars.

The body also points the way toward a critical account of resistance within the prison. For if prisoners’ corporeal forms are what give the nation-state life, then their bodies are also a means to resist the power of the state and the idea of the nation. I described this resistance in slightly different terms earlier in the chapter when I first introduced Butler’s claims about ‘the bodily remainder’ (ibid.). There, I mentioned that ‘time-served’ prisoners’ bodies physically demonstrate the limits of citizenship. Here,

scholars could read that demonstration as an act of resistance.²⁰⁸ Prisoners who can be neither deported nor released are resisting the assumptions upon which the penal institution depends—resisting, moreover, with the very bodies through which penal power operates. These prisoners are, simply by being there, contesting the notion of the nation-state. They are not the only ones doing this, either. There are many resistant bodies behind bars: the bodies of foreign national prisoners who attempt suicide, for instance; and the corpses whose attempts do not fail.²⁰⁹ Prisoners who sew their mouths shut, prisoners who pretend to be British by taking on accents, and prisoners who speak in ‘the Queen’s English’ at reception—these are all instances of protest against the state’s claim that particular bodies, and only those bodies, belong on British soil.²¹⁰

My argument, in sum, is that prisoners’ corporeality contests the confines of citizenship and nationality. Prisoners’ bodies do this by failing to conform to penal guidelines—by ending up within the prison and staying there past the end of their criminal sentences. Bodies also protest in a more positive sense, by demonstrating that we are all, despite our differences, fundamentally the same. The prisoners I met made this point clear to me. In several interviews, prisoners insisted that border controls and prison hierarchies were irrational because we are all ultimately humans with material bodies. Leon told me:

²⁰⁸ This could be the beginning of a much longer discussion about resistance, and in particular, about the degree to which embodied resistance can be understood as the act of an agent. As Butler points out in her own work, recognising resistance as a bodily phenomenon is one way to make room for agency within Foucault’s writing on the prison, which otherwise seems to foreclose the possibility of the prisoner acting as anything other than a product of power relations (Butler 1997b: 89-93; Foucault 1977). In this sense, Butler’s claims about the body are part of a search for agency in *Discipline and Punish* (1977).

²⁰⁹ Borrill and Taylor (2009) have published research on suicide and self-harm rates in the foreign national prisoner population.

²¹⁰ See chapter five for these stories about prisoners pretending to be British and taking on accents in order to ‘pass’ as British citizens at reception into the penal estate.

At the end of the day I'd socialise with anyone... We eat and drink from the same cup. We both have fingertips, mouth, eyes, nose. So what's the difference between me and you?

Pointing to parts of his own body, Leon argued that the differences between people—the differences upon which national boundaries and border controls depend—are constructed and arbitrary. He claimed, in other words, that the body exceeds the limits of the nation-state.

Charles and Gus made related arguments when we met. Gus told me that border control would ultimately fail, as would restrictive drug policies, because both forms of state power try to constrain bodies that cannot be controlled. He explained:

Sooner or later, race and borders won't matter, like Martin Luther says. Drug charges in prison... I think the solution is to legalise everything. Then you have to get rid of the borders. They can police the borders, but they can't police your body.

In this testimony, Gus focused on the ways in which bodies resist the state's efforts at social control. Charles, in contrast, emphasised that bodies are the basis for a shared humanity that transcends the nation-state. 'For everything you find a word for in the dictionary, that thing must have happened', Charles said.

That's my key philosophy: if you're feeling hungry it might be different in two different people. But crises, situations of pain? Those you feel the same.

Charles' testimony brings us quite directly back to Elaine Scarry's work on bodies in pain (1985). Like Scarry, Charles argued that the capacity to feel pain is a defining feature of human experience. He tapped into that capacity in our interview, asking how we can be individuated from one another if we can all feel the same things. This question is one that scholars have asked in different terms—Judith Butler, for instance,

asks it explicitly in her writing on collective grief (Butler 2004a).²¹¹ For Charles, posing such questions was a way to understand himself and his identity outside of the categories that the prison had written onto him. Acknowledging the shared capacity for pain was Charles' means to resisting the power relations of the prison. In this sense, Charles' body did not only contest the categories of nationality and citizenship. It also pointed the way toward a vision of the world that does not divide us into citizens and foreigners.

These claims about humanity and resistance might be explored in much more detail. There is a long, rich history of writing about resistance within the penal institution (See, e.g., Adams 1992; Bosworth 1999; Carrabine and Bosworth 2001; Carrabine 2004; Liebling 1992; Liebling and Maruna 2005). As scholars of resistance would remind us, it is not straightforward to claim that foreign national prisoners' bodies are resisting state power (ibid.). Such a claim raises questions about agency, about the connection between mind and body and the degree to which acts of resistance have to be intentional. These are open questions and not ones that I hope to answer here. Rather, my point is that focusing on prisoners' material bodies and material experiences could lead to compelling and fresh work on the flow of power behind bars. Can we call these 'resistant bodies'? Can the material body itself contest and rewrite power? Where is the prisoner's self in relation to this kind of resistance? These questions arise when scholars begin from an emphasis on the material life of the prison. Starting from the body is, in this sense, an effort to challenge existing accounts of agency, structure, and

²¹¹ Butler's (2004a) book *Prekarious Life: The Powers of Mourning and Violence* re-examines her longstanding concerns about subjectivity in the aftermath and context of the September 11, 2001 attacks on the World Trade Center. Butler explores how the acts of public mourning and grief that ensued from that moment of extreme violence might beget not more violence, but rather a recognition of our shared humanity—or as she puts it, our capacity to be 'given over' to one another (ibid.). Butler argues the capacity to feel one another's pain can ground an embodied ethics of non-violence.

penal power. It is also an attempt to bring the politics of imprisonment to the centre of criminological analysis.

Foreign Bodies

Asking questions about the materiality of imprisonment is an explicitly political decision, for bodies carry with them the mark of power relations. Bodies come in shapes and sizes, colours, styles, sexualities, ethnicities, and genders. Bodies do not look the same; they look different, and these differences often become the basis for social inequalities. Take, for instance, the histories of racism, sexism, and xenophobia in Great Britain (or, for that matter, anywhere else).²¹² Recall the effort to ‘find foreigners’ that I recounted in chapter five. These processes all involve the corporeal body, and moreover, revolve around the politics of identifying and classifying particular bodies in specific ways. Yet discussions of the prison—and up to this point my own comments on incarcerated bodies—often proceed as if ‘the bodies’ behind bars are indistinguishable from one another, or from the bodies outside the prison.

Judith Butler observes an analogous problem in philosophical writing (1993).

She explains:

Those trained in philosophy, always at some distance from corporeal matters...invariably miss the body, or worse, write against it. Sometimes they forget that ‘the’ body comes in genders. [ibid.: ix]

The same concern applies to accounts of the prison. When scholars write about ‘the interior life’ of the penal institution (Liebling 2004; See also Crewe 2009; Sparks 1994;

²¹² Chapters five and six examine the history of British racism and xenophobia in much more detail. For more on that history, see: Bowling 1998; Chater 2009; Hall *et al* 1978; Gilroy 1987; Killingray 2009; Panayi 2010; Taiwo 1999. Classic accounts of British sexism include works such as Mary Wollstonecraft’s *A Vindication of the Rights of Woman* (1996), Virginia Woolf’s *Three Guineas* (2006) and John Stuart Mill’s essay ‘The Subjection of Women’ (1999) (which he co-wrote with Harriet Taylor).

Sparks and Bottoms 1995), they (we) sometimes forget to ask: whose material experiences are we talking about here? Which bodies? What *kinds* of bodies? In my own research, the bodies behind bars are the bodies of foreign national prisoners. They are often black prisoners. They typically have accents and speak in English that sounds different than my own voice. These are male bodies; these are usually young bodies; these are bodies that exude what a staff person called ‘the tell-tale signs’ of nationality.²¹³ These are, in other words, foreign bodies. These bodies, not others but especially these, wind up behind bars facing deportation.

Questions about how particular bodies become ‘foreign’ under the law and in the penal institution bring prison scholars rather quickly to concerns about how the politics of race, gender, class, and nationality surface in prison life. These questions are inescapable if we take the material body seriously as the starting point for critical analysis of the penal institution. For within the prison, it is always and immediately clear that some kinds of bodies get treated differently than others. This fact was most evident to me during one visit to an immigration surgery in a Category A prison. During that visit, which lasted several hours, one of the prison staff members, a white woman, fainted and fell to the floor. Prison guards rushed to her side and administered first aid. After several minutes, she came to, stood up, and was escorted from the room to the infirmary. Shortly thereafter, the people who had seen her faint—that is, everyone except the prisoners in the surgery and several line officers—were led into the chapel for a discussion of what had happened. There, surrounded by pamphlets about Islam in a room centred around a crucifix, a prison manager explained to the group that it could be traumatic to watch someone faint and that we were all welcome and encouraged to speak to a counselor. This was a well-presented and professional suggestion, yet it

²¹³ See page 171.

seemed particularly ludicrous in contrast to the room we had just left. Across the hall, I had been speaking to foreign national prisoners about watching their families get burned alive, attempting suicide, and grinding their teeth to the gums. But it was this woman's fainting that registered as noteworthy in the context of the immigration surgery.

This episode raises urgent questions about why *some* experiences and *some* people matter more than others within the prison. How is it possible that this officer's fainting would prompt such a response while the narratives of 'foreign' prisoners' lives do not? How do we make sense of this contrast? How, moreover, do we understand the contrast between the acute feelings of pain that circulate within the prison and the 'dull compulsion' of prison life (Carrabine 2004: 38)? These questions surfaced again during a different visit I made to the same Category A prison. Typically, when I visited that prison, I proceeded through the front gate and through security as a 'legal visitor'—that is, in the same way a solicitor or a prison staff member would. This meant that I had a 'lighter' security check than a social visitor and that I stood in a separate (shorter) line to walk through the metal detectors (HMPS 2007c). This time, though, I was mistakenly grouped with the family members who waited outside each day to visit their partners, fathers, and brothers. I stood in line with those people and then, when I got to the front, was prompted by an officer to take off my cardigan, which I normally did not have to do. I walked through the metal detector wearing only a thin top, feeling exposed, and then stood on a box as prison staff member patted me down and looked inside my mouth and under my tongue.

None of this was unprofessional or atypical of a social visit. It was, however, unusual for me—and this, of course, was the real point. This experience, like the episode in which the officer fainted, illustrated that differences in class and power get expressed through the differential treatment of people's bodies, including my own.

Bodies, in other words, are the basis for very specific language of inequality. Again, Judith Butler has commented on these issues in a more strictly philosophical context. In the 1993 book *Bodies that Matter*, Butler wonders aloud why certain bodies (and only those bodies) get counted when we think about gender norms (1993: 16). Butler asks, for example, why transgender bodies are so rarely recognised as ‘bodies that matter’ to mainstream society (ibid.). She explains:

It will be as important to think about how and to what end bodies are constructed as it will be to think about how and to what end bodies are *not* constructed and, further, to ask after how bodies which fail to materialize provide the necessary ‘outside’, if not the necessary support, for the bodies which, in materializing the norm, qualify as bodies that matter. [1993: 16]

In this passage, Butler examines the fate of bodies that fail to conform to dominant gender norms (ibid.; See also Bosworth and Kaufman 2012). She argues that non-conforming bodies provide ‘the necessary outside’ against which societies determine who—that is, what kind of person—matters (Butler 1993: 16). Butler (2004) develops this line of thought in her later work on public mourning and grief. There, she asks whose lives we consider to be worth mourning and worth protecting under the law (ibid.).

Criminologists might ask a similar question about the practice of identifying and imprisoning foreign nationals. Whose lives count as foreign? How do those lives enable our own? What kinds of bodies are involved in determining the edges of the nation-state? These questions, which I have sought to explore in each of the last six chapters, are inextricably related to political concerns about race, gender, nationality, and class. My body—a white, female body with an American accent in a professional-looking black suit—was treated differently inside the prison than the bodies that were seen by prison staff as ‘really foreign’, or as one UKBA official put it, as ‘you know, *foreign*

national'. Only a very particular set of bodies get tracked and counted for prison statistics and deportation rates. The treatment of these people constitutes migration control and makes possible both political campaigns and my own visa.²¹⁴

As I have demonstrated throughout the chapter, the treatment of foreign nationals also generates feelings of hope, desperation and frustration. It is worth thinking about how such sentiments structure prison practices, and in the process, give life to the idea of state power. It is also worth reflecting on how certain kinds of people become expendable, and on how their sense of fear inside the prison quells our anxieties in the 'outside' world. The prisoners I met often had strong emotional reactions to incarceration. 'I cry, believe me, every night', one Romanian man said. When I asked if he was a British or a Nigerian national, another prisoner responded, 'That's one of the things I'm going through...not able to call anybody... Nevertheless, I know there's a purpose to everything. I believe...' His voiced trailed off. Then in a whisper, as he began to cry, he finished: 'I might not understand, but the future will tell'. Testimonies like these hint at the emotional depth of life behind bars. In doing so, they prompt criminologists to ask more about how power feels day-to-day and how the politics of feeling get forged in prison life.

Such questions about whose bodies and whose feelings are recognised in the prison (and under the law) will always come back to concerns about the politics of identity. For in order to ask why one person's fear of deportation is less noteworthy than another person's fear of crime, we have to ask who 'really matters' in the late modern nation-state (Butler 2004; Butler and Spivak 2007). That question, as critical theorists have argued, is about the legacies of class, race, and gender in Great Britain (ibid.). Concerns about the treatment of foreign national prisoners, or any prisoners for that

²¹⁴ Chapter two describes the political campaign that motivated the hubs and spokes policy in April 2006. That chapter also considers the broader political debates that surround foreign national prisoners.

matter, are at their base concerns about the social hierarchies of power in British life. Issues of identity—of sexuality and gender, race and class—are then not only relevant within the prison, or to particular people, or in specific studies of the penal institution. To the contrary, these topics shape the penal institution; they are the power relations from which the prison is constructed. Turning to imprisoned bodies, and to the histories of inequality that cling to those bodies in the social world, is thus one way to return politics to debates about imprisonment.

Conclusion: The Politics of Feeling

This chapter began from a distinction between the politics of governance and the politics of identity. The purpose of that distinction was not to suggest that the different modes of politics are fundamentally distinct—they are not—but rather to highlight that governance and identity are often studied as separate concepts, at least in the field of prison studies. In recent years, criminologists have advanced strong critiques of politics in the ‘classic’ sense of the term (Leftwich 2004). Scholars such as Ian Loader (2000, 2006, 2010, Loader and Sparks 2007), Jonathan Simon (2001), and Nicola Lacey (2008) have developed insightful arguments about the connection between political processes and the operation of criminal justice institutions (See also Barker 2006; Cavadino and Dignan 2006; Cohen 1996; Stenson and Sullivan 2001). These thinkers have contributed to a robust body of writing on the ‘governance of punishment’ in liberal democracies (Zimring and Johnson 2006: 266). They have asked compelling questions about how the organisation of government relates to penal excess and to punitive legislation in Britain, America, and beyond (ibid).

This enquiry has pushed the study of crime and politics in provocative directions. It has not, however, always been met with an equally dynamic exploration of the relationship between punishment and identity. While criminologists have explored particular aspects of identity, most notably race, scholars have spent less time than we could examining how normative beliefs about identity become structural principles of imprisonment.²¹⁵ With notable exceptions (Bosworth 1999; Bosworth and Flavin 2007; Carrabine and Bosworth 2001; Earle and Phillips 2009; Howe 1996), criminological scholarship has not, for the most part, focused on the way that ideas about gender, sexuality, class, race, and nationality shape prison life. The concept of ‘shaping’ or ‘structuring’ prison life is crucial in this context. These verbs aim to shift attention away from the representation of particular groups in the prison population and toward the way that beliefs about foreignness, masculinity, race, and sexuality inform and *affect* the entire prison experience. That is not to say that the actual numbers of people in prisons are irrelevant; they matter a good deal. But academics have addressed statistical trends in incarceration, particularly as those trends relate to race (See, e.g., Cheliotas and Liebling 2006; Genders and Player 1989; Mauer 1999; Tonry 1996).

In contrast, criminologists do not always ask how the belief that heterosexuality is ‘normal’ gets forged in and reified by the practice of imprisonment. We do not always think about how the concept of foreignness is made and racialised inside the penal institution. Moreover, scholars rarely explore the relationship between these processes or how, over time, they become powerful ‘structures of sentiment and ideology’ (Cuneen 2011: 251). Mainstream criminologists—that is, those scholars who do not

²¹⁵ For examples of the criminological account of race, see: Alfred 1992; Budd *et al* 1999; Edgar and Martin 2004; Gelsthorpe 2005; Gordon 1983; McDermott 1990; Wilson 2003. Chapter five presents a longer genealogy of the criminological treatment of race. That chapter considers the merits and limitations of existing scholarship on race and British racism. It also explores the claim that studies of identity and punishment are insufficiently ‘intersectional’—that is, overly focused on one particular aspect of identity rather than the connections between race, class, gender, and sexuality (Crenshaw 1993).

explicitly identify as critical race theorists or feminists—tend to treat gender as if it matters in women’s prisons, masculinity as a sub-topic of prison analysis, and race as a ‘theme’ that only applies when you are researching people of colour.²¹⁶ This approach suppresses the degree to which the politics of identity—and the politics of feeling—are infused in every aspect of imprisonment.

There is much more to say about how the politics of race, class, gender, and sexuality surface inside the prison, and about how these politics are realised in sentiment and lived experience. This chapter—and indeed, the thesis as a whole—has only touched the surface of these questions. Yet it is clear from even a brief survey of prisoners’ testimonies that the body is always at issue in debates about the prison, and that it is actual raced, gendered, classed, *feeling* bodies we are talking about when we ask who should get deported or what punishment really means. Prisoners’ claims about the experience of incarceration demonstrate that imprisonment is a deeply material practice and that penal power operates not only as rules and regulation, but also through the formation of emotions, affects, and ideologies. In the end, the testimonies that emerge from inside the penal institution suggest that academics concerned with the stratifying effects of incarceration ought to be thinking more about how state power feels in practice. This line of thought will lead to a more politically explicit criminology. It might also push criminologists to rethink the purpose of our work.

²¹⁶ Mary Bosworth and I have explored this trend in a separate article on the treatment of gender issues in criminology (Bosworth and Kaufman 2012).

Conclusion: Start from the Body

It is difficult to conclude a study of imprisonment, for prisoners' narratives do not end when a researcher leaves the prison. Many of the prisoners I met continue to live behind bars. Some of them have been transferred to immigration 'removal' centres or deported from the UK. The truth, and the real point, is that I do not know what happened to most of the people who shared their lives with me. Prison research is ephemeral; it is transient; it is often truncated. At the end of a research project, the defining lesson is always that I have the freedom to walk away from these issues, to leave them behind and write about them rather than living them out each day. I would like to conclude, then, with a few thoughts on how writing can become a form of activism.

This study began from a sense that much of the best and most provocative thinking on what it means to put people behind bars gets articulated in mythological terms. The sharpest critical writing on the prison has a decidedly metaphorical bent. Accounts of 'the carceral state' (Sim 2009; Simon 2007; Wacquant 2009), the 'punitive turn' (O'Malley 1999), the 'culture of control' (Garland 2001), and for that matter accounts of 'postcolonial melancholia' (Gilroy 2006) and the 'world risk society' (Beck 1999), are inspiring and intellectually rich. But they are also relatively disconnected from empirical, affective, and ethical questions about punishment and prison life. Often, scholarship on penalty frames the penal institution (and the nation-state) in the kind of disembodied language that Elaine Scarry identified in public discussions about war (Scarry 1985). As Scarry notes, this approach has political ramifications.

The politics of metaphor are clear in Scarry's work—she suggests that a euphemistic and disembodied rendering of war enables wide-scale violence (*ibid.*). In the case of the prison, the political implications of thinking in metaphor and myth are

slightly less obvious; but they are equally important. I touched on these concerns briefly in chapter one when I introduced Lucia Zedner's 'appreciative critique' of David Garland's book *The Culture of Control* (Garland 2001; Zedner 2002). As I explained in that chapter, Zedner is critical of the trend toward 'grand narratives' in criminological theory (ibid.). Such narratives present the prison and penal policy in sweeping, symbolic terms (ibid.). Zedner describes Garland's writing:

The Culture of Control is painted on a large canvas and the schematic overview of changes in crime problems, penal ideas, penal politics and institutional forms it describes is masterly. To shift the metaphor slightly, the book has the character of a vast tapestry in which myriad, diverse strands are woven together with great skill and care. [2002: 342]

Zedner's account of Garland, though admiring, is only half a step away from Scarry's description of the 'lumbering giants' that emerge in war narratives (Scarry 1985: 70). Zedner notes the 'vast', 'schematic', and 'myriad' qualities of Garland's theory (2002: 342). She, like Elaine Scarry before her, is worried about the effects that such 'grand' language has on the topics—and the people—it describes.

In particular, Zedner is concerned that 'grand narratives' like Garland's promote a 'dystopic' vision of criminal justice (2002). She explains how this problem develops in a piece titled 'The Dangers of Dystopia in Penal Theory' (ibid.). According to Zedner, Garland aims to deconstruct 'the myth of the sovereign state', and in doing so, situates the criminologist as a 'vigilant watch, the witness to the multiple, shifting dangers that attach to late modernity' (ibid.: 364). That is to say, Garland sets his sights on deconstructing the state and sets the criminologist up as the person for that job. This goal figures the state as a metaphor, protagonist in the narrative of contemporary social control. It also places the academic in an explicitly descriptive stance: our mission is to track the state, to recount its workings and to expose it behind and beneath the

machinery of criminal justice.²¹⁷ Zedner warns that this descriptive vantage point delivers a fatalistic approach to state power (ibid.; See also Bosworth and Kaufman 2012). She claims that constantly deconstructing the state can become a ‘dystopic’ and self-fulfilling enterprise, for it leaves little room to imagine the possibility of political change.

Zedner’s critique springs from a close reading of *The Culture of Control*, but her point extends well beyond the boundaries of that book (Garland 2001; Zedner 2002). In recent years, Garland’s work has become a metonym for broader trends in criminology (Bosworth and Kaufman 2012). Claims about *The Culture of Control* are, in this sense, claims about the general direction of the field. Zedner’s underlying concern seems to be that in assiduously deconstructing myths sociologists of punishment have lost sight of the political implications of our writing. Zedner contends that Garland’s descriptive account of culture entails ‘the abandonment of a larger political vision and smack[s] of capitulation to the “hyper-modern, flexible, neo-conservative, economic politics” that are the very subject of [his] analysis’ (2002: 364-5; See also van Swaaningen, 1997: 194; Bosworth and Kaufman 2012; Braithwaite 2003). Given Garland’s place in the field, this critique can be understood as a statement about critical criminology as a whole. Zedner’s suggestion is that there is a latent politics to the ‘apoliticism’ of contemporary writing on punishment and society. The attempt to deconstruct the state has divorced critical criminologists from the normative and political purpose of our own research.

The goal, then, is to advance a more normative and politically explicit account of punishment. That does not mean we have to be less theoretical, but it does mean that we need to frame incarceration, and our own work on the prison, as a political act. To resist

²¹⁷ I have written about Zedner’s critique of Garland (and about these epistemological issues more broadly) in a chapter composed with Mary Bosworth (Bosworth and Kaufman 2012).

the ‘dystopia’ of much penal theory, we need to explore the ways in which the state is not a monolith but rather the product of continuing and contingent interactions between bureaucrats, officers, and prisoners (Zedner 2002). We also need to ask whether and why certain penal practices, such as the racialised identification of foreigners, are right or wrong. The critical question is how such a project begins.

Zedner does not lay out the boundaries for a newly normative criminology, but she does direct scholars toward concerns about *how* and *why* we study criminal justice. This is an illuminating move. Ultimately, Zedner’s critique of Garland implies that the shortcomings of critical criminology might be amended through a shift in method. She suggests, in short, that scholars should move away from deconstruction and toward new ways of thinking about state power. On one level or another, I have explored this suggestion in each of the last seven chapters. The critique that runs throughout this thesis is epistemological: we have set ourselves up to find and ‘out’ the state behind penal practices, and as a result have limited what we can find within the prison. Within this epistemological frame, the way criminologists know ‘the truth’ about the prison is to identify where the state is at work. But it seems to me that ‘the truth’ of prison life lies not only its connection to power, but also in its resilient humanity, in the stories told by Charles, Damian, Patrick and Noishime.

These stories may or may not be true. My suggestion in chapter two was that we ought to care slightly less about their truth and more about the people telling them. To shift into more academic terms, my claim is that prison scholars could lighten our own epistemological burden—we could attempt to find the state less and could instead explore what develops from a phenomenological account of the penal institution. The critical question here is different; it is not ‘where is the state?’, but rather: what can we

learn by asking how imprisonment feels? What theoretical lessons, what lessons about punishment and society, lie in the affective ‘remainder’ of prison life (Butler 1997b)?

Elsewhere, in literary theory, Eve Sedgwick paved the way for these kinds of critical questions about affect and feeling. In the last book she wrote before she died, Sedgwick encouraged her fellow literary scholars to move away from deconstruction, and particularly away from a practice that she called ‘paranoid reading’ (Sedgwick 2004: 126; See also Bosworth and Kaufman 2012).²¹⁸ Sedgwick argued that writing about literature has become a paranoid exercise, one in which the good critic ‘unveils’ or ‘reveals’ the knowledge beneath the novel (2004: 126). ‘This novel is really about x!’, the paranoid scholar proclaims, ‘and now we can understand it’. Sedgwick worried that this approach to literary criticism had developed into a normative epistemology in which only one kind of reading—the paranoid kind—is right, smart, and worthwhile. We might voice a similar concern about ‘paranoid’ attempts to find and deconstruct the state in criminology. What happens when this becomes the dominant way that critical scholarship on the prison gets done? According to Sedgwick, one thing that happens in studies of the novel is that scholars end up writing and reproducing the same story over and over again (2004: 124). In faithfully finding and ‘outing’ the state, critical criminologists threaten to do the same thing. And as Lucia Zedner might add, our story becomes a deeply dystopic read of contemporary society (Zedner 2002).

To resist these problems, Sedgwick suggests a turn toward phenomenology, or toward, as she put it, the practices of touching and feeling (2004). Sedgwick wants scholars to tune into the affective dimensions of literature, into the ways that touch, sound, and emotion surface in the novel (*ibid.*). She argues that such an approach—which she describes as an openness to ‘texture’—will produce less rigid and repetitive

²¹⁸ This conclusion, like the previous section, builds from an argument that I began to develop in an article written during the time that I was writing this thesis (Bosworth and Kaufman 2012).

scholarship and will ultimately open new lines of thought that challenge existing accounts of ‘agency and passivity’ (ibid.:14). As Sedgwick describes it:

Texture seems like a promising level of attention for shifting the emphasis of some interdisciplinary conversations away from the recent fixation on epistemology...by asking new questions about phenomenology and affect.
[ibid.: 17]

Translating that hope into the context of prison studies, academics might refocus our theoretical work on the affective, lived aspects of imprisonment. Throughout this thesis, foreign national prisoners’ embodied experiences have pointed the way toward a set of questions which exceed the nation-state—questions about the construction of citizenship, the nature of national belonging, and the ‘structures of feeling’ that motivate conduct within the penal institution (Williams 1978). These questions, which put monolithic versions of ‘the state’ into relief, emerge from a focus on the way that life in prison *feels*. The notion of nationality, for instance, is in practice a debate about what it feels like to belong somewhere. The idea of ‘feeling British’ despite your citizenship status emerged many times in my research. Racial, ethnic, and national identifications within the prison vacillated along the politics of feeling, as did discrimination on each of those grounds. In many cases, the punitive aspect of imprisonment for ‘foreigners’ stemmed from a sense that they did not belong.

The previous chapter illustrated that questions about these feelings and sentiments are inherently political. It is worth noting, in conclusion, that these questions could also become the foundation for a more normative approach to prison studies. For decades, feminist theorists have demonstrated that asking questions about feeling and embodiment is a normative project. Feminists who write about the body—people like Judith Butler (2003), Kimberlé Crenshaw (1993), and Eve Sedgwick (1991, 2004)—are rarely (if ever) presented as moral theorists, but their work contains a clear normative

agenda. These thinkers document the body's part in power relations; they explore how the material, gendered body shapes social hierarchies (ibid.; See also Bosworth and Kaufman 2012). The point of this work is not simply to identify gender norms in culture, though that is one feminist goal. Feminist writers are also crucially interested in changing the dynamics of gendered culture—in making the world less sexist, less homophobic, less violent.

For feminists, in other words, the purpose of emphasising bodies is not only to describe how gender surfaces in society. It is also, quite explicitly, to acknowledge the people constituted by those bodies, and in doing so, to make those people matter in a world where they are otherwise objectified, oppressed, and ignored. Judith Butler wants to 'challenge...the symbolic hegemony' in a way that 'forces a radical rearticulation' of what qualifies as a life 'worth protecting' (Butler 2003: 16; See also Bosworth and Kaufman 2012). Legal theorist Kimberlé Crenshaw works to 'locate' women of colour in a discussion about criminal justice from which they have been effaced (1993); and so many other feminist authors write with similar motivations (Bosworth and Kaufman 2012). As I have noted elsewhere, feminists turn to the body to 'connect their activist goals with their academic work' (ibid.).²¹⁹ The feminist focus on material bodies thus has an inherently normative slant. The aim, as Butler (1993) puts it, is to make bodies matter.

Taking a cue from this feminist strategy, criminologists might turn to the body to highlight the normative dimension of our writing on the prison. Asking questions about the material experience of incarceration is not merely a descriptive exercise, an effort to track and trace 'the bodies' behind bars. Foregrounding the materiality of prison life is also a normative attempt to direct criminological attention toward the material aspect of

²¹⁹ See notes 36, 141. This article does not yet have page numbers.

incarceration and toward the fundamental interconnectedness that springs from lived experience. The themes of interconnectedness and sentiment have emerged throughout this thesis. In chapter seven, a prisoner named Charles pointed out that our bodies are all capable of feeling pain, and as such, that bodies are the foundation for empathy, sympathy, and hope. Judith Butler makes this claim in more academic terms; she argues that sentiments expose our ‘constitutive sociality’ (2004b: 19). As Butler puts it, feelings of ‘passion, grief, and rage...tear us from ourselves, bind us to others, transport us, undo us, and implicate us in lives that are not our own, sometimes fatally, irreversibly’ (ibid: 20).

Could we begin our research into prisons from an acknowledgment of this shared capacity for feeling? Could we ‘start from the body’ in this philosophical sense? By focusing on embodiment, criminologists are acknowledging that imprisonment is an actual, daily practice with material effects. We are highlighting the aspects of incarceration that exceed, challenge, and rewrite the boundaries set out in penal policy. We are, in short, insisting that penalty involves real people. Moreover, we are working to make those people and their experiences matter to those outside prison walls.

The concluding call of this thesis is thus to turn with a phenomenological eye toward the ‘bodily remainder’ of the nation-state, particularly as it comes to life within the prison (Butler 1997b). This is an attempt to incorporate feminist writing into prison studies and to better address the shifts that globalisation has prompted within the penal institution. It is also in an important sense a return to Foucault and to the lines of thought from which critical criminology emerged in the 1970s. For it was Foucault who, in *Discipline and Punish*, argued that:

In our society the systems of punishment are to be situated in a certain ‘political economy’ of the body: even if they do not make use of violent or bloody punishment, even when they use ‘lenient’ methods involving confinement or

correction, it is always the body that is at issue—the body and its forces, their utility and their docility, their distribution and their submission. [1977: 25]

More than thirty years ago, Foucault argued that imprisonment is always about the body, ‘whether it is tarred and feathered, incarcerated, or electronically tagged’ (Bosworth and Kaufman 2012).²²⁰ Today, focusing on the bodily aspects of penal practices is an effort to revisit and reconcile the methodological concerns from which this thesis began.

In the context of prison studies, attending to ‘the bodily remainder’ of late modern penalty is a way to think politically, normatively, and empirically about what is happening—to prisoners, to prisons, and to the concept of citizenship—in British penal institutions. Never sufficiently identifiable within the official rubric for nationality, nor ever fully dissociated from the politics of identity, foreign national prisoners embody the irreparable gap between the fixed identity categories that citizenship demands and the lives realities of a postcolonial, globalised world. These prisoners’ experiences suggest that the prison is not only a space in which national identity is constructed, but also one in which the limits of citizenship are realised every day.

(94,000 words)

²²⁰ See note 219.

BIBLIOGRAPHY

- AAS, K. (2007), 'Analysing a World in Motion: Global Flows Meet "Criminology of the Other"', *Theoretical Criminology*, 11(2): 283-303.
- ACHEBE, C. (1973), 'Named for Victoria, Queen of England', *New Letters*, 40(3): 15-22.
- ADAMS, R. (1992), *Prison Riots in Britain and the USA*, London: Macmillan.
- AGOZINO, B. (1997), *Black Women and the Criminal Justice System: Towards the Decolonisation of Victimisation*, Aldershot: Ashgate.
- (2005), 'Crime, Criminology, and Post-Colonial Theory: Criminological Reflections on West Africa', in J. Sheptycki (ed.), *Transnational and Comparative Criminology*, 117-134, New York: Glasshouse Press.
- ALBROW, M. (1997), 'Traveling Beyond Local Cultures: Socioscapes in a Global City', in J. Eade (ed.), *Living the Global: Globalization as a Local Process*, 20-36, New York: Routledge.
- ALEXANDER, M. (2010), *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, New York: New Press.
- ALFRED, R. (1992), *Black Workers in the Prison System*, London: Prison Reform Trust.
- ALLEN, R., J. LEVENSON, J. and R. GARSIDE. (2003), *A Bitter Pill to Swallow: The Sentencing of Foreign National Drug Couriers*, London: Rethinking Crime and Punishment.
- ANDERSON, B. (2006), *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, New York: Verso.
- ANDREW, C. (2009), *The Defence of the Realm: The Authorized History of MI5*, London: Allen Lane.
- ANGEL-AJANI, A. (2003), 'A Question of Dangerous Races?' *Punishment and Society*, 10(5): 433-448.
- APPADURAI, A. (1995), 'The Production of Locality', in R. Fardon (ed.), *Counterworks: Managing the Diversity of Knowledge*, 204-225, London: Routledge.
- ASHCROFT, B., G. GRIFFITHS and H. TIFFIN (eds.). (1995), *The Post-Colonial Studies Reader*, Abingdon: Routledge.
- ASHWORTH, A. (2005), *Sentencing and Criminal Justice*, Cambridge: Cambridge University Press.

- (2006), ‘Four Threats to the Presumption of Innocence’, *South African Law Journal*, 123: 62-96.
- ASSMANN, A. (2006), ‘History, Memory and the Genre of Testimony’, *Poetics Today*, 27(2): 261-74.
- AUSTIN, J.(1975), *How to Do Things with Words*, Oxford: Oxford University Press.
- BACON, R. (2006), ‘Bacon Named as Backbencher of the Year’, *Richard Bacon MP*, retrieved 15 January 2010, <<http://www.richardbacon.org.uk/parl/backbencher.htm>>.
- BAKER, P. and MOHEILDEEN, Y. (2000), ‘The Languages of London’s Schoolchildren’, in P. Baker and J. Eversley (eds.), *Multilingual Capital*, 5-60, London: Battlebridge.
- BANKS, J. (2011), ‘Foreign National Prisoners in the UK: Explanations and Implications’, *Howard Journal of Criminal Justice*, 50(2): 184-198.
- BARKER, M. (1981), *The New Racism*. London: Junction Books.
- BARKER, V. (2006), ‘The Politics of Punishing: Building a State Governance Theory of American Imprisonment Variation’ *Punishment & Society*, 8(1): 5-33.
- (2009), *The Politics of Imprisonment: How the Democratic Process Shapes the Way Americans Punish Offenders*, New York: Oxford University Press.
- BAUMAN, Z. (1998), *Globalization: The Human Consequences*, Cambridge: Polity Press.
- BBC (2006a), ‘How the Deportation Story Emerged’, *BBC News Online*, retrieved 15 January 2010, <http://news.bbc.co.uk/1/hi/uk_politics/4945922.stm>.
- (2006b), ‘Immigration System Unfit—Reid’, *BBC News Online*, retrieved 15 January 2010, <http://news.bbc.co.uk/1/hi/uk_politics/5007148.stm>.
- (2006c), ‘In Quotes: Clarke and Deportation’, *BBC News Online*, retrieved 15 January 2010, <http://news.bbc.co.uk/1/hi/uk_politics/4945736.stm>.
- (2006d), ‘UK Seeks Human Rights Law Review’, *BBC News Online*, retrieved 15 January 2010 <http://news.bbc.co.uk/1/hi/uk_politics/5000238.stm>.
- (2006e), ‘Foreign Criminals “Not Deported”’, *BBC News Online*, retrieved 22 February 2010, <http://news.bbc.co.uk/1/hi/uk_politics/4942886.stm>.
- (2007), ‘Holiday Girl Abducted, Police Say’, *BBC News Online*, retrieved 1 October 2011, <<http://news.bbc.co.uk/2/hi/europe/6627605.stm>>.
- BECK, U. (1999), *World Risk Society*, Cambridge: Polity.

- and E. GRANDE. (2007), *Cosmopolitan Europe*, Cambridge: Polity Press.
- BECKER, H. (1967), ‘Whose Side are We On?’, *Social Problems*, 14: 239-247.
- BEETHAM, D. (1991), *The Legitimation of Power*, London: Macmillan.
- BERMAN, G. (2011), *Prison Population Statistics: Notes for the Members of Parliament, 7 November, 2011*, London: MoJ.
- BHABHA, H. (1988), ‘The Commitment to Theory’, *New Formations*, 5: 5-23.
- (1994), *The Location of Culture*, London: Routledge.
- BHATTACHARYYA, G. (2008), *Dangerous Brown Men: Exploiting Sex, Violence and Feminism in the War on Terror*, London: Zed Books.
- BHUI, H. (2004), *Going The Distance: Developing Effective Policy and Practice with Foreign National Prisoners*. London: Prison Reform Trust.
- (2007), ‘Alien Experience: Foreign National Prisoners After the Deportation Crisis’, *Probation Journal*, 54(4): 368-382.
- (2009), ‘Foreign National Prisoners: Issues and Debates’, in H. Bhui (ed.), *Race & Criminal Justice*, London: Sage, 154 – 169.
- BLAGG, H. (2008), *Crime, Aboriginality and the Decolonisation of Justice*, Annandale: Hawkins Press.
- BLOCH, A. and L. SCHUSTER. (2002), ‘Asylum and Welfare: Contemporary Debates’, *Critical Social Policy*, 22(3): 393-414.
- BOOGAARD, B. and C. ROGGEBRAND. (2010), ‘Paradoxes of Intersectionality: Theorizing Inequality in the Dutch Police Force through Structure and Agency’, *Organization*, 17(1): 53-75.
- BORRILL, J. and D. TAYLOR. (2009), ‘Suicides by Foreign National Prisoners in England and Wales 2007: Mental and Cultural Issues’, *Forensic Psychiatry and Psychology*, 20(6): 886-905.
- BOSWORTH, M. (1999), *Engendering Resistance: Agency and Power in Women’s Prisons*, London: Ashgate.
- (2007), ‘Border Crossings: Immigration Detention and the Exclusive Society’, in M. Lee (ed.), *Human Trafficking*, Cullompton: Willan, 159-177.
- (2008a), ‘Immigration Detention and Foreign Nationals in Prison’, *Prison Service Journal*, 180: 18-23
- (2008b), ‘Border Control and the Limits of the Sovereign State’, *Social and Legal Studies*, 17: 199-215.

- (2010). ‘Reinventing Penal Parsimony: An Introduction’, *Theoretical Criminology*, 14(3): 251-256.
- (2011a), ‘Deporting Foreign National Prisoners in England and Wales’, *Citizenship Studies*, 15(5): 583-595.
- (2011b), ‘Human Rights and Immigration Detention Within the United Kingdom’, in *Are Human Rights for Migrants? Critical Reflections on the Status of Irregular Migrants in Europe and the United States*, M. Dembour and T. Kelly (eds.), Abingdon: Routledge, 165-173.
- and M. GUILD. (2008), ‘Governing Through Migration Control: Security and Citizenship in Britain’, *British Journal of Criminology*, 48:703-719.
- BOSWORTH, M. and J. FLAVIN, (eds). (2007), *Race, Gender, and Punishment: From Colonialism to the War on Terror*, London: Rutgers University Press.
- BOSWORTH, M. and C. HOYLE. (2011), ‘What is Criminology? An Introduction’, in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 1-16.
- BOSWORTH, M. and E. KAUFMAN. (2011), ‘Foreigners in a Carceral Age: Immigration and Imprisonment in the United States’, *Stanford Law and Policy Review*, 22(1): 429-454.
- (2012), ‘Gender and Punishment’, in J. SIMON and R. SPARKS (eds.), *Handbook of Punishment and Society*, Thousand Oaks, CA: Sage, forthcoming.
- BOSWORTH, M., B. BOWLING and M.LEE. (2008), ‘Globalization, Ethnicity and Racism: An Introduction’, *Theoretical Criminology*, 12(3): 263-273.
- BOSWORTH, M., D. CAMPBELL, B. DEMBY, S. FERRANTI, and M. SANTOS (2005), ‘Doing Prison Research: Views from Inside’, *Qualitative Inquiry* 11(2): 249 – 264.
- BOTTOMS, A. (1999), ‘Interpersonal Violence and Social Order in Prisons’, *Crime and Justice*, 26: 205-281.
- BOURDIEU, P. (1977), *Outline of a Theory of Practice*, R. Nice (trans.), Cambridge: Cambridge University Press.
- and L. WACQUANT. (1992), *An Invitation to Reflexive Sociology*, Chicago: University of Chicago Press.
- BOURGOIS, P. (2003), *In Search of Respect: Selling Crack in El Barrio*, 2nd ed., New York: Cambridge University Press.
- BOWKER, L. (ed.). (1997), *Masculinities and Violence*, London: Sage.

- BOWLING, B. (1998), *Violent Racism: Victimization, Policing and Social Context*, Oxford: Clarendon Press.
- (2009), ‘Transnational Policing: The Globalization Thesis, a Typology, and a Research Agenda’, *Policing*, 3(2): 149-160.
- (2011), ‘Transnational Criminology and the Globalization of Harm Production’, in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 361-376.
- and C. PHILLIPS. (2002), *Racism, Crime and Justice*, Harlow: Longman Criminology Series.
- BRAITHWAITE, J. (2003), ‘What’s Wrong with the Sociology of Punishment?’, *Theoretical Criminology*, 7(1): 5-28.
- BRENNER, N. (1999), ‘Beyond State-Centrism? Space, Territoriality, and Geographical Scale in Globalization Studies’, *Theory and Society*, 28: 39-78.
- BRENNER, T.S. (1994), ‘Foucault’s New Functionalism’, *Theory and Society*, 23: 679-709.
- BRIDGES, L. (2000). ‘The Law Inquiry—Incompetence, Corruption, and Institutional Racism’, *Journal of Law and Society*, 26(3): 289-322.
- BRITTON, D. (2003), *At Work in the Iron Cage: The Prison as Gendered Organization*, New York: New York University Press.
- BROWN, D. (2011), ‘The Global Financial Crisis, in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 76-94.
- BROWN, J. (1998), *The Oxford History of the British Empire, Volume One: The Twentieth Century*, Oxford: Oxford University Press.
- BROWN, W. (2010), *Walled States, Waning Sovereignty*, Cambridge, MA: Zone Books.
- BUDD, T., C. SHARP, M. BULMER and J. SOLOMOS (eds.). (1999), *Racism*, Oxford: Oxford University Press.
- BULMER, M. and J. SOLOMOS. (2004), *Researching Race and Racism*, Basingstoke: Palgrave.
- BURTON-ROSE, D., D. PENS and P. WRIGHT. (1998), *The Ceiling of America: An Inside Look at the US Prison Industry*, Monroe, ME: Common Courage Press.
- BUTLER, J. (1993), *Bodies That Matter: On the Discursive Limits of Sex*, New York: Routledge.

- (1997a), *Excitable Speech: The Politics of the Performative*, New York: Routledge.
 - (1997b), *The Psychic Life of Power: Theories in Subjection*, Palo Alto: Stanford University Press.
 - (1999), *Gender Trouble: Feminism and the Subversion of Identity*, New York, Routledge.
 - (2004a), *Precarious Life: The Powers of Mourning and Violence*, New York: Verso.
 - (2004b), *Undoing Gender*, New York: Routledge.
 - and G. SPIVAK (2007), *Who Sings the Nation- State? Language, Politics, Belonging*, Calcutta: Seagull Books.
- CADE-BAMBARA, T. (1970), *The Black Woman: An Anthology*, New York: New American Library.
- CAIN, M. (1990), 'Realist Philosophy and Standpoint Epistemologies or Feminist Criminology as a Successor Science', in L. Gelsthorpe and A. Morris (eds.), *Feminist Perspectives in Criminology*, 124-40, Milton Keynes: Open University Press.
- (2000), 'Orientalism, Occidentalism and the Sociology of Crime', *British Journal of Sociology*, 40(2): 239-260.
 - (2009), *Globality, Crime and Criminology*, London: Sage.
- CALHOUN, C. (1999), 'Nationalism, Political Community and the Representation of Society: Or, Why Feeling is Not a Substitute for Public Space', *European Journal of Social Theory*, 2(2): 217-231.
- CANDLE, T. (2001), *Community Cohesion: A Report of the Independent Review Team*, London: Home Office.
- CARBY, H. (1982) 'White Women Listen! Black Feminism and the Boundaries of Sisterhood', in The Centre for Contemporary Cultural Studies (eds.), *The Empire Strikes Back: Race and Racism in 70s Britain*, 67-92, London: Routledge.
- CARLEN, P. (1983), *Women's Imprisonment: A Study in Social Control*, London: Routledge.
- (2002a), 'Carceral Clawback: The Case of Women's Imprisonment in Canada', *Punishment and Society*, 4(1): 115-121.
 - (2002b), 'Governing the Governors: Telling Tales of Managers, Mandarins and Mavericks', *Criminology and Criminal Justice*, 2(1): 27-49.

- (2005), ‘Imprisonment and the Penal Body Politic: The Cancer of Disciplinary Governance’, in A. Liebling and S. Maruna (eds.), *The Effects of Imprisonment*, Cullompton: Willan.
- (2008), *Imaginary Penalties*, Cullompton: Willan.
- and A. WORRALL. (2004), *Analysing Women’s Imprisonment*, Cullompton: Willan.
- CARR, B. (2004), ‘Paranoid Interpretation, Desire’s Nonobject, and Nella Larsen’s *Passing*’, *PMLA*, 119: 282-295.
- CARRABINE, E. (2000), ‘Discourse, Governmentality and Translation: Toward a Social Theory of Imprisonment’, *Theoretical Criminology*, 4(38): 309-331.
- (2004), *Power, Discourse, and Resistance: A Genealogy of the Strangeways Prison Riot*, Aldershot: Ashgate.
- (2005), ‘Prison Riots, Social Order’, and the Problem of Legitimacy’, *British Journal of Criminology*, 45(6): 896-913.
- and M. BOSWORTH. (2001), ‘Reassessing Resistance: Race, Gender, and Sexuality in Prison’, *Punishment and Society*, 3(4): 501-515.
- CARRABINE, E. and B. LONGHURST. (1998), ‘Gender and Prison Organization: Some Comments on Masculinities and Prison Management’, *The Howard Journal*, 37(2): 161 – 176.
- CARRINGTON, K. and R. HOGG. (2002), *Critical Criminology: Issues, Debates, Challenges*, Cullompton: Willan.
- CASHMORE, E. (2001), ‘The Experiences of Ethnic Minority Police Officers in Britain: Under-Recruitment and Racial Profiling in a Performance Culture’, *Ethnic and Racial Studies*, 24(4): 642-59.
- CAVADINO, M. and J. DIGNAN. (1992), *The Penal System: An Introduction*, London: Sage.
- (2006), *Penal Systems: A Comparative Approach*. London: Sage.
- CHAKRABARTY, D. (1995), ‘Postcoloniality and the Artifice of History: Who Speaks for “Indian” Pasts?’, in B. Ashcroft, G. Griffiths, and H. Tiffin (eds.), *The Post-Colonial Studies Reader*, 340-44, Abingdon: Routledge.
- CHATER, K. (2009), *Untold Histories: Black People in England and Wales During the Period of the British Slave Trade, c. 1660-1807*, Manchester: Manchester University Press.
- CHELIOTAS, L. and A. LIEBLING. (2006), ‘Race Matters in British Prisoners: Towards a Research Agenda’, *British Journal of Criminology*, 46(2): 286-317.

- CHENEY, D. (1993), *Into the Dark Tunnel: Foreign Prisoners in the British Prison System*, London: Prison Reform Trust.
- CHERNILO, D. (2011), 'The Critique of Methodological Nationalism: Theory and History', *Thesis Eleven*, 106(1): 98-117.
- CHRISTIE, N. (1996), *Crime Control as Industry: Toward GULAGS Western Style*, London: Routledge.
- CLEMMER, D. (1940), *The Prison Community*, New York: Holt, Rinehart and Winston.
- COHEN, S. (1996) 'Crime and Politics: Spot the Difference', *British Journal of Sociology*, 47(1): 1- 21.
- (1998), *Against Criminology*, New Brunswick, NJ: Transaction Publishers.
- and L. TAYLOR (1974), *Psychological Survival: The Experience of Long-term Imprisonment*, New York: Vintage.
- COID, J., A. PETRUCKEVITCH, P. BEBBINGTON, T. BRUGHA, D. BHUGRA, R. JENKINS, M. FARRELL, G. LEWIS, and N. SINGLETON. (2002), 'Ethnic Differences in Prisoners 1: Criminality and Psychiatric Morbidity', *British Journal of Psychiatry*, 181: 473-80.
- COMFORT, M. (2003), 'In the Tube at San Quentin: The "Secondary Prisonization" of Women Visiting Inmates', *Journal of Contemporary Ethnography*, 32(1): 77-107.
- COMMISSION FOR RACIAL EQUALITY (CRE). (1998), *Stereotyping and Racism: Findings from Two Attitude Surveys*, London: CRE.
- (2003a), *A Formal Investigation by the Commission for Racial Equality into HM Prison Service of England and Wales – Part 1: The Murder of Zahid Mubarek*, London: CRE.
- (2003b), *A Formal Investigation by the Commission for Racial Equality into HM Prison Service of England and Wales – Part 2: Racial Equality in Prisons*, London: CRE.
- COLE, D. (2003), *Enemy Aliens: Double Standards and Constitutional Freedoms in the War on Terrorism*, New York: The New Press.
- (2004), 'The Priority of Morality: The Emergency Constitution's Blind Spot', *Yale Law Journal*, 113(8): 1753-1800.
- COOK, D. and B. HUDSON (eds.) (1994), *Racism and Criminology*, London: Sage.
- CORCORAN, M. (2006). *Out of Order: The Political Imprisonment of Women in*

Northern Ireland, 1972-1999, Cullompton: Willan.

- CRAWLEY, E. (2004), 'Emotion and Performance: Prison Officers and the Presentation of Self in Prisons', *Punishment and Society*, 6(4): 411-427.
- CRENSHAW, K. (1993), 'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color', *Stanford Law Review*, 43(6): 1241-1299.
- CREWE, B. (2006), 'Male Prisoners' Orientations Towards Female Officers in an English Prison.' *Punishment & Society*, 8(4): 395 – 421.
- (2007), 'Power, Resistance and Adaptation in the Late-Modern Prison', *British Journal of Criminology*, 47(2): 256- 275.
- (2009), *The Prisoner Society: Power, Adaptation, and Social Life in an English Prison*, Oxford: Oxford University Press.
- CUNEEN, C. (2001), *Conflict, Politics, and Crime: Aboriginal Communities and the Police*, Sydney: Allen and Unwin.
- (2011), 'Postcolonial Perspectives for Criminology', in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 249-264.
- DAILY MAIL. (2006a), 'Home Office Blunders Left Foreign Rapists in UK', *Mail Online*, retrieved 14 February 2010, <<http://www.dailymail.co.uk/news/article384183/Home-Office-blunders-left-foreign-rapists-UK.html>>.
- (2006b), 'It's Not Only the Foreign Criminals Who've Vanished, But Also Any Pretence that Britain Controls Its Borders or, Indeed, Its Very Destiny', *Mail Online*, retrieved 14 February 2010, <<http://www.dailymail.co.uk/debate/columnists/article-384284/Its-foreign-criminals-whove-vanished-pretence-Britain-controls-borders-destiny.html>>.
- (2006c), 'UK Lets In More Poles Than Warsaw', *Mail Online*, retrieved 14 February 2010, <[http://www.dailymail.co.uk/news/article-384121/UK lets-Poles-Warsaw.html](http://www.dailymail.co.uk/news/article-384121/UK-lets-Poles-Warsaw.html)>.
- (2007), 'In Pictures, the 120 Metre Route to Check on Madeleine', *Mail Online*, retrieved 1 October 2011, <<http://www.dailymail.co.uk/news/article-474428/In-pictures-120-metre-route-check-Madeleine.html>>.
- DALY, K. (1994) *Gender, Crime and Punishment*, New Haven, CT: Yale University Press.
- DARBY, P. and P. WHEATLEY (2010), 'Securing the Future: My Vision, An Interview with Phil Wheatley', *HM Prison Service News Magazine*, retrieved 1 April 2011, <<http://www.hmprisonservice.gov.uk/prisoninformation/prisonservicemagazine/index.asp?id=3049,18,3,18,0,0>>.

- DAUVERGNE, C. (2008), *Making People Illegal: What Globalization Means for Migration and Law*, Cambridge: Cambridge University Press.
- DAVIS, A. and D. RODRIGUEZ. (2004), 'History is a Weapon. The Challenge of Prison Abolition: A Conversation', retrieved 15 April 2011, <<http://www.historyisaweapon.com/defcon1/davisinterview.html>>.
- DAVIES, S. (2003), 'Study Habits: Probing Modern Attempts to Assess Minority Offender Disproportionality', *Law and Contemporary Problems*, 66: 17-48.
- DAVIS, A. (1971) 'Reflections on the Black Woman's Role in the Community of Slaves,' *Black Scholar*, 3: 2-15.
- (1974), *Angela Davis: An Autobiography*, New York: Random House.
- DE GENOVA, N. (2007), 'The Production of Culprits: From Deportability to Detainability in the Aftermath of "Homeland Security"', *Citizenship Studies*, 11(5): 421-448.
- DE GIORGI, A. (2006) *Re-thinking the Political Economy of Punishment: Perspectives on Post-Fordism and Penal Politics*, Aldershot: Ashgate.
- (2010), 'Immigration Control, Post-Fordism, and Less Eligibility: A Materialist Critique of the Criminalization of Immigrants across Europe', *Punishment and Society*, 12(2): 147-167.
- (2011), 'The U.S. Penal Experiment', in *Racial Criminalization of Migrants in the 21st Century*, S. Palidda (ed.), Surrey: Ashgate.
- DENNIS, N., G. ERDOS, and A. AL-SHAHI. (2000), *Racist Murder and Pressure Group Politics: The Macpherson Report and the Police*, London: Institute for the Study of Civil Society.
- DIAZ-COTTO, J. (1996), *Gender, Ethnicity, and the State: Latina and Latino Prison Politics*, Albany, NY: SUNY Press.
- DOUGLAS, L. (2001), *The Memory of Judgment: Making Law and History in the Trials of the Holocaust*, New Haven: Yale University Press.
- DUFF, R. A. (2010), 'A Criminal Law for Citizens', *Theoretical Criminology*, 14(3): 293-309.
- and D. GARLAND. (eds.). (1994), *A Reader on Punishment*, Oxford: Oxford University Press.
- DUMM, T. (1987), *Democracy and Punishment: Disciplinary Origins of the United States*. Madison: University of Wisconsin Press.
- DURHEIM, E. (1961), *Moral Education*. New York: Free Press.
- (1964), *The Division of Labour in Society*, 2nd ed., New York: Free Press.

- EARLE, R. (2009), 'Living in a Box: Young Men's Prison Identities', in W. Taylor, R. Earle and R. Hester (eds.), *Youth Justice Handbook: Theory, Policy and Practice*, Cullompton: Willan.
- and C. PHILLIPS. (2009), 'Con-viviality and Beyond: Identity Dynamics in a Young Men's Prison', in M. Wetherell (ed.), *Identity in the 21st Century: New Trends in Changing Times*, 120-138, Basingstoke: Palgrave.
- EARLY, P. (1995), *The Hot House: Life Inside Leavenworth Prison*, New York: Bantam.
- EDGAR, K. and C. MARTIN. (2004), *Perceptions of Race and Conflict: Perspectives of Minority Ethnic Prisoners and of Prison Officers*, RDS Online Report 11/04, London: Home Office.
- EDWARDS, R. (2007), 'Madeleine McCann's Parents Deny Suspicions', *The Telegraph Online*, retrieved 1 October 2011, <<http://www.telegraph.co.uk/news/worldnews/1559688/Madeleine-McCanns-parents-deny-suspicions.html>>.
- EISENMAN, R. (2000), 'Characteristics of Prisoners in the California Department of Corrections: Race, Ethnicity, and Other Aspects', *The Mankind Quarterly*, 41(2): 211-215.
- ENG, D., J. HALBERSTAM, and J. MUNOZ. (2005), 'Introduction: What's Queer about Queer Studies Now?', *Social Text*, 84-5: 1-17.
- FANON, F. (1994), *A Dying Colonialism*, H. Chevalier (trans.), New York: Grove Press.
- (2004), *The Wretched of the Earth*, R. Philcox (trans.), New York: Grove Press.
- FEELY, M. and J. SIMON (1992), 'The New Penology: Notes on the Emerging Strategy of Corrections and its Implications', *Criminology*, 30(4): 449-74.
- (1994), 'Actuarial Justice: The Emerging New Criminal Law', in D. Nelken (ed.), *The Futures of Criminology*, 173-201, London: Sage.
- FERGUSON, N. (2004), *Empire: The Rise and Demise of the British World Order and the Lessons for Global Power*, London: Basic Books.
- FERRELL, J. and HAMM, M. (1998), *Ethnography at the Edge: Crime, Deviance, and Field Research*, Lebanon, NH: Northeastern University Press.
- FIRESTONE, S. (1970), *The Dialectic of Sex: The Case for Feminist Revolution*, London: Bantam Books.
- FLANAGAN, T. (1995), *Long-Term Imprisonment: Policy, Science and Correctional*

Practice, London: Sage.

- FOREIGN AND COMMONWEALTH OFFICE (FCO). (2012), 'Multicultural Britain', *FCO Online: UK in the USA*, retrieved 12 Jan 2012, <<http://ukinusa.fco.gov.uk/en/visiting-uk/about-uk/multicultural-britain/>>.
- FOSTER, J., T. NEWBURN, A SOUHAMI. (2005), *Assessing the Impact of the Stephen Lawrence Inquiry*, Home Office Research Study 294, London: Home Office.
- FOUCAULT, M. (1970), *The Order of Things: An Archaeology of the Human Sciences*, New York: Random House.
- (1977), *Discipline and Punish: The Birth of the Prison*, A. Sheridan (trans.), New York: Vintage.
- (1978), *The History of Sexuality, Volume I: An Introduction*, R. Hurley (trans.), New York: Vintage.
- (1991), 'Governmentality', in *The Foucault Effect: Studies in Governmentality*, R. Braidotti (trans.), C. Gordon and P. Miller (eds.), Chicago: University of Chicago Press, 27-104.
- FRANKLIN, B. (ed.) (1998), *Prison Writings in 20th Century America*, New York: Penguin.
- FRASER, N. (1989), *Unruly Practices: Power, Discourse, and Gender in Contemporary Social Theory*, Minneapolis: University of Minnesota Press.
- (2010), *Scales of Justice: Reimagining Political Space in a Globalizing World*, Cambridge: Polity Press.
- FRISCH, M. (1990), *A Shared Authority: Essays on the Craft and Meaning of Oral and Public History*. New York: SUNY Press,.
- FRY, E. (1827), *Observations on the Visiting, Superintendence, and Government of Female Prisoners*, London: Hatchard & Son.
- FRYER, P. (1984), *Staying Power: The History of Black People in Britain*, London: Pluto.
- GAMSON, J. (2000), 'Sexualities, Queer Theory, and Qualitative Research', in N. Denzin and Y. Lincoln (eds.), *Handbook of Qualitative Research* (2nd ed.), 347-65, London: Sage.
- GARCIA, J.A.B. and C.F. BESSA. (2011), 'The Construction of Migrants as a Risk Category in the Spanish Penal System', in *Racial Criminalization of Migrants in the 21st Century*, S. Palidda (ed.), Surrey: Ashgate.
- GARLAND, D. (1985) *Punishment and and Welfare*, Brookfield, VT: Gower.

- (1990a), ‘Frameworks of Inquiry in the Sociology of Punishment’, *The British Journal of Sociology*, 41(1): 1-15.
- (1990b), *Punishment and Modern Society: A Study in Social Theory*, Chicago: University of Chicago Press.
- (1996), ‘The Limits of the Sovereign State: Strategies of Crime Control in Contemporary Society’, *The British Journal of Criminology*, 36(4): 445-471.
- (2001), *The Culture of Control: Crime and Social Order in Contemporary Society*, Oxford: Oxford University Press.
- (2003), ‘The Rise of Risk’, in R. Ericson and A. Doyle (eds.), *Risk and Morality*, Toronto: University of Toronto Press.
- GEERTZ, C. (1977), *The Interpretation of Cultures*, New York: Basic Books.
- GELSTHORPE, L. (2005), ‘The Experiences of Female Minority Ethnic Offenders: The Other “Other”’, in S. Lewis, P. Raynor, D. Smith, and A. Wardak (eds.), *Race and Probation*, Devon: Willan.
- GENDERS, E. (2002), ‘Legitimacy and Accountability in Private Prisons’, *Punishment and Society*, 4(3): 285-303.
- and E. PLAYER (1989), *Race Relations in Prison*, Oxford: Clarendon Press.
- (1995), *Grendon: A Study of Therapeutic Prison*, Oxford: Clarendon Press.
- GIBNEY, M. (1994), ‘Refugees and Immigrants in the New Europe’, in D.P. Forsythe (ed.), *Human Rights in the New Europe: Problems and Progress*, Lincoln, NB: University of Nebraska Press.
- (2008), ‘Asylum and the Expansion of Deportation in the United Kingdom’, *Government and Opposition*, 43(2): 146-167.
- B. ANDERSON, and E. PAOLETTI, (2011), ‘Citizenship, Deportation, and the Boundaries of Belonging’, *Citizenship Studies*, 15(5): 547-563.
- GIDDENS, A. (1986), *The Constitution of Society: Outline of the Theory of Structuration*, West Sussex: University of California Press.
- GILLBORN, D. (2008), *Racism and Education: Coincidence or Conspiracy*, London: Routledge.
- GILLE, Z. and S. RIAIN. (2002), ‘Global Ethnography’, *Annual Review of Sociology*, 28: 271-295.
- GILROY, P. (1987), *There Ain't No Black in the Union Jack: The Cultural Politics of Race*

- and Nation*, Abingdon: Routledge.
- (1993), *The Black Atlantic: Modernity and Double Consciousness*, Cambridge, MA: Harvard University Press.
- (2002), 'Introduction', in *There Ain't No Black in the Union Jack: The Cultural Politics of Race and Nation*, Abingdon: Routledge.
- (2006), *Postcolonial Melancholia*, New York: Columbia University Press.
- GIRSHICK, L. (1999), *No Safe Haven: Stories of Women in Prison*, Boston: Northeastern University Press.
- GIVEN, T. and A. LUEDTKE. (2004), 'The Politics of European Union Immigration Policy: Institutions, Salience, and Harmonization', *The Policy Studies Journal*, 32(1): 145-163.
- GLAZE, L. (2011), *Correctional Population in the United States, 2010*, Washington, D.C.: U.S. Department of Justice Bureau of Justice Statistics.
- GOFFMAN, E. (1961), *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, Garden City, NY: Anchor Books.
- GOODMAN, P. (2008), 'It's Just Black, White, or Hispanic: An Observational Study of Racializing Moves in California's Segregated Prison Reception Centers', *Law and Society Review*, 42(4): 735-770.
- GOOLD, B. (2008). 'Technologies of Surveillance and the Erosion of Institutional Trust', in *Technologies of InSecurity: The Surveillance of Everyday Life*, K. Aas (ed.), Abingdon: Routledge-Cavendish.
- GORDON, P. (1983), *White Law: Racism in the Police, Courts, and Prisons*, London: Pluto.
- GOTTSCHALK, M. (2006), *The Prison and the Gallows: The Politics of Mass Incarceration in America*, Cambridge: Cambridge University Press.
- GRAAFF, J. (2006), 'The Seductions of Determinism in Development Theory: Foucault's Functionalism', *Third-World Quarterly*, 27(8): 1387-1400.
- GRABHAM, E., D. COOPER, J. KRISHNADAS, and D. HERMAN (eds.). (2008), *Intersectionality and Beyond: Law, Power and the Politics of Location*, Abingdon: Routledge-Cavendish.
- GREATER LONDON AUTHORITY (GLA). (2005), *London, The World in a City: An Analysis of the 2001 Census Results*, London: Greater London Authority Data Management and Analysis Group Briefing 2005/6.
- GREENHILL, S., M. SEAMARK, and P. SIMS. (2006), 'The Killer Asylum Seekers', *Mail Online*, retrieved 14 February 2010, < <http://www.dailymail.co.uk/news/article-423813/The-killer-asylum-seekers.html>>.

- GREER, K. (2002), 'Walking an Emotional Tightrope: Managing Emotions in a Women's Prison', *Symbolic Interaction*, 25(1): 117-139.
- GREGORY, D. (2004), *The Colonial Present: Afghanistan, Palestine, Iraq*, Oxford: Wiley-Blackwell.
- GREWCOCK, M. (2011), 'Punishment, Deportation and Parole: The Detention and Removal of Former Prisoners Under Section 501 Migration Act 1958', *Australia and New Zealand Journal of Criminology*, 44(1): 56-73.
- GRIFFITHS, G. (1994), 'The Myth of Authenticity: Representation, Discourse, and Social Practice', in C. Tiffin and A. Lawson (eds.), *De-Scribing Empire: Post-Colonialism and Textuality*, 70-85, London: Routledge.
- HABERMAS, J. (1976), *Legitimation Crisis*, London: Heinemann.
- HAGGERTY, K. (2004), 'Displaced Expertise: Three Constraints on the Policy Relevance of Criminological Thought', *Theoretical Criminology* 8(2): 211-31.
- HALL, S. (2001), 'Conclusion: The Multicultural Question', in B. Hesse (ed.), *UN/Settled Multiculturalisms: Diasporas, Entanglement, Transruptions*, 209-241, London: Zed Books.
- (1978), 'Racism and Moral Panics in Post-War Britain', in *Five Views of Multi-Racial Britain*, London: Commission for Racial Equality.
- C. CRITCHER, T. JEFFERSON, J. CLARKE, and B. ROBERTS. (1978), *Policing the Crisis: Mugging, The State and Law and Order*, London: Palgrave MacMillan.
- HALLSWORTH, S. (2000), 'Rethinking the Punitive Turn: Economies of Excess and the Criminology of the Other', *Punishment and Society*, 2(2): 145-160.
- HAMM, M. (2009), 'Prison Island in the Age of Sacred Terror', *British Journal of Criminology*, 49(5): 667-685.
- HANEY, C. (2003), 'Mental Health Issues in Long-Term Solitary and "Supermax" Confinement', *Crime and Delinquency*, 49(1): 124-156.
- HANNAH-MOFFAT, K. (1995), 'Feminine Fortresses: Women-Centered Prisons?', *The Prison Journal*, 75: 135 – 64.
- (2001), *Punishment in Disguise? Penal Governance and Federal Imprisonment of Women in Canada*, London: University of Toronto Press.
- (2011), 'Criminological Cliques: Narrowing Dialogues, Institutional Protectionism, and the Next Generation', in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 440-452.

- and M. Shaw (eds.). (2000), *An Ideal Prison? Critical Essays on Women's Imprisonment in Canada*, Toronto: Fernwood Publishing Company.
- HANSEN, R. (2000), *Citizenship and Immigration in Post-War Britain*, Oxford: Oxford University Press.
- HARCOURT, B. (2007), *Against Prediction: Profiling, Policing, and Punishing in An Actuarial Age*, Chicago: University of Chicago Press.
- HARPER, E. and S. SYMONDS. (2009), *Borders, Citizenship and Immigration Act 2009: Ministerial Statements, Prepared for the Immigration Law Practitioners' Association*, London: ILPA.
- HENDERSON, M., F. CULLEN, and L. CARROLL. (2000), 'Race, Rights, and Order in Prison: A National Survey of Wardens on the Racial Integration of Prison Cells', *Prison Journal*, 80(3): 295-308.
- HILL COLLINS, P. (1991), *Black Feminist Thought: Knowledge, Consciousness and the Politics of Empowerment*, New York: Routledge.
- HIRSCH, M. and L. SPITZER. (2010), *Ghosts of Home: The Afterlife of Czernowitz in Jewish Memory*, Berkeley, CA: University of California Press.
- HM INSPECTORATE OF PRISONS (HMIP). (2004), *Annual Report of HM Chief Inspector of Prisons for England and Wales 2002-2003*. London: HMIP.
- (2005) *Parallel Worlds: A Thematic Review of Race Relations in Prisons*, London: HMIP.
- (2010a), *Muslim Prisoners' Experiences: A Thematic Review*, London: HMIP.
- (2010b), *Report on An Unannounced Short Follow-Up Inspection of HMP Canterbury*, London: HMIP.
- HM PRISON SERVICE (HMPS). (2006), *Prison Service Order 4630: Immigration and Foreign Nationals in Prison*. London: MoJ.
- (2007a), *Prison Service Instruction 21/2007: Immigration and Foreign Nationals in Prison (Amended Version)*, London: MoJ.
- (2007b), *Prison Service Order 7100: Key Performance Indicators, Key Performance Targets and Additional Measures*, London: MoJ.
- (2007c), *Prison Service Order 4410: Prisoner Communications, Visits*, London: MoJ.
- (2008), *Prison Service Order 4630: Immigration and Foreign Nationals in Prison*. London: MoJ.

- HOLMES, C. (1997), 'Cosmopolitan London', in A.J. Kershen (ed.), *London: The Promised Land?*, 10-37, Aldershot: Avebury.
- HOME OFFICE. (1998), *Fairer, Faster, Firmer: A Modern Approach to Immigration and Asylum*, London: HMSO.
- (2007) *A Review of the Failure of the Immigration & Nationality Directorate to Consider Some Foreign National Prisoners for Deportation*. London: Home Office.
- HOWARD, J. (1789), *The State of the Prisons in England and Wales: With Preliminary Observations, and an Account of Some Foreign Prisons*, London: William Eyres and T. Cadell.
- HOWE, A. (1996), *Punish and Critique: Towards a Feminist Analysis of Penalty*, New York: Routledge.
- HUDSON, B. (2003), *Justice and the Risk Society*, London: Sage.
- HUGGAN, G. (2001), *The Postcolonial Exotic: Marketing the Margins*, London: Routledge.
- HUNTER, R. and DE SIMONE, T. (2008), 'Identifying Disadvantage: Beyond Intersectionality', in E. Grabham, D. Cooper, J. Krishnadas, and D. Herman (eds.), *Intersectionality and Beyond: Law, Power and the Politics of Location*, 159-182, Abingdon: Routledge-Cavendish.
- HUYSMANS, J. (2006), *The Politics of Insecurity: Fear, Migration, and Asylum in the EU*, Abingdon: Routledge.
- IGNATIEFF, M. (1995), *Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*, London: Penguin.
- IMMARIGEON, R. (2002), 'Abolitionism', in D. Levinson (ed.), *Encyclopedia of Crime and Punishment*, vol. 1, 3, Thousand Oaks, CA: Sage.
- IRWIN, J. (1970), *The Felon*, Berkeley: University of California Press.
- JACKSON, G. (1994), *Soledad Brother: The Prison Letters of George Jackson*, Chicago: Lawrence Hill Books.
- JACKSON, J., T.R. TYLER, B. BRADFORD, and M. SHRINER. (2010), 'Legitimacy and Procedural Justice in Prisons', *Prison Service Journal*, 191: 4-10.
- JACOBS, J. (1977), *Stateville: The Penitentiary in Mass Society*, Chicago: University of Chicago Press.
- JACOBSON, M. (2004), 'Reply to Kevin D. Haggerty', *Theoretical Criminology*, 8(2): 223-238.

- JAGOSE, J. (1996), *Queer Theory: An Introduction*, New York: New York University Press.
- JAMESON, F. (1972), *The Prison-House of Language: A Critical Account of Structuralism and Russian Formalism*, Princeton, NJ: Princeton University Press.
- JAMESON, N. and E. ALLISON. (1995), *Strangeways: A Serious Disturbance*, London: Larkin Publications.
- JEFFERSON, T. (1993), 'The Racism of Criminalization: Police and the Reproduction of the Criminal Other', in L. Gelsthorpe (ed.), *Minority Ethnic Groups in the Criminal Justice System*, Cambridge: The Cambridge University Institute of Criminology.
- JOHNSTON, P. (2006a), 'Veil Escape "Exposes Chaos in Border Controls"', *Telegraph Online*, retrieved 14 February 2010, <<http://www.telegraph.co.uk/news/uknews/1537514/Veil-escape-exposes-chaos-in-border-controls.html>>.
- (2006b), 'We May Never Find Foreign Murderers, Says Home Office', *Telegraph Online*, retrieved 14 February 2010, <<http://www.telegraph.co.uk/news/uknews/1516747/We-may-never-find-foreign-murderers-says-Home-Office.html>>.
- KARYDIS, V. (1998), 'Criminality of Criminalization of Migrants in Greece? An Attempt at Synthesis' in, V. Ruggiero, N. South and I. Taylor (eds.), *The New European Criminology: Crime and Social Order in Europ*, 350-367, London: Routledge.
- KEITH, B. (2006), *Report of the Zahid Mubarak Inquiry, Vol. I-II*, London: House of Commons.
- KIL, S. and C. MENJIVAR. (2006), 'The War on the Border: Criminalizing Immigrants and Militarizing the U.S.-Mexico Border', in R. Martinez, Jr. and A. Valenzuela, Jr. (eds.), *Immigration and Crime: Race, Ethnicity and Violence*, 164-188, New York: New York University Press.
- KILLINGRAY, D. (2009), "'A Good West Indian, a Good African, and, In Short, a Good Britisher": Black and British in a Colour-Conscious Empire, 1760-1950', *Journal of Imperial and Commonwealth History*, 36(3): 363-81.
- KING, R. and R. MORGAN (1980), *The Future of the Prison System*, Surrey: Gower.
- KISS, E. (2000), 'Moral Ambition Within and Beyond Political Constraints: Reflections on Restorative Justice', in R. Rotberg and D. Thompson (eds.), *Truth v. Justice: The Morality of Truth Commissions*, 141-157, Princeton: Princeton University Press.
- KNOPP, F., B. BOWARD, and M. MORRIS. (1976), *Instead of Prisons: A*

Handbook for Abolitionists, Syracuse, NY: Prison Research Education Action Project.

- KNOX, G. (2000), 'A National Assessment of Gangs and Security Threat Groups (STGs) in Adult Correctional Institutions: Results of the 1999 Adult Corrections Survey', *Journal of Gang Research*, 7(3): 1-45.
- LACEY, N. (2008), *The Prisoner's Dilemma: Political Economy and Punishment in Contemporary Democracies*, Cambridge: Cambridge University Press.
- LAKEY, J. (1997), 'Neighborhoods and Housing', in T. Modood, R. Berthoud, J. Lakey, J. Nazroo, P. Smith, S. Virdee, and S. Beishon (eds.), *Ethnic Minorities in Britain: Diversity and Disadvantage*, London: Policy Studies Institute.
- LARSEN, N. (2003), *Passing*, New York: Penguin Classics.
- LAQUEUR, T. (1993), *Making Sex: Body and Gender from the Greeks to Freud*, Cambridge, MA: Harvard University Press.
- LEA, J. (2000), 'The Macpherson Report and the Question of Institutional Racism', *The Howard Journal*, 38(3): 218-33.
- LEE, M. (2005), 'Human Trade and the Criminalization of 'Irregular Migration'', *International Journal of the Sociology of Law*, 33: 1-15.
- LEERKES, A. and D. BROEDERS. (2010), 'A Case of Mixed Motives? Formal and Information Functions of Administrative Immigration Detention', *British Journal of Criminology*, 50: 830-850.
- LEFTWICH, A. (ed.). (2004), *What is Politics? The Activity and Its Study*, Cambridge: Polity Press.
- LIEBLING, A. (1992), *Suicides in Prison*, London: Routledge.
- (1996), *Deaths in Custody II: Caring for People at Risk*, London: Whiting and Birch.
- (1998), *Deaths of Offenders: The Hidden Side of Justice*, London: Waterside Press.
- (2004), *Prisons and their Moral Performance: A Study of Values, Quality, and Prison Life*, Oxford: Oxford University Press.
- and S. MARUNA. (1999), *The Effects of Imprisonment*, Cullompton: Willan.
- LLOYD, M. (1999), 'Performativity, Parody, Politics', *Theory, Culture, and Society*, 16(2): 195-213.

- LOADER, I. (2000), 'Plural Policing and Democratic Governance', *Social and Legal Studies*, 9(3): 323-45.
- (2006), "'Fall of the 'Platonic Guardians'": Liberalism, Criminology and Political Responses to Crime in England and Wales', *British Journal of Criminology*, 46: 561-586.
- (2010), 'For Penal Moderation: Notes Toward a Public Philosophy of Punishment', *Theoretical Criminology*, 14(3): 349-367.
- LOADER, I. and R. SPARKS. (2007), 'Contemporary Landscapes of Crime, Order, and Control: Governance, Risk, and Globalization', in M. Maguire, R. Morgan, and R. Reiner (eds.), *The Oxford Handbook of Criminology*, 4th edn, 44-78, Oxford: Oxford University Press.
- LOFTUS, B. (2008), 'Dominant Culture Interrupted: Recognition, Resentment, and the Politics of Change in an English Police Force', *British Journal of Criminology*, 48(6): 756-77.
- LYOTARD, J. (1981), *The Inhuman: Reflections on Time*, G. Bennington and R Bowlby (trans.), New York: Polity Press.
- (1984), *The Postmodern Condition: A Report on Knowledge*, G. Bennington and B. Massumi (trans.), Manchester: Manchester University Press.
- LYNN, N. and S. LEA. (2003), "'A Phantom Menace and the New Apartheid": The Social Construction of Asylum-Seekers in the United Kingdom', *Discourse and Society*, 14(4): 425-452.
- MACPHERSON REPORT. (1999), *The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny*, CM4262-1, London: HMSO.
- MADDISON, A. (2001), *The World Economy: A Millennial Perspective*, Paris: OECD Publishing.
- MALLOCH, E. and M. STANLEY. (2005), 'The Detention of Asylum Seekers in the UK: Representing Risk, Managing the Dangerous', *Punishment and Society*, 7(1): 53-71.
- MANDARAKA-SHEPPARD, A. (1986), *The Dynamics of Agression in Women's Prisons in England*, Aldershot: Gower.
- MANERI, M. (2011), 'Media Discourse on Immigration: Control Practices and the Language We Live', in *Racial Criminalization of Migrants in the 21st Century*, S. Palidda (ed.), Surrey: Ashgate.
- MANN, N. (2003), 'Blair's Asylum Gamble', *BBC News Online*, retrieved 1 June 2011, < http://newswww.bbc.net.uk/2/hi/uk_news/politics/2738065.stm>.
- MANZA, J. and C. UGGEN. (2006), *Locked Out: Felon Disenfranchisement and American Democracy*, Oxford: Oxford University Press.

- MARCUS, G. E. (1998), *Ethnography Through Thick and Thin*, Princeton, NJ: Princeton University Press.
- MARFLEET, P. (1999), 'Nationalism and Internationalism in the New Europe', *International Socialism Journal*, 84, available at: <<http://pubs.socialistreviewindex.org.uk/isj84/marfleet.htm>>.
- MARX, K. (1992), *Capital: Volume 1: A Critique of Political Economy*, B. Fowkes (trans.), London: Penguin.
- MATHIESEN, T. (1974), *The Politics of Abolition*, Oxford: Martin Robertson.
- (1990), *Prison on Trial: A Critical Assessment*, Thousand Oaks, CA: Sage.
- MATTHEWS, R. (2009), 'Beyond "So What?" Criminology: Rediscovering Realism', *Theoretical Criminology*, 13(3): 341-62.
- MAUER, M. (1999), *The Race to Incarcerate*, New York: Free Press.
- MCDERMOTT, K. (1990), 'We Have No Problem: The Experience of Racism in Prison', *New Community*, 16(2): 213-28.
- MCGHEE, D. (2003), 'Moving to "Our" Common Ground: A Critical Examination of Community Cohesion Discourse in Twenty-First Century Britain', *The Sociological Review*, 51(3): 376-404.
- MCLAUGHLIN, E. (2011), 'Critical Criminology: The Renewal of Theory, Politics, and Practice', in *What is Criminology?*, M. Bosworth and C. Hoyle (eds.), Oxford: Oxford University Press, 49-59.
- and K. Murji (2000), 'Lost Connections and New Directions: Neo-Liberalism, New Managerialism and the Modernisation of the British Police', in K. Stenson and R. Sullivan (eds.), *Crime, Risk and Justice*, Cullompton: Willan.
- MELOSSI, D. (2013), *Crime and Migration*, London: Sage.
- and M. PAVARINI. (1981), *The Prison and The Factory: Origins of the Penitentiary System*, London: Macmillan.
- MESSERSCHMIDT, J. (1993), *Masculinities and Crime: Critique and Reconceptualisation of Theory*, Totowa, NJ: Rowman & Littlefield.
- MICHAEL, L. (2006), 'Clarke's Bungle Ends in Rape', *The Sun Online*, retrieved 1 June 2011, <<http://www.thesun.co.uk/sol/homepage/news/46603/Clarke-bungle-ends-in-rape.html>>.
- MINOW, M. (1998). *Between Genocide and Forgiveness: Facing History After Genocide and Mass Violence*, Boston: Beacon Press.

- Methchild and S. Asumah (eds.), *Prisons and Punishment: Reconsidering the Global Penalty*, Trenton, NJ: Africa World Press.
- MILL, J. S. (1999), 'The Subjection of Women', *Penn State Electronic Classic Series*, The Pennsylvania State University.
- MINISTRY OF JUSTICE (MoJ). (2007), *Letter from Maria Eagle, MP, to Mr. John Shine, Chair of the Independent Monitoring Board*. 20 September 2007.
- (2010a). *Offender Management Caseload Statistics 2009*. London: MoJ.
- (2010b), 'NOMS: About Us', *Ministry of Justice Online*, 1 May 2010, <<http://www.noms.homeoffice.gov.uk/about-us/>>.
- (2011), 'Prison Finder: Canterbury Prison', *Ministry of Justice Online*, 1 May 2010, <<http://www.justice.gov.uk/global/contacts/noms/prison-finder/canterbury/>>.
- (2012), 'Prison Population Figures: Weekly Bulletin', 2 March 2012, <<http://www.justice.gov.uk/statistics/prisons-and-probation/prison-population-figures>>.
- and UK BORDER AGENCY (UKBA). (2009), *Service Level Agreement to Support the Effective and Speedy Removal of Foreign National Prisoners*. 1 May 2009.
- MOHAHAN, T. (2009), 'Identity Theft Vulnerability: Neoliberal Governance Through Crime Construction', *Theoretical Criminology*, 13(2): 155-176.
- MOSES, G. (2007), 'Time and Punishment in an Anesthetic World Order', in M.
- MSNBC. (2011), 'British PM: Multiculturalism has Failed', *MSNIC Online*, retrieved 3 Jan 2012, <http://www.msnbc.msn.com/id/41444364/ns/world_news-europe/t/british-pm-multiculturalism-has-failed/#.TzL5EyOJ_J8>.
- MURDOLO, A. (2002), 'Keeping 'Our' Women Safe: Containing Australian Fear and Danger though Immigration Detention', *Hecate*, 28(1): 123-131.
- NACRO (2000), *Race and Prisons: A Snapshot Survey*, London: National Association for the Care and Resettlement of Offenders.
- (2010), *Foreign National Offenders, Mental Health, and the Criminal Justice System: A NACRO Mental Health Briefing Paper*, London: National Association for the Care and Resettlement of Offenders
- NATIONAL AUDIT OFFICE (NAO) (2005), *Returning Failed Asylum Applicants*. London: NAO.

- NEWBURN, T. and B. STANKO (eds.). (1995), *Just Boys Doing Business? Men, Masculinities and Crime*, London: Routledge.
- NIETZSCHE, F. (1989), *On the Genealogy of Morals and Ecce Homo*, New York: Vintage.
- NORFOLK, A. (2009), 'Beshenivsky Killer Mustaf Jama Captured in Secret Somalia Operation', *Times Online*, retrieved 14 February 2010, <<http://www.timesonline.co.uk/tol/news/uk/crime/article6723783.ece>>.
- O'BRIEN, P. (2001), *Making It in the 'Free World': Women in Transition from Prison*, Albany, NY: SUNY Press.
- O'MALLEY, P. (1999), 'Volatile and Contradictory Punishment', *Theoretical Criminology*, 3: 175-196.
- OLIVER, K. (2003), 'What is Transformative about the Performative? From Repetition to Working Through', in A. Cahill and J. Hansen (eds.), 167-190, *Continental Feminism Reader*, Oxford: Rowman and Littlefield.
- OWEN, B. (1998), *In the Mix: Struggle and Survival in a Women's Prison*, Albany, NY: SUNY Press.
- PALIDDA, S. (2011), 'Introduction', in *Racial Criminalization of Migrants in the 21st Century*, S. Palidda (ed.), Surrey: Ashgate.
- PANAYI, P. (2010), *An Immigration History of Britain: Multicultural Racism Since 1800*, London: Harlow Longman.
- PARRY, B. (1987), 'Problems in Current Theories of Colonial Discourse', *Oxford Literary Review*, 9(1-2): 27-58.
- PETER, F. (2010), 'Political Legitimacy', *Stanford Encyclopedia of Philosophy*, Stanford, CA: The Metaphysics Research Lab, Center for the Study of Language and Information, Stanford University. Available at <<http://plato.stanford.edu/archives/sum2010/entries/legitimacy/>>.
- PEW CENTRE ON THE STATES (2010), *Prison Count 2010*, Washington, D.C.: Pew Charitable Trust.
- PHILLIPS, C. (2007), 'Ethnicity, Identity, and Community Cohesion in Prison', in M. Wetherell and M. Lafleche, and R. Berkeley (eds.), *Identity, Ethnic Diversity, and Community Cohesion*, 75-86, London: Sage.
- (2011), 'Institutional racism and Ethnic Inequalities: An Expanded Multi-Level Framework', *Journal of Social Policy*, 40(1): 173-192.
- (2012), 'It Ain't Nothing Like America with the Bloods and the Crips': Gang Narratives Inside Two English Prisons, *Punishment and Society*, 14(1): 51-68.

- and B. BOWLING. (2003), ‘Racism, Ethnicity, and Criminology: Developing Minority Perspectives’, *British Journal of Criminology*, 43(2): 269-90.
- (2007), ‘Ethnicities, Racism, Crime, and Criminal Justice’, in M. Maguire, R. Morgan, and R. Reiner (eds.), *The Oxford Handbook of Criminology*, 4th edn, 421-460, Oxford: Oxford University Press.
- PHILLIPS, C. and R. EARLE. (2008), ‘Negotiating Identities: Ethnicity and Social Relations in a Young Offenders’ Institution’, *Theoretical Criminology*, 12(3): 313-331.
- (2010), ‘Reading Difference Differently? Identity, Epistemology and Prison Ethnography’, *British Journal of Criminology*, 50: 360-378.
- (2011), ‘Cultural Diversity, Ethnicity, and Race Relations in Prison’, in B. Crewe and J. Bennett (eds.), 117-130, London: Routledge.
- PLATO. (1955), *The Republic*, H. Lee (trans.), Harmondsworth: Penguin.
- PLAYER, E. and M. JENKINS. (1994), *Prisons After Woolf: Reform Through Riot*, London: Routledge.
- POWELL, E. (1968), ‘Enoch Powell’s “River’s of Blood” Speech’, *Telegraph Online*, retrieved October 1 2011, <<http://www.telegraph.co.uk/comment/3643823/Enoch-Powells-Rivers-of-Blood-speech.html>>.
- PRESTON, P. and M. PEREZ. (2006), ‘The Criminalization of Aliens: Regulating Foreigners’, *Critical Criminology*, 14: 43-66.
- PRISON REFORM TRUST (PRT). (2012), *No Way Out: A Briefing Paper on Foreign National Women in Prison in England and Wales*, London: PRT.
- PRISONERS’ ADVICE SERVICE (PAS). (2011), ‘Incentives and Earned Privileges Scheme’, *PAS Online*, retrieved 1 October 2011, <<http://www.prisonersadvice.org.uk/information.html>>.
- PUBLIC ACCOUNTS COMMITTEE (PAC). (2006), *Hearing of Commons Committee of Public Accounts, Thirty-fourth Report of Session 2005-6, HC 620*, London: PAC.
- RAFTER, N. (1985), *Partial Justice: Women in State Prisons, 1800-1935*, Boston: Northeastern University Press.
- RAHMAN, M. (2008), ‘Theorising Intersectionalities: Identities, Equality, Ontology’, in E. Grabham, D. Cooper, J. Krishnadas, and D. Herman (eds.), *Intersectionality and Beyond: Law, Power and the Politics of Location*, 352-373, Abingdon: Routledge-Cavendish.

- RAHOLA, F. (2011), 'The Detention Regime', in *Racial Criminalization of Migrants in the 21st Century*, S. Palidda (ed.), Surrey: Ashgate.
- REFUGEE COUNCIL UK. (2007), *Briefing: The New Asylum Model*, retrieved 20 January 2010, <<http://www.refugeecouncil.org.uk/NR/rdonlyres/BAD3EAD5-5267-4038-9B16-E99362400DCD/0/Newasylummodel.pdf>>.
- RESCH, R. (1992), *Althusser and the Renewal of Marxist Social Theory*, Oxford: University of California Press.
- RICH, A. (1994), *Blood, Bread, and Poetry: Selected Prose 1979-1985*, New York: W.W. Norton & Co.
- RICHIE, B. (2004), 'Feminist Ethnographies of Women in Prison', *Feminist Studies*, 30(2): 438-450.
- (2011), 'Criminology and Social Justice: expanding the Intellectual Commitment', in M. Bosworth and C. Hoyle (eds.), *What is Criminology?*, Oxford: Oxford University Press, 211-223.
- RICOEUR, P. (1969), *The Conflict of Interpretations: Essays in Hermeneutics*, Chicago: Northwestern University Press.
- ROSE, D. (2004), *Guantanamo: America's War on Human Rights*, London: Faber and Faber.
- ROSE, J. (1980), *Elizabeth Fry: A Biography*, London: Macmillan.
- ROSS, L. (1998), *Inventing the Savage: The Social Construction of Native American Criminality*, Austin, TX: University of Texas Press.
- ROWBOTHAM, S. (1973) *Woman's Consciousness: Man's World*. London: Penguin Books.
- SAID, E. (1978), *Orientalism*, New York: Random House.
- SALES, R. (2002), 'The Deserving and the Undeserving? Refugees, Asylum Seekers and Welfare in Britain', *Critical Social Policy*, 22(3): 456-478.
- SCARRY, E. (1985), *The Body in Pain: The Making and Unmaking of the World*, Oxford: Oxford University Press.
- SCHLOSSER, J. (2008), 'Issues in Interviewing Inmates: Navigating the Methodological Landmines of Prison Research', *Qualitative Inquiry*, 14(8): 1500-1525.
- SCRATON, P. (ed.). (1987), *Law, Order, and the Authoritarian State: Readings in Critical Criminology*, London: Open University Press.
- SEARLE, C. (2001), *An Exclusive Education: Race, Class, and Exclusion in British*

- Schools*, London: Lawrence and Wishart.
- SEDGWICK, E. (1991), *Epistemology of the Closet*, Berkeley, CA: University of California Press.
- (2004), *Touching Feeling: Affect, Pedagogy, Performativity*, Durham, NC: Duke University Press.
- SHAKUR, A. (1987), *Assata: An Autobiography*, Chicago: Lawrence Hill Books.
- SHEIKH, I. (2008), 'Racializing, Criminalizing, and Silencing 9/11 Deportees', in D. Brotherton and P. Kretsedemas (eds.), *Keeping Out the Other: A Critical Introduction to Immigration Enforcement Today*, 81-107, New York: Columbia University Press.
- SIM, J. (1995), 'Tougher than the Rest? Men in Prison', In T. Newburn and B. Stanko.(eds.), *Just Boys Doing Business? Men, Masculinities and Crime*, 100-117, London: Routledge.
- (2009), *Punishment and Prisons: Power and the Carceral State*, London: Sage.
- SIMON, F. (1999), *Prisoners' Work and Vocational Training*, London: Routledge.
- SIMON, J. (1998), 'Refugees in a Carceral Age: The Rebirth of Immigration Prisons in the United States', *Public Culture*, 10(3): 577-607.
- (2001), 'Megan's Law: Crime and Democracy in Late Modern America', *Law and Social Enquiry*, 25 (4): 1111-1150.
- (2007), *Governing through Crime*, Oxford: Oxford University Press.
- and R. SPARKS (forthcoming 2012), *Handbook of Punishment and Society*, Thousand Oaks, CA: Sage.
- SINGY, P. (2006), 'Il Caso "Sade"', *Rivista Sperimentale di Freniatria*, 130: 83-102.
- (2010), 'What's Wrong with Sex?', *Archives of Sexual Behavior*, 39: 1231-33.
- and K. LAMB. (2011), 'Perverse Perversion: How to Do the History of a Concept', *GLQ*, 17: 405-422.
- SLACK, J. (2009), 'Why Were On-the-Run Convicts Still Here? Deportation Row over Foreign Nationals Wrongly at Large', *The Daily Mail*, 8 July 2009.
- SLEMON, S. (1994), 'The Scramble for Post-Colonialism', in C. Tiffin and A. Lawson (eds.), *De-Scribing Empire: Post-Colonialism and Textuality*, 15-34, London: Routledge.

- SMELSER, N. (1997), *Problematics of Sociology*, Berkeley: University of California Press.
- SOLOMOS, J. (1999), 'Social Research and the Stephen Lawrence Inquiry', *Sociological Research Online*, 4(1).
- SPARKS, R. (1994), 'Can Prisons be Legitimate? Penal Politics, Privatization, and the Timeliness of an Old Idea', in R. D. King and M. Maguire (eds.), *Prisons in Context*, 14-28, Oxford: Clarendon Press.
- and A. BOTTOMS. (1995), 'Legitimacy and Order in Prisons,' *The British Journal of Sociology*, 46(1): 45-62.
- and W. HAY. (1996), *Prisons and the Problem of Order*, Oxford: Clarendon Press.
- SPENCE, D. (1984), *Narrative Truth and Historical Truth: Meaning and Interpretation in Psychoanalysis*, New York: Norton.
- SPENCER, J. (1989), 'Anthropology as a Kind of Writing', *Man*, 24(1): 145-164.
- SPIVAK, G. (1988), 'Can the Subaltern Speak?', in C. Nelson and L. Grossberg (eds.), *Marxism and the Interpretation of Culture*, 271-317, Champaign, IL: University of Illinois Press.
- STANFORD, A. (2004), 'More than Just Words: Women's Poetry and Resistance at Cook County Jail', *Feminist Studies*, 30(2): 277-301.
- STENSON, K. (2005), 'Sovereignty, Biopolitics, and the Local Government of Crime in Britain', *Theoretical Criminology*, 9(3): 265-287.
- and R. SULLIVAN (eds.). (2001), *Crime, Risk and Justice: The Politics of Crime Control in Liberal Democracies*. Cullompton: Willan.
- STEVENS, J. (2009), *States Without Nations: Citizenship for Mortals*, New York: Columbia University Press.
- (2010), 'America's Secret ICE Castles', *The Nation*, retrieved 1 August 2011, <<http://www.thenation.com/article/americas-secret-ice-castles>>.
- STUMPF, J. (2007), 'The Crimmigration Crisis: Immigrations, Crime and Sovereign Power', Paper No. 2007-2, Lewis and Clark Law School Legal Research Paper Series.
- (2011), 'Doing Time: Crimmigration Law and the Perils of Haste', *UCLA Law Review*, 58: 1705-1748.
- (2012), 'The Justice of Crimmigration Law and the Security of Home', in *Justice and Security in the 21st Century: Risks, Rights and the Rule of Law*, B. Hudson and S. Ugelvik (eds.), 43-63, Abingdon: Routledge.

- STUNTZ, W. (2011), *The Collapse of American Criminal Justice*, Cambridge, MA: Harvard University Press.
- SUDBURY, J. (2002), 'Celling Black Bodies: Black Women in the Global Prison Industrial Complex', *Feminist Review*, 70: 57-74.
- (2004), 'Globalized Punishment, Localized Resistance: Prisons, Neoliberalism and Empire', *SOULS: A Critical Journal of Black Politics, Culture & Society*, 6(1): 55-65.
- (ed.). (2005), *Global Lockdown: Race, Gender, and the Prison-Industrial Complex*, London: Routledge.
- (2009), 'Reform or Abolition?: Using Popular Mobilizations to Dismantle the Prison-Industrial Complex', *Criminal Justice Matters* 77(1): 26-28.
- SYKES, G. (1958), *The Society of Captives: A Study in a Maximum Security Prison*, Princeton: Princeton University Press.
- SVEINSSON, K. (2008), *A Tale of Two Englands: 'Race' and Violent Crime in the Media*, London: Runnymede Trust.
- TAIWO, O. (1999), 'Reading the Colonizer's Mind: Lord Lugard and the Philosophical Foundations of British Colonialism', in S. Babbitt and S. Campbell (eds.), *Racism and Philosophy*, 157-188, Ithaca, NY: Cornell University Press.
- TAX, M., JOREEN, E. WILLIS, S. OLAH, P. KEARON, C. HANISCH, B. KREPS, B. MEHRHOF, I. PESLIKIS, and K. MILLET. (1970), *Notes from the Second Year: Women's Liberation, Major Writings of the Radical Feminists*, New York: Firestone and Koedt.
- TAYLOR, I., P. WALTON and J. YOUNG. (1973), *The New Criminology: For a Social Theory of Deviance*, London: Routledge.
- TEITEL, R. (2000), *Transitional Justice*, Oxford: Oxford University Press.
- THOMAS, N. (1991), 'Against Ethnography', *Cultural Anthropology*, 6(3): 306-322.
- TILLEY, S. (1998), 'Conducting Respectful Research: A Critique of Practice', *Canadian Journal of Education*, 23(3): 316-328.
- TIMES ONLINE. (2009), 'Somali Gangster Jailed for Life for Killing Policewoman Sharon Beshenivsky', *Times Online*, retrieved 14 February 2010, <<http://www.timesonline.co.uk/tol/news/uk/crime/article6723293.ece>>
- TONRY, M. (1996) *Malign Neglect: Race, Crime and Punishment in America*. Oxford: Oxford University Press.

- TRAVIS, A. (2003), 'Paul Robeson Was Tracked by MI5', *The Guardian*, March 7.
- TURNER, W. (2000), *A Genealogy of Queer Theory*, Philadelphia: Temple University Press.
- UGELVIK, T. (2012). 'Imprisoned on the Border: Subjects and Objects of the State in Two Norwegian Prisons', in *Justice and Security in the 21st Century: Risks, Rights and the Rule of Law*, B. Hudson and S. Ugelvik (eds.), 64-82, Abingdon: Routledge.
- UNHCR. (1994), *Die Lage der Flüchtlinge in der Welt (State of the World's Refugees)*, Berlin: UNHCR.
- VALVERDE, M. (2010), 'Specters of Foucault in Law and Society Scholarship', *Annual Review of Law and Social Science*, 6: 45-59.
- VAN KALMTHOUT, A., M KNAPEN and C. MORGENSTERN (2007), 'Comparative Overview: Conclusions and Recommendations', in *Conference Report: Foreigners in European Prisons — From 'Good Practices' to 'Good Policy'*, Nieuwersluis, Netherlands: MoJ
- VAN KOOTEN, H. (2008), *Conference Report: Foreigners in European Prisons — From 'Good Practices' to 'Good Policy'*, Nieuwersluis, Netherlands: MoJ.
- VAN SWAANINGEN, R. (1997), *Critical Criminology: Visions from Europe*, London: Sage.
- VARGAS, J. and J. ALVES. (2010), 'Geographies of Death: An Intersectional Analysis of Police Lethality and the Racialized Regimes of Citizenship in São Paulo', *Ethnic and Racial Studies*, 33(4): 611-636.
- VERTOVEC, S. (2007), 'Super-diversity and Its Implications', *Ethnic and Racial Studies*, 30(6): 1024-1054.
- VINE, J. (2012), 'Thematic Inspection of How the UK Border Agency Manages Foreign National Prisoners: February – May 2011', *Independent Chief Inspector of the UK Border Agency*, London: HMSO.
- VISWESWARAN, K. (1994), *Fictions of Feminist Ethnography*, Minneapolis: University of Minnesota Press.
- WACQUANT, L. (1999), 'Suitable Enemies: Foreigners and Immigrants in the Prisons of Europe', *Punishment and Society*, 1(2): 215-222.
- (2001), 'Deadly Symbiosis: When Ghetto and Prison Meet and Mesh', *Punishment and Society*, 3(1): 95-133.
- (2002), 'The Curious Eclipse of Prison Ethnography in the Age of Mass Incarceration', *Ethnography*, 3/4: 371-397.
- (2009), *Punishing the Poor: The Neoliberal Government of Social Insecurity*, Durham, NC: Duke University Press.

- WAGNER, P. (1994), *A Sociology of Modernity: Liberty and Discipline*, London: Routledge.
- WALTERS, R. (2010), 'Environmental Crime', in G. Mooney, H. Craoll, and M. Munroe, (eds.), *Criminal Justice in Scotland*, Cullompton: Willan.
- WARNER, M. (1999), *The Trouble with Normal: Sex, Politics, and the Ethics of Queer Life*, New York: Free Press.
- WEBER, L. (2002), 'The Detention of Asylum Seekers: 20 Reasons Why Criminologists Should Care', *Current Issues in Criminal Justice: Special Issue—Refugee Issues and Criminology*, 14(1): 9-30.
- (2006), 'The Shifting Frontiers of Migration Control', in S. Pickering and L. Weber (eds.), *Borders, Mobility, and Technologies of Control*, Dordrecht: Springer.
- and B. BOWLING. (2004), 'Policing Migration: A Framework for the Regulation of Global Mobility', *Policing and Society*, 14(3): 195-212.
- WEBER, M. (1958), *Economy and Society: An Outline of Interpretive Sociology*, vol I and II, Berkeley: University of California Press.
- (1964), *The Theory of Social and Economic Organization*, T. Parsons (ed.), New York: Free Press.
- WELDES, J. (1989), 'Marxism and Methodological Individualism', *Theory and Society*, 18(3): 353-386.
- WEST, H. (2010), *Prison Inmates at Midyear 2009: Statistical Tables*, Washington, D.C.: Bureau of Justice Statistics, US DOJ. Available at <<http://bjs.ojp.usdoj.gov/content/Pub/pdf/pim09st.pdf>>.
- WESTERN, B. (2006), *Punishment and Inequality in America*, New York: Russell Sage Foundation.
- WIEVIORKA, A. (2006), *The Era of Witness*, Ithaca: Cornell University Press.
- WILCOX, A. and C. HOYLE (2005), 'Are Randomised Controlled Trials Really the "Gold Standard" in Restorative Justice Research', *British Journal of Criminal Justice*, 3(2): 39-49.
- WILLIAMS, R. (1978), *Marxism and Literature*, Oxford: Oxford University Press.
- WILSON, A. (1978) *Finding a Voice: Asian Women in Britain*. London: Virago Press.
- WILSON, D. (2003), "'Keeping Quiet" or "Going Nuts": Some Emerging Strategies

- Used by Young Black People in Custody at a Time of Childhood Being Reconstructed', *Howard Journal of Criminal Justice*, 42(5): 411-25.
- WOLLSTONECRAFT, M. (1996), *A Vindication of the Rights of Woman*, 2nd Ed., Mineola, NY: Dover Publications.
- WOOLF REPORT. (1991). *Prison Disturbances April 1990: Report of an Enquiry by the Rt. Hon. Lord Justice Woolf (Part I and II) and His Honor Judge Stephen Tumin (Part III)*, Cm. 1456, London: HSMO.
- WOOLF, V. (2006), *Three Guineas*, New York: Mariner Books.
- YILDIZ, C. and A. BARTLETT (2011), 'Language, Foreign Nationality and Ethnicity in an English Prison: Implications for the Quality of Health and Social Research', *Journal of Medical Ethics*, forthcoming.
- ZEDNER, L. (2002), 'Dangers of Dystopias in Penal Theory', *Oxford Journal of Legal Studies*, 22(2): 341-366.
- (2008), 'Terrorism, the Ticking Bomb, and Criminal Justice Values', *Criminal Justice Matters*, 73: 18-19.
- (2009), *Security*, London: Taylor and Francis.
- (2010), Security, The State, and the Citizen: The Changing Architecture of Crime Control', *New Criminal Law Review*, 13(2): 379-403.
- ZIMRING, F. and D. JOHNSON. (2006), 'Public Opinion and the Governance of Punishment in Democratic Political Systems', *The Annals of the American Academy*, 605: 266-280.