

Foreign, criminal

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Foreign, criminal: a doubly damned modern British folk-devil

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ABSTRACT

An association of strangers with danger and criminality is one of the most enduring social myths. However, in the UK, it was only after a media outcry 10 years ago over the release of foreign nationals from British prisons, that the ‘Foreign Criminal’ exploded into political and popular consciousness. Despite the small numbers of people involved, the location of this folk devil at the intersection of legal and moral assessments of ‘wickedness’ and alterity imbues it with considerable potency and has ensured that its reverberations are still felt strongly a decade later. Drawing on qualitative research with immigration detainees, deportees and irregular migrants, the article considers some of the many faces of the Foreign Criminal and illuminates their racialised, classed and gendered natures. It argues that a twin set of developments – coalescing around Operation Nexus and curtailed Article 8 right protections – work together to taint a growing number of non-citizens with criminality, whilst simultaneously undermining their claim to belong. Case studies are presented to demonstrate the fault lines of this malleable and expanding category, and to argue that the Foreign Criminal is paradigmatic of both social disorder and national boundaries, and is fundamentally shifting the lines of citizenship and belonging.

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The most serious criminals in the UK are foreign nationals: drug dealers, pimps, traffickers, drug smugglers, gang members ... (Home Office employee to me, 2015)

Introduction

Citizenship and its privileges of membership are defined through a combination of internally and externally orientated binaries. The outer boundaries are drawn along an insider/alien division, whilst its content is produced by contrasting the ideal citizen with ‘his’ idle and law-breaking peers. This article critically considers the ‘Foreign Criminal’ as a category that reinforces and challenges these binaries through its location at the intersection of assessments of ‘wickedness’ and ‘foreignness’. Despite a long history in the UK and elsewhere of viewing certain non-citizens as dangerous and degenerate, and criminals as almost-foreign in their alterity, the Foreign Criminal is a profoundly contemporary ‘folk devil’ (Cohen 1973). A British media furor at the beginning

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of the twenty-first century saw major revitalisation and repositioning of these issues, producing the Foreign Criminal as a popular and legal category personifying danger and Otherness. The article critiques the category and associated moral panic to argue that the convergence of the 'Criminal' and the 'Foreigner' has created a potent but problematic foil that is paradigmatic of social disorder and the boundaries of national belonging, and as such helps define both the 'Good Migrant' and 'Failed Citizen'. Given the developments of 2016, including the anti-immigrant sentiment emerging around the UK's referendum on EU membership ('Brexit'), and USA President Trump's promises to deport millions of criminal immigrants, analysis of these issues is unfortunately more important than ever.

The article examines an arena in which two sets of issues are being actively negotiated: the demarcation of insiders through exclusionary immigration controls (Anderson, Gibney, and Paoletti 2011; De Genova and Peutz 2010; Wacquant 2008; Walters 2002), and the convergence of the criminal justice and immigration spheres (Aas and Bosworth 2013; Stumpf 2006; Turnbull and Hasselberg 2016). It begins with a brief discussion of citizenship, before charting the birth and expansion of the Foreign Criminal in the UK over the last decade. Assessment of policy and legislation is used to suggest that this category of deviance arises as a result of the growing use of criminal justice technologies in managing borders, as well as ever greater immigration consequence of criminal offences. Two sets of policy developments are identified as fundamentally shifting the landscape: making more people criminal and (certain) people more foreign. These expand membership of the Foreign Criminal category and increase the charge of criminality, whilst simultaneously undermining claims to belong.

Qualitative research conducted with immigration detainees, deportees and irregular migrants in 2008–2016 is then introduced to illustrate the ways in which the Foreign Criminal category is stretched and subverted. This includes material gathered over 30 months of ethnographic research in 2008–2010 and three months' observation of asylum appeals in 2013. It is especially informed by fieldwork conducted in 2015–2016 as part of an ESRC-funded project into the family lives of UK-based men at risk of forced removal.¹ Case studies and appeal hearing observations are presented so to illustrate the diversity of the category: immigration applicants and offenders who would have previously been managed through administrative systems; long-term residents who are recast as foreign following criminal convictions; and – most recently – non-citizens whose criminality is insubstantial or speculative. Such heterogeneity makes the label inherently unstable, as is demonstrated by examining how interviewees contest and reconfigure their membership.

The article goes on to argue that, notwithstanding the heterogeneity, nor the presentation of migration as a neutral, bureaucratic concern, the Foreign Criminal is highly racialised, classed and gendered. Contributing to migration scholars' rising recognition of gender and race (Bosworth and Guild 2008; De Noronha 2015; Kanstroom 2010; Kaufman 2012; Preston and Perez 2006), it argues that alongside growing use of the immigration system's logic of alterity to police ethnic minority communities, there is increasing use of criminal justice techniques (whose racial biases are well documented) to forcibly eject people. Deportation, then, is more a tool of social management than of security (Kanstroom 2012); disciplining certain groups by reminding them of the conditionality of their presence, and constructing the nation by reinforcing racialised, gendered and classed images of citizens and migrants. The article argues that a burgeoning 'pre-emptive justice', move away from the safeguards of the criminal courts, and increased police and prison involvement in immigration concerns, have helped reframe deportation as a proportionate response to the presence of undesirable

non-citizens. Reduced human right protections for foreigners tainted with criminality then ease the wheels of deportation.

The Good Citizen and his others

In theory, citizenship is a status of legal privilege, providing a guarantee of equal treatment and protection from state interference. In reality, it is an ambiguous, uneven and contested status that is normative as well as formal, and whose membership is closely policed. The idealised 'Good Citizen' is constructed as a law-abiding, hard-working, liberal sovereign individual, typically portrayed as a rational, independent man (Anderson 2013; Yuval-Davis 2011). En masse he makes up the 'community of value': an imagined collective comprised of members bound by shared values. Those who cannot meet the Good Citizen standard define him by being all that he is not. With a common origin in the undeserving poor and 'masterless men' of the early modern period (Anderson 2013), these are the insiders who fail to live up to expectations, and the foreigners who threaten the community with their alien values. The latter's liability to exceptional measures helps demarcate national boundaries, with deportation considered especially constitutive of citizenship and borders by marking both the contingency of migrants and the privilege of citizenship (De Genova and Peutz 2010; Walters 2002). However, as illustrated in this journal (Anderson, Gibney, and Paoletti 2011), conflict over the boundaries of membership means that deportation cannot unproblematically divide citizens from non-citizens.

In parallel, various 'problematic' citizens define the Good Citizen from the inside by failing to live up to the liberal ideals of the community of value. These Failed Citizens, or 'social abjects' (Tyler 2013), are the feckless, fecund, ill-disciplined, violent, bad or dependant, of which the Criminal is an ancient archetype. Identifying and punishing 'criminals' is integral to defining the nation and the (im)moral, reiterating the value of 'law abiding' behaviour, and demonstrating social distaste for particular people and actions (Durkheim 1984). Prisons are central to this sorting and disciplining of 'problematic' insiders (Foucault 1977; Garland 2001), and across the world we see an enduring over-representation of prisoners from minority ethnicities (Bhui 2016; Bowling and Phillips 2002; Phillips 2012; Tonry 2014) and poor neighbourhoods (Boe 2016; Wacquant 2001). If criminality is understood as the breaking of social rules (Durkheim 1974), then the penal system is intended to address social deviance as much as criminal insecurity, and we can expect crime and incarceration trends to illuminate cultural ideas about 'proper' conduct and the threats facing the community of value. Many of the contemporary 'crimes' of Euro-american citizens, for example, are said to relate to nonconformity to a lifestyle devoted to production and consumption, resulting in the criminalisation of marginality and unemployment (Ruggiero 2013, 178; Wacquant 2009), and the reiteration of the Good Citizen as the 'hardworking taxpayer'.

In reality, the distinctions between insiders and outsiders, and Good and Failed Citizens, are contentious and blurred. It is not only non-citizens that can be forcibly excluded from the country. Exceptional Failed Citizens may be expelled (extradition) or refused entry ('Temporary Exclusion Orders'²). And 'foreigners' may be 'Almost Citizens': mobile Europeans or migrants with normative (but increasingly not legal) claims to belong on the basis of connections to Britons or time spent in the country. Non-citizens may also earn membership to the community of value through naturalisation, although this path is increasingly inaccessible, especially for those with

criminal or immigration offences. Alongside ever-rising costs and requirements, all applicants over the age of 10 now have their Good Citizen potential vetted through the 'good character' test, which assesses behaviour, personal circumstances and associations (including familial).³ Decision-makers consider applicants' financial affairs, convictions, association with criminals and 'honesty' with the authorities, with immigration offenders now punished with a 10-year naturalisation ban. In parallel, British citizenship is made increasingly insubstantial and insecure. This is so even for indigenous nationals, for whom citizenship has become a privilege conditional on self-reliance and good behaviour, rather than an irrevocable right (Gibney 2011, 4). Naturalised citizens are especially insecure, however: tolerated as 'eternal guests' on probation but forever vulnerable to rejection (Kanström 2010; Stumpf 2006). Longstanding, but until recently rarely used, denaturalisation powers have been revived and revamped, affecting rapidly expanding numbers,⁴ now including native-born (dual) citizens⁵ and, most recently, even single-nationality citizens for whom deprivation risks statelessness.⁶ It is in this context that the Foreign Criminal arose as both a legal and normative category, merging longstanding class- and race-biases, with contemporary concerns around the control of borders and mobility.

The birth and legacy of the 'Foreign National Offender'

Foreign National Prisoners weren't an issue until two years ago. And now it's the new reason why Britain is going to hell in a handcart. (NGO Director 2009)

A toxic combination of illegality and alterity gives apparent ahistorical political importance to the Foreign Criminal. However, in the UK the moral panic can be dated to 2006 and a 'scandal' over the release (rather than deportation) of foreign nationals after serving prison sentences.⁷ Despite the tiny numbers involved,⁸ the Tabloids were awash with depictions of foreign murderers, rapists and paedophiles. Sustained criticism of the Home Office led to what the head of detention at Her Majesty's Inspectorate of Prisons called an 'extreme reaction' (Bhui 2007). This included dramatic changes in the Home Office's management and structure, the Home Secretary's resignation and an inpouring of resources to meet the new commitment of deporting as many 'foreign national offenders' (FNOs) as possible, as early as possible.⁹ Despite there being no 'gap in legislation or powers' regarding FNOs (HM Inspectorate of Prisons 2006, 1), the 2007 UK Borders Act introduced game-changing developments. It stipulated that 'foreign criminals' be *automatically* deported, defining them as non-citizens convicted in the UK and sentenced to 12 months or more imprisonment (or for a shorter period but for a 'serious' offence),¹⁰ or who are considered 'persistent offenders'.¹¹ Moreover, *all* non-citizens sentenced to prison would now be considered for deportation, whatever their circumstances.

Deportation is an archaic technology, although its rationale and foci have changed considerably. In the Ancient World, the related practice of banishment was primarily applied to citizens, as punishment for offences like cowardice and the non-payment of fines (Gibney 2011, 6). The technique endured, evident, for example, in England's 'transportation' of convicts overseas. It only fell out of favour in the early nineteenth century, as the solidification of the global nation-state system made it difficult for states to abandon their citizens, and as the right to enter and remain in one's country became a defining feature of citizenship

Table 1. (NAO, 2014: 16).

Financial year	Number of FNOs deported
2005–06	Data not available
2006–07	2,856
2007–08	4,468
2008–09	5,613

(Gibney 2011, 6).¹² The focus of expulsion moved to migration management, with deportation included in the UK's 1905 Aliens Act. However, deportations were conducted in relatively small numbers until the 'deportation turn' of the mid-1990s (Anderson, Gibney, and Paoletti 2013, 1). And until a decade ago, the primary target of forced expulsion from the UK was refused asylum seekers (Anderson, Gibney, and Paoletti 2011, 550).¹³

The 2006 furore heralded a shift of political focus, with deportations of FNOs jumping 50% in a year, and rising a further quarter in 2008 (Table 1). This presumably meant an increase in the number of FNOs entering immigration detention.¹⁴ Once detained, FNOs frequently spend far longer there than they did in prison (Phelps 2010). Barriers to deportation are common, FNOs tend to be refused bail, and the justifications of ongoing immigration detention¹⁵ are particularly likely to be met by those with criminal records. The management of non-citizens in English and Welsh prisons also changed. In 2009, the 'hubs and spokes' system was introduced to boost deportations, concentrating FNOs in specific prisons and strengthening prison/immigration interagency cooperation (Kaufman 2012). Confirming the claim that foreignness legitimises aggravated punishment (Wacquant 2008, 50), FNOs are now more likely than British offenders to be imprisoned on remand while awaiting trial/sentencing and they generally receive longer custodial sentences, meaning that prisoners spend more time incarcerated if they are foreign (Bhui 2007; Turnbull and Hasselberg 2016). They are also now held in higher security prisons, refused re-categorisation to open prisons, and an immigration exemption has even been added to the Rehabilitation of Offenders Act 1974. A criminal record can also affect future immigration applications, with decision makers often referring to past crimes. Offenders in the UK today, then, are punished harder and denied redemption when they are non-citizens, casting them as more seriously and indelibly criminal than their British counterparts.

The Foreign Criminal may have been politically invisible before 2006, but he has shaped political, media and NGO agendas, and public debates over national belonging, ever since. He has few supporters, with even solicitors, MPs and NGOs tending to apportion their sympathies and resources depending upon how 'blameless' a person appears. Media coverage consistently further demonises FNOs and the association of confinement with criminality may explain the dearth of media interest in immigration detainees (except for 'vulnerable', almost exclusively female, detainees). Journalists have told me that data on extreme lengths of detention are not newsworthy if detainees have criminal records, and whilst there was outrage over attempts in 2008 to extend to 42 days the length of time terrorist suspects could be held without charge, the *indefinite* administrative detention of FNOs invokes little concern. Indeed, any suggestion of introducing a time limit to immigration detention almost always explicitly excludes FNOs.¹⁶ Unfortunately, notwithstanding a few notable exceptions, the NGO sector has largely self-censored itself. The growing political and popular demonization of immigrants encourages charities to accept the mythical distinction between Good and Bad Migrants. 'We are steadfastly against the locking up of asylum seekers but

we don't want to be accused of supporting foreign criminals,' explained the coordinator of an asylum charity to me in 2014, rejecting any ambiguity between the two. Ignoring the irregular immigration statuses and brushes with the law of most of his own clients, he felt compelled to articulate their claim to remain in the UK by portraying them as innocent, vulnerable and only reluctantly mobile.

The aftermath

A decade on, and the moral panic and individualised harm of the Foreign Criminal discourse continues, as it will in post-Brexit Britain. However, political pledges to increase the detection and deportation of FNOs have found limited success. Despite a growing number of foreign nationals within prisons across Europe and North America (Bosworth, Hasselberg, and Turnbull 2016), the proportion in English and Welsh prisons has been relatively stable. And although the number of FNOs deported after 2006 nearly doubled in two years, the figure since then has also been stable, at around 5000 a year (Table 2). To some extent, this reflects the practical difficulties of expelling people, illustrated by the annual increase in the total number of non-citizens detained for enforced departure, alongside a counterintuitive annual *decrease* in the total number of forced removals.¹⁷ Various political and bureaucratic obstacles hinder the issuing of travel documentation (Griffiths 2012), and indeed half of the detained FNOs with barriers to removal are stuck in this process.¹⁸ Despite this, political attempts to increase FNO deportation rates continue, through new policies and the spending of considerable sums.¹⁹

After 2006, the Home Office considered all FNOs deportable. However, in practice deportation was only actively pursued when recommended by a court, or for 'serious' offences or prison sentences of at least 12 months (NAO 2014, 28).²⁰ To increase deportation figures, a dedicated Removals Casework team established in 2013 to systematically subject *all* Foreign Criminals to expulsion.²¹ Marking an even more profound shift, was the creation of Operation Nexus in 2012. Until the release of official guidance five years later (Home Office 2017), there was frustratingly scant public information on the little-known initiative, with practitioners piecing together knowledge from casework, Freedom of Information requests and a handful of documents.²² Providing some (unrepresentative) additional insight are my observations of four Nexus-related appeal hearings in 2015.²³ What is known, is that Operation Nexus began as a London-based pilot and is being rolled out nationally. It is an institutional arrangement designed to strengthen police-immigration interagency cooperation in order to better identify and remove undesirable non-citizens, with a focus on high-harm criminals. The details vary by region, but include the stationing of immigration officers

Table 2. (NAO, 2014: 16).

Financial year	Number of FNOs deported
2006–07	2,856
2007–08	4,468
2008–09	5,613
2009–10	5,471
2010–11	5,367
2011–12	4,539
2012–13	4,722
2013–14	5,097

in police custody suites and the linking of police and Home Office fingerprint databases, so that the nationality and immigration status of everyone arrested can be checked. There is an 'added value' workstream, in which the police help the Home Office address barriers to removal, and a scheme of 'conditional cautions', through which people with petty or low-level offences can avoid prosecution by accepting a caution, removal and re-entry ban.

Operation Nexus revitalises and mainstreams the power to deport non-citizens who do not have criminal convictions. So-called 'intelligence-led deportation' uses police material to ascertain a criminal 'conduct' or 'character', sufficient to require deportation as being 'conducive to the public good'. This means that a case for deportation can rest upon a medley of allegations, associations, unproven assertions, hearsay, anonymous evidence, the behaviour of the appellant's friends and circumstantial evidence, none of which would usually be admissible in a criminal court. The young men whose Nexus-related appeals I observed each had several convictions, although they were described as persistent, not serious, criminals. Strengthening the case for deportation, and forming the focus of the hearings, were thick bundles of police 'CRIS' reports.²⁴ These consisted of accusations of gang membership and multiple, but largely insignificant, encounters with the police. Tellingly termed 'non-convictions', these include stop-and-searches even when nothing is found, charges that are withdrawn, being present at crime scenes, acquittals at criminal trial, arrests for cautionable offences, arrests that did not lead to charges and arrests made in error (Luqmani Thompson & Partners 2014, 7). Police records cannot be amended, so everything – even withdrawn charges – remains on file. Although Operation Nexus is presented as targeting high-harm FNOs (Home Office 2017), it actually draws in a much wider range of non-citizens, including on the basis of ancient, low-level, unproven, or even as-yet-uncommitted crimes. Nexus does more than simply increase the detection of Foreign Criminals, then, it expands the definition and membership of the category itself.

As Operation Nexus accentuates people's criminality, so parallel developments undermine their ability to assert belonging to the UK, resulting in an exaggeration of 'foreignness'. These exist in the context of a much broader attack on the ability of all non-citizens to legally challenge immigration decisions, evident in legal aid cuts, ballooning court fees, reduced grounds for appeal and the controversial new 'deport first, appeal later' system.²⁵ FNOs are particularly legally vulnerable, especially under Operation Nexus, which strips them of almost all means of challenging the allegations made against them and denies them the protections of the criminal justice system (Luqmani Thompson & Partners 2014, 31). Nonetheless, legal challenges constitute a significant proportion of the barriers to deporting Foreign Criminals,²⁶ although appellants rarely win their appeals.²⁷ Ironically, as challenging deportation is made increasingly difficult, so public debate problematises the right of FNOs to access the legal system at all, with appeals often said to be redundant, wasteful and proof of their obstructive nature.

Within this broader restricting of legal redress, it is the retreat of Article 8 of the European Convention on Human Rights (the right to respect for one's private and family life), that fundamentally redraws the lines of belonging. Reflecting widespread suspicion that undesirable non-citizens (especially Foreign Criminals) exploit Article 8 to thwart border controls, rights to remain based on time, blood and affection are being steadily devalued. Previously, indefinite leave to remain on the basis of 'long residence' was possible after 14 years, whatever a person's immigration status. But since 2012, those present unlawfully must accumulate an incredible 30 years for settlement on private life grounds. The 2014

Immigration Act further diminished the weight placed on Article 8 rights in immigration decisions, especially for people with criminal records. Under the Act, deportation of FNOs is considered to be automatically in the ‘public interest’, and the bar to be met in Article 8 challenges to deportation is raised dramatically. FNOs with prison sentences under four years must now prove that they either have a ‘genuine and subsisting’ relationship with a ‘qualifying’ partner/child who would find the deportation ‘unduly harsh’, or that they have been lawfully resident in the UK for most of their life, are fully ‘integrated’, and would face extreme obstacles to reintegrating if returned. Note that the Home Office defines ‘unduly harsh’ as *‘excessively cruel’*. So, now, to be considered to ‘belong’ enough not to be deported, FNOs must show that they are effectively British in all but the strictest legal sense (an ‘Almost Citizen’, a difficult claim when criminal behaviour is interpreted as non-integration), or that the cruelty of their deportation on a close (preferably British) family member would be *‘excessively severe’*. And if the Article 8 threshold in these cases is now extraordinarily high, then – at ‘very compelling circumstances’ – it is essentially impossible for those with sentences over four years.

The modern face of an ancient technology

An association of strangers with danger and criminality is one of the most enduring social myths, repeatedly re-emerging as a means to explain and resolve social tensions. The current incarnation has embraced the contemporary predilection for using the immigration system to articulate social ‘problems’ and their ‘solutions.’ Proving useful to both the Home Office and police, the Foreign Criminal category has wide – and expanding – reach, incorporating individuals who may have little in common other than a lack of a British passport.²⁸ At extremes, this includes people whose ‘criminality’ is contested, low-level, nascent or related to their immigration status, as well as those who have (sometimes serious) criminal convictions, but who also have grounds to assert a status as an insider.

Yonas, who was in immigration detention when we met several years ago, is an example of the former. He fled Eritrea to claim asylum in the UK. During the many years he waited for a decision, Yonas worked to support himself, not realising that he was not permitted to do so. One day a team of immigration officers raided his workplace and he was arrested and sentenced to eight months in prison for working illegally. After serving his sentence, Yonas was transferred to immigration detention for deportation. Like so many Eritreans, there were disputes over his nationality and the embassy would not issue travel documents. After a shocking *two years* waiting in immigration detention, and facing threats of being charged with the imprisonable offence of not cooperating with his own removal,²⁹ Yonas was finally released on bail. Five years later he remains in this no-choice ‘dispersal’ location, living in limbo in substandard accommodation and surviving off £35 a week, on a prepaid card that he can only use at certain shops, to buy permitted goods. Yonas must report to the police every fortnight and is still forbidden from working, confining him to the socio-economic and legal margins of society.

Compare Yonas to Kamran, another face of the Foreign Criminal. Kamran arrived in the UK as an unaccompanied asylum seeking teenager. He was placed in foster care and attended a British school. Now in his 20s, Kamran and his long-term British girlfriend have had a baby, with whom he is completely smitten. However, Kamran is in immigration detention, facing deportation as a result of ten criminal convictions, resulting in three

prison sentences, including for dangerous driving, assault occasioning actual bodily harm and possession of an offensive weapon. It wasn't until the final day of his last prison stint that Kamran discovered that this time he wasn't to be released as a reformed family man, but instead transferred to immigration detention for deportation as a Foreign Criminal. He missed his baby's birth, a week later. Although conversations with Kamran are dominated by his focus on his young family, the Home Office rarely places much weight on the importance of Foreign Criminal fathers and do not consider Kamran's family ties to outweigh the public interest of his deportation. Home Office correspondence describes Kamran as a 'persistent offender' and 'foreign criminal' whose offending is increasing in 'significance and severity', meaning that his presence is 'not conducive to the public good.' Although he is currently detained, has several criminal convictions, been served a deportation order and does not have in-country appeal rights, Kamran is incorrectly certain that he cannot be separated from his British baby and partner.

Negotiating the label

The ways in which people contest and reconfigure their classification as Foreign Criminals exposes the label's internal heterogeneity. Denigrated people – those who are contingently accepted and at continual risk of failure or of accusations of not belonging – tend to shore up their own position by seeking to dissociate themselves from each other (Anderson 2013, 6), and rejecting demonising characteristics by appealing to their opposites. The Foreign Criminal has no single binary antithesis to position himself against, so people tend to present themselves as either Almost Citizens or Good Migrants, reflecting the two categories – foreign and criminal – that produce the category, and which are at the heart of its ambiguity.³⁰

When I first met Yonas he emphasised: 'I never sell drugs. I never fighting, nothing. I work to survive. This is the difference between me and the other people'. Years on, he still regularly reminds me that he did not do a 'bad' crime and he's not a 'real' criminal. Individuals in his position commonly focus on rejecting a criminal moniker, disputing their 'crimes' or presenting them as accidental, trivial or inevitable, given the prohibition against work and lack of support. By contrasting themselves to the 'real' criminals, they (re)define themselves as law-abiding and worthy, appealing to a Good Migrant identity and presenting themselves as deserving or desirable immigrants. Their 'crime' may be reinterpreted in the process, with those caught working illegally, for example, inverting it to instead demonstrate their identity as a hardworking striver or Tax Payer. Like many others, Yonas also explicitly contrasts himself with another folk devil, the Failed Citizen 'benefit scrounger' (just as the latter might define herself against the interloping 'foreigner').

Dragging migrants and asylum seekers like Yonas into the criminal sphere as a result of immigration and administrative offences is part of the criminalisation of migration ('crim-migration'), in which mobility is recast as a criminal act, to which the appropriate state response is punitive and carceral (Aliverti 2012; Legomsky 2007; Stumpf 2006). This is the contemporary face of a long history of state attempts to police cross-border movement, through which certain forms of migration (particularly those of the global poor) are reconfigured as 'illegal' (see Schuster 2011). Today it occurs through the bleeding of criminal justice logic into migration management (Banks 2008; Mitsilegas 2015). Many countries, including the UK, have reclassified the behaviours of migrants from immigration to criminal matters, and massively increased the number of immigration offences and 'crimes' that are

particularly likely to be, or can *only* be, committed by non-citizens, such as entering the country without a valid identity document, not cooperating with removal and working without permission. As an NGO director I interviewed put it sarcastically in 2009: ‘you start criminalising the asylum process. And then you don’t have to classify them as asylum seekers, they’re criminals! Fantastic! Looks even better on the spreadsheets!’

Yonas resists the Foreign Criminal identity by pointing out that his ‘crimes’ are merely to have entered the UK illegally (permissible if his asylum claim is accepted) and worked without permission. He rejects a criminal identity, but as a recently arrived Eritrean, feels unable to contest his position as ‘foreign’. In contrast, Kamran – and the many other British-sounding young men facing deportation to an unknown ‘home’ – accepts his blemished criminal record, but asserts insider status through his British foster family, schooling, girlfriend, son and accent. Kamran isn’t claiming to be a Good Migrant, but an Almost Citizen. Despite his convictions and Afghan nationality, Kamran still laughs incredulously at the absurdity of being described a ‘foreign criminal’. He points to his familial ties, long residence, entrenched life in the community and – in particular – his newborn son, asking ‘He’s British and his dad is getting deported? How can you do that? How can you separate me from my son?’ As others have noted (Boe 2016), it is incorporation into the deportation system, rather than prison, that heralds the most profound biographical rupture for Almost Citizens. Kamran felt more in common with the detention centre officers than the other detainees.

So, alongside the asylum seekers and migrants recast as criminals, are non-citizens like Kamran, facing immigration penalties for being found guilty of committing (sometimes serious) crimes. Until recently, prisoners in the UK were generally released after serving their sentences, whatever their nationality or immigration status. But increasingly there are immigration consequence for criminal offences, and these are increasingly disproportionate to the crime. The contemporary British penchant for using the migration system to manage non-migration matters is evident in multiple arenas³¹ but is particularly concerning when it involves deportation, especially given the receding grounds for asserting an Almost Citizen status. The people now affected include long-term residents, many of whom have established British families or spent their formative years in the country, some even naively assuming that they were British citizens. Many could have but did not naturalise, whilst others (in low but fast growing numbers) are stripped of their British citizenship. Like them, Kamran’s fragile claim to belong rested on the whims of social and political mores and even though he did not know it, after 2006, his presence was increasingly contingent on his ‘good behaviour’. In today’s Britain, criminal convictions bring immigration status to the fore and forfeit an insider identity.

Producing alterity and wickedness

Although Yonas and Kamran accept an aspect of the Foreign Criminal label, many people are so-classified through processes that simultaneously accentuate both their alterity and criminality. This ‘dual Othering’ was the cause of John’s arrival in immigration detention one December. John was a teenage boy with a strong London accent, whose youth and anxiety were palpable. On my first visit, he lent close to whisper that ‘they’re all proper grownups here, and lots are bad people.’ Rather than want to discuss his immigration case, John was focused on the pregnant girlfriend he was missing and his desperation to be back home with his parents by Christmas. John’s parents came to the UK with him when he was six,

and, unbeknownst to him, the family overstayed their visit visas. John only discovered his irregular immigration status when, years later, he found that the UK's new 'hostile environment' for undocumented migrants meant that he couldn't get a driver's licence or enrol at a college. Until then, he had assumed he was British, like his friends. Along with these friends, and like so many ethnic minority, inner-city teenage boys, John was the target of regular police interest. He was frequently stopped and searched, usually for cannabis, and sometimes even arrested, although never charged. The police recorded such contact, as well as their assessment that he was 'at risk' of joining a gang. At 6am in the morning of John's 18th birthday, the family were awoken by immigration and police officers pounding at their front door. John was detained under immigration powers in order to be deported. Undermining any migration-management rationale for his treatment, John's parents (a middle-aged Caribbean couple), were not detained, despite being the original immigration offenders. John told me that meeting immigration detainees made him realise how unfairly the UK treats foreigners. He did not include himself in that sentence. He does not consider himself foreign and until recently could have proved it legally through his UK-based childhood, family and pregnant girlfriend.

A less sympathetic but equally problematic case is Davinder, an older, Bangladeshi man who overstayed a visit visa over two decades ago. Long-time homeless and a chronic alcoholic, Davinder was never in a position to regularise his status, although before 2012, he was eligible to under the long residence route. The police frequently picked him up for being drunk and disorderly, and he had served four short prison sentences, for pub fights, breaking windows and the like. However, it was only when he was arrested in 2012 for drunkenly stealing a steak on New Year's Eve that the police contacted the Home Office. Suddenly, Davinder's nationality came to the fore, and when I met him, he had been in immigration detention awaiting removal for five months. Through an almost perverse emphasis on his alterity (despite decades in a small seaside English town) and criminality (for shoplifting food), Davinder was transformed from a troublesome and destitute drunk, to an illegal immigrant, and from an infamous local scoundrel to a deportable criminal. He told me that his local police officers cried when immigration took him away. Just a few years ago, Davinder's lengthy residence in the UK would have provided strong grounds to challenge his expulsion. But like other petty criminals with insecure immigration status, Davinder's nationality now means that his low-level offending takes on new, and excessive, weight.

There was a similar dual Othering of the appellants in the Operation Nexus-related appeals. They were reconstructed as 'foreign', despite spending their childhoods or teen years in the UK, and having UK-based family and citizen girlfriends. Two had fairly serious convictions, including for robbery, assaults and handling stolen goods. Another had 20 convictions, but for small offences, like possession of cannabis and not complying with court orders. The fourth Nexus appellant was a 20-year-old facing deportation to a country he left aged 5. He had four small convictions; for possession of a knife and failing to surrender to the police. His longest prison sentence was just eight weeks and he justified the knife as wanting protection after being victim of a stabbing for the third time.

Much of the hearings focused on the reams of 'non-convictions' provided by the police, even though many were insignificant, unsubstantiated, withdrawn, circumstantial or actually an indication of victimhood. For example, those of one appellant (a thin young Afghan man), included being arrested but not charged for: rape (the victim's account was contradictory and eventually withdrawn), robbery (he wasn't picked in the identity parade and

no breach of his electronic tag occurred at the time of the incident), possession of drugs (another man admitted they were his), and possession of 'suspect goods' (the item hadn't actually been stolen). Other entries included his being victim of a serious assault, and arrested for an offence in which the suspect was described as a chubby white Irish man. All four were also accused of belonging to gangs, despite little or no evidence being provided. Indeed, the case I observed with the strongest proof of gang membership consisted of: a woman's unsubstantiated allegation pertaining to the appellant's friend, the appellant being seen in a residential area targeted for an 'anti-gang operation', and a police intelligence report from the gang unit, even though the report did not claim that he was in a gang. These – seemingly sometimes speculative – accusations are profoundly important given the weight afforded to 'gang' membership and the term's use in signifying black youth, legitimising over-policing and obscuring marginalisation (Williams 2015). Similarly, all four had drugs-related incidents on their files, albeit typically relating to cannabis and most eliciting charges of possession or no further action. As with the 'gang' rhetoric, there is abundant evidence of racial bias in the policing and prosecution of drug offences (Kahn 2006).

These examples show another face of the Foreign Criminal, then, one that has emerged since 2006 as the blurring of police and immigration responsibilities opens space for the employment of the immigration system to deal with undesired non-citizens. No doubt there are serious offenders in the UK who have no ties to the country and no fear of return. Even for them, questions remain regarding the proportionality of embedding immigration enforcement into the penal system, especially given the life-altering 'violence' of deportation to the individual and his family, and the charges of discrimination faced by both systems. But putting this aside, it is evident that Foreign Criminal policies draw in a much larger number of petty, repeat and low-level offenders, as well as those whose 'crimes' are immigration matters or reflect institutionalised racial disparities, such as those relating to drugs and 'gangs'.³² These are often Almost Citizens (usually young, male, minority ethnic and urban), who the police consider problematic, even if their connection with criminality is so tenuous or speculative that it does not trigger automatic deportation proceedings, and may not even trigger criminal proceedings.

Problematising the folk devil

The Foreign Criminal label, then, encompasses a much more varied group than suggested by media portrayal of exotic violent deviants. And worryingly, these disputes are largely taking place not within the safeguards of the criminal justice system, but in the administrative law Tribunal or even away from judicial oversight altogether.³³ You can be expunged as a Foreign Criminal now even if you are simply a 'pesky' individual or wayward teenager, without the need for formal prosecution, the meeting of the evidential or processual standards of the criminal courts, or a crime even being committed. And given that today the implication of heightened police suspicion may be permanent exile, it is imperative to recognise that despite the 'neutral' administrative logic of the police and immigration systems, there is a highly gendered, racialised and classed bias to those people considered to be of interest to the authorities, and therefore, to those constructed as Foreign Criminals.

Evidence demonstrates enduring disproportional representation of men and ethnic minorities across the criminal, penal *and* immigration systems (Bhui 2016; Bowling and Phillips 2002; Kanstroom 2010; Tonry 2014; Wacquant 2008). Men consistently constitute

90% of all those both in immigration detention and forcibly removed from the UK,³⁴ with FNO immigration detainees even more likely to be male (94%) (Home Office 2013, 4). Border controls, almost by definition, discriminate on the basis of racialised categories. Both they and the prison system (re)produce racialised ideas of national belonging and foreignness, exemplified by the profiling techniques employed by prison officers to 'find' non-citizens,³⁵ as they are obliged to under the 'hubs and spokes' model. The British police force is repeatedly accused of institutional racism,³⁶ and British prisons are filled with ethnic minorities, particularly nationals with colonial ties to the UK (Bhui 2016).³⁷ Three quarters of immigration detainees are African or Asian, with almost no north Americans or Australians detained.³⁸ Meanwhile, the media invariably depicts the Foreign Criminal as a black man, and frequently as a rapist, invoking historical racist associations of black men with sexual violence (De Noronha 2015). Decades of racialised immigration legislation, coupled with the systems of colonialism and slavery that preceded them, have led to the overrepresentation of certain nationalities and ethnicities in British prisons and immigration detention centres, as well as the racialised imagery of the community of value.

Whiteness is not a unidimensional privilege, however, but is fluid, contingent and graded (Webster 2008). Despite the dearth of Australian and American detainees, Europeans dominate expulsion figures, with more Albanians expelled than any other nationality in 2015.³⁹ Those most affected have long been subject to racialised and criminalised othering (see Fox, Moroşanu, and Szilassy 2015), with east Europeans⁴⁰ and the Irish constituting half of the top ten FNO nationalities (NAO 2014, 13). East Europeans in particular have been subject to increasing political, police and immigration focus, with rapidly rising deportation rates. Indeed, well before the 2016 EU referendum, they appeared to be a key target of Operation Nexus,⁴¹ even if their prison sentences were long served or they had no convictions at all. Romanian and Polish police have even seconded onto the streets of London to aid the cause (Bloomer 2016). Unfortunately, if east Europeans in pre-Brexit Britain were subject to segregation and racialized othering (Bhui 2016, 276), then now they are even more vulnerable to an over-zealous immigration system.

The Foreign Criminal, then, is subject to 'xeno-racism' (Fekete 2001), in which discrimination goes beyond simplistic colour-based grounds, to include class, religion and immigration status, as well as marginalised white ethnicities. Across the immigration system, policies increasingly favour richer migrants whilst restricting options for poorer non-citizens (Bowling 2013).⁴² This is often explicit, with the global poor considered a legitimate target of immigration controls (Anderson 2013). The changes to Article 8 protections for deportees reflect a replacing of 'democratically' available grounds for belonging (those of time, or blood- or partnership-bonds to citizens), with a financially informed concept of 'integration' (Griffiths 2017). 'Integration' now requires speaking English and contributing to the economic wellbeing of the country: being 'financially independent' and not a 'burden on the taxpayer', with reliance on public funds, charity or even family members indicating a lack of integration.⁴³ Article 8 claims now require consideration of the immigration history of the deportee and his family, with less weight placed on relationships established when someone was in the UK unlawfully, or on private lives formed under a 'precarious' immigration status (a term increasingly applicable to all immigration statuses). The suggestion is that family life counts for more when people are assessed as being wealthy and law-abiding. Those who are poor or who have breached immigration or criminal law (which is made harder for some nationalities to avoid than others), are not as well protected from deportation.

Conclusion

The article has considered the rise of the Foreign Criminal as a modern British folk devil, through which are mobilised questions regarding the limits of the community of value. The FNO category existed before 2006 but it was a media-based moral panic that year that catapulted the Foreign Criminal into public and political consciousness. Despite the tiny numbers involved and the ‘problem’ simply being one of weak systems and poor communication (HM Inspectorate of Prisons 2006), a political overreaction led to structural reform, vast expenditure and far-reaching new legislation. The Foreign Criminal became an enduring problem, to which the sole answer is deportation, as it now is for many social issues.

A decade on and the folk devil continues to shape political and media (and NGO) agendas, and is used to legitimise increasingly disproportionate responses to transgressions. New actors, including prison guards and police officers, are being co-opted into their identification and expulsion, reflecting a broader shift from social-welfare to penal responses to ‘problematic’ groups (Wacquant 2008, 51). Controversial policy developments, such as the ‘deport first, appeal later’ system and undermining of Article 8 rights, are applied first to the demonised Foreign Criminal, before being rolled out more widely. And yet, as the experiences of those so-classified show, the Foreign Criminal category is unstable and expanding: exaggerating foreignness and criminality, and glossing over internal heterogeneity. It draws in people whose criminality is tenuous, circumstantial or speculative: Yonas worked, Davinder stole a steak and John was ‘at risk of joining a gang’. It also incorporates serious offenders who have strong normative, but increasingly not legal, claims to ‘belong’. Almost Citizens, like Kamran, Davinder and John, are now easily reclassified as Migrants and made vulnerable to extraordinary measures. ‘Foreign’ has become an adjective to entrench the wickedness of the Criminal, and ‘Criminal’ is increasingly a term utilised to delegitimise mobility. It is not an accident that the grounds by which people contest their classification, and instead present themselves as Good Migrants or Almost Citizens, are being countered by policies that heighten and expand criminality (such as Operation Nexus) and raise the bar for claiming to belong (restricting Article 8 rights).

Despite the political claims, it is questionable whether the Foreign Criminal discourse and its emphasis on deportation tackles either criminal insecurity or unauthorised mobility. The proven offenders have been through prison and to suggest they are not (sufficiently) punished or rehabilitated, is to challenge the validity and purpose of the penal system (Turnbull and Hasselberg 2016). Moreover, most immigration offences are not enforced in practice (Aliverti 2012), but even when they are, deportation rates decrease as immigration detention numbers grow. Not even classing people as Foreign Criminals presents simple solutions to the difficulties of forced removal.⁴⁴ The numbers remain low, with just a few thousand FNOs deported each year. Mirroring the ‘warehousing’ of unemployable Failed Citizens in prisons (Wacquant 2009), FNOs are instead incarcerated or bailed indefinitely and unproductively, for the often-unrealisable goal of removal. Rather than meaningfully improve security or border control, then, the Foreign Criminal discourse is better considered a technology of social management; defining and disciplining the community of value.

The moral panic of the Foreign Criminal simultaneously cleanses (Wacquant 2009) and solidifies (Durkheim 1984) society. By declaring him unfit for membership, the state symbolically avenges both the Migrant and Criminal for disrupting the national order. His deportation harks back to the ancient-world practice of banishment, with its spectacle of

punishment and claimed role in maintaining social order. However, as well as affirming its outer boundaries, finding and expelling FNOs also serves to police the *internal* composition of the community of value. The discourse produces social roles, strawmen and scapegoats, and helps construct the Good and Failed hues of both Migrants and Citizens. 'Good' Citizens and Migrants are in steady, paid employment, are solvent, speak English, have a secure immigration status, don't invoke police interest and are not found at the scene of crimes. The Foreign Criminal, in contrast, is an abusive visitor; the guest who broke the conditions of stay, a usurper, a foreigner within or dangerous outsider. Just as documentation regimes do not physically exclude people as much as include them under imposed vulnerability (De Genova 2002, 429), so the Foreign Criminal discourse is a disciplinary force, underscoring the infinitely precarious and conditional presence and social standing of not only the Migrant, but also the Almost Citizen. Some British citizens also have their good character and claim to belong undermined in the process. Growing numbers are deprived of citizenship, whilst those closely connected to FNOs have their judgement, loyalty, honesty and worthiness questioned as result of their love choices or accidents of birth. They may have their intimate lives rejected as non-genuine or unimportant, or be officially advised to leave the UK with the deportee. Identifying which citizens' emotional ties are sacrificial, and what level of state-sponsored harm to them is permissible, we see the changing construction of the Good Citizen (whose love choices should be respected) and the means by which they descend into Failed Citizens (whose intimate lives threaten 'the public interest').

FNO membership is skewed by problematised white ethnicities and Imperial othering, despite the 'colonial amnesia' about the politics of imprisoning non-citizens and deporting ethnic minorities (Hall 2001; Kaufman 2012). Indeed, FNOs tend to be positioned at the intersection of multiple denigrated identities, in which ethnicity, nationality, immigration status, gender and 'deviant' behaviour converge and intensify. Criminality proves alterity, foreignness and race exaggerate danger, ethnicity suggests lacking loyalty, etc. However, these global inequalities and institutional biases are silenced by placing the Foreign Criminal outside class, historical and postcolonial considerations. Just as illegality and citizenship are juridical statuses entailing a specific relationship to the state (De Genova 2002, 422), so Foreign Criminals carry a particular type of (marginalised) political subjectivity, one imbued with questions of personal merit and responsibility. Their proclaimed criminality, illegality and alterity produce a political identity like that of Failed Citizens, in which expendability and worthlessness are projected onto people and internalised by them. The transformation of someone into a FNO is part of a process of subjectification, in which they are not only expected to submit to forms of domination but to construct themselves through such an identification. Reminiscent, in many ways, of the internalisation of imposed colonial identities (Fanon 1967). The individual, rather than the state, is made responsible for the harm of his deportation, with the 'criminal' moniker disciplining him to accept the humiliation and injustice. The Foreign Criminal is not only required to feel contingent, to embody his precarity and to accept social death and state violence to himself and his family, but to adopt personal responsibility for his plight.

The state's eschewing of responsibility reflects a conceptualisation of 'foreignness' as an inherent, criminal property, which has important implications for the imagined personhood of foreign offenders. Speculative or circumstantial 'non-convictions' justifies the violence of deportation by apparently revealing a person's 'criminal lifestyle' or 'criminal character',

suggesting a nature so incontestably and indelibly criminal, that not only is rehabilitation impossible, but crimes do not need to be proven, or even committed. The focus has moved from people's specific, verified actions, to their being: from *incidents* to *persona*. If prison (in part) punishes behaviour, then immigration detention and deportation punishes presence and being. The Foreign Criminal is intolerable because of who and where he is, rather than because of what he does. Furthermore, the apparent certainty of his future trajectory places him outside of the temporality of citizens (even criminal citizens), for whom there is the possibility of redemption, change and uncertainty, as well as personal control over one's destiny. The Foreign Criminal is not, in a Giddens (1991) sense, a 'modern' person. By discriminating, depoliticising and dehumanising, the Foreign Criminal category is a dangerous one. Unfortunately, it is also highly malleable and potent, defining the Good Citizen through two axes of deviancy: alterity and wickedness. Its political power and potential, coupled with Brexit and wider global politics, mean that although its birth was somewhat accidental, the life of the Foreign Criminal is likely to be a long one.

Notes

1. Including observation of deportation appeals and other immigration hearings, and interviews of 20 practitioners and 25 'deportable' men and their EEA/British partners.
2. Brought in by the Counter-Terrorism and Security Act 2015 to disrupt the entry/return of Britons suspected of terrorism.
3. Annex D, Chapter 18 of UK Visas and Immigration nationality instructions.
4. Whereas just 10 people were deprived of British nationality between 1949 and 2000 (Gibney 2011, 16), the figure is now roughly 20 a year (<https://www.whatdotheyknow.com/request/318785/response/827666/attach/3/CCWD%20FOI%2038734%20Final%20Response.pdf>).
5. Under the Nationality, Immigration and Asylum Act 2002.
6. Immigration Bill 2014.
7. Illustrated by the number of national newspaper stories on foreign criminals/prisoners rocketing from an all-time high of 38 in 2003, to 1544 in 2006 (De Noronha 2015, 6). The number was still 695 in 2013.
8. Over six years, 1013 foreign nationals were released without being considering for deportation (NAO 2014, 12).
9. There were 100 Home Office employees working on FNO casework in 2006, by 2010 there were 550, and over 900 by 2014 (NAO 2014, 15).
10. Defined by 72(4)(a) of the Nationality, Immigration and Asylum Act 2002. Includes many drug offences, along with gun and terrorism crimes.
11. The threshold is higher for EEA nationals, who have enhanced protection under Directive 2004/38/EC of the European Parliament and of the Council.
12. A feature challenged by developments such as Temporary Exclusion Orders.
13. Enforced departure from the UK now occurs through 'administrative removal' or 'deportation', which are targeted at immigration offenders and FNOs respectively.
14. Figures not publically available.
15. That the individual is a threat to the public, has unacceptable associations or shows disrespect for British laws.
16. For example, the Labour Party's 2015 General Election pledge (<http://www.theguardian.com/uk-news/2015/mar/25/labour-vows-to-ban-indefinite-detention-of-asylum-and-immigration-applicants>).
17. Mirroring previous years, the number of people entering detention in 2015 rose by 7%, whilst the number of forced removals decreased by 5% (rv_04, Home Office Removals and Voluntary Departures statistics, 2016).

18. I.e. awaiting travel documentation, the country or individual ‘not cooperating’ with the documentation process, or questions over nationality (FNO_05, Home Office Immigration Enforcement Data: Quarter 4, 2015).
19. In the absence of official ‘basic cost data’, it is estimated that £770–£1041 million was spent on FNOs in 2013–2014, or £70,000 per individual, per year (NAO 2014, 9).
20. The threshold is higher for EEA nationals, see note 11.
21. Deportations did not subsequently increase, although administrative removals rose (NAO 2014, 28).
22. In my experience the uncertainty extends to individuals (who may not even know that they are affected), and even barristers and Immigration Judges. Indeed, the Home Office and HM Courts and Tribunal Service only started drafting judicial guidance on Nexus in 2015.
23. Three appeals of deportation orders and one of curtailment of leave. Appellants were men aged 20–24 years, originally from Afghanistan, Iran, Iraq and Jamaica.
24. Crime Recording Information System.
25. ‘Non-suspensive appeals’ were introduced for FNOs by the Immigration Act 2014, and extended to non-criminal human rights appeals by the Immigration Act 2016.
26. Legally challenging deportation or making further representations account for 30% of the detained FNOs with barriers to removal (FNO_05, Home Office Immigration Enforcement Data: Quarter 4, 2015).
27. In 2013, only one in seven FNO appeals was successful (321 out of 2441 appeals) (NAO 2014, 35).
28. Increasingly, even British citizenship provides no absolute protection against deportation, as deprivation of citizenship powers have been resurrected and expanded (Gibney 2011; Mills 2016).
29. Section 35 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004.
30. Ambiguity that is also reflected in the ways that FNOs fall between categorical cracks: not ‘British’ enough to be supported or rehabilitated as citizen offenders, but not ‘foreign’ enough for the help of most migrant charities.
31. E.g. demonstrating political distaste for someone by denying them entry clearance, as with controversial American ‘pick-up artist’ Julien Blanc in 2014 (<http://www.bbc.co.uk/news/uk-30119100>), and as a petition of 587,000 signatures sought for Donald Trump in January 2016 (<https://petition.parliament.uk/petitions/114003>).
32. Data released in 2013 showed that almost half the FNOs deported under the UK Borders Act 2007 had committed drugs-related offences, with the next biggest category (about 18%) relating to false documents (possession/use/alteration/copying) (Hansard 2013). Just 0.7% had been convicted of murder or manslaughter.
33. For example the ‘deport first, appeal later’ system and Operation Nexus’ conditional cautions scheme.
34. Home Office Detention statistics 2016, and Removals and Voluntary Departures statistics 2016.
35. Including by ethnicity, accent, name, religion and friendship group (Kaufman 2012).
36. Evident in ‘stop and search’ encounters disproportionately targeting black and Asian people (Equality and Human Rights Commission 2010).
37. Half of the FNOs in English/Welsh prisons were born in countries with colonial ties to UK; six of the top ten FNO nationalities are from former colonies (Ireland, Pakistan, India, Jamaica, Nigeria, Somalia) (Kaufman 2012, 709; NAO 2014, 13).
38. dt_13, Home Office Detention statistics, 2016.
39. rv_04, Home Office Removals and Voluntary Departures statistics, 2016.
40. Albanians, Romanians, Poles and Lithuanians.
41. 800 Romanians and 700 Poles were affected by Operation Nexus in November 2013, with the numbers dropping to under 400 for other nationalities (Bloomer 2016).
42. Examples include preferential visa categories and submission processes for the wealthy, extortionate application fees and the 2012 spousal visa changes, which raised the minimum income threshold for sponsors to controversially high levels.

43. Section 117B(3) of the 2002 Act, Chapter 13 of the Immigration Directorate Instructions.
44. Even Operation Nexus, initially at least, led to few extra removals, particularly beyond London or under the conditional caution scheme (ICIBI 2014).

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References

- Aas, K. F., and M. Bosworth, eds. 2013. *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*. Oxford: Oxford University Press.
- Aliverti, A. 2012. "Making People Criminal: The Role of the Criminal Law in Immigration Enforcement." *Theoretical Criminology Advanced Access* 16: 1–18.
- Anderson, B. 2013. *Us and Them? The Dangerous Politics of Immigration Controls*. Oxford: Oxford University Press.
- Anderson, B., M. Gibney, and E. Paoletti. 2011. "Citizenship, Deportation and the Boundaries of Belonging." *Citizenship Studies* 15: 547–563.
- Anderson, B., M. Gibney, and E. Paoletti. 2013. "Introduction." In *The Social, Political and Historical Contours of Deportation*, edited by B. Anderson, M. Gibney, and E. Paoletti, 1–8. New York: Springer.
- Banks, J. 2008. "The Criminalisation of Asylum Seekers and Asylum Policy." *Prison Service Journal* 175: 43–49.
- Bhui, H. S. 2007. "Alien Experience: Foreign National Prisoners after the Deportation Crisis." *Probation Journal* 54: 368–382.
- Bhui, H. S. 2016. "The Place of 'race' in Understanding Immigration Control and the Detention of Foreign Nationals." *Criminology & Criminal Justice* 16: 267–285.
- Bloomer, N. 2016. Home Office Programme Quietly Kicks EU Citizens out of the UK. *Politics.Co.Uk* [Online]. <http://www.politics.co.uk/blogs/2016/04/27/home-office-programme-quietly-kicks-eu-citizens-out-of-the-u>.
- Boe, C. S. 2016. "From Banlieue Youth to Undocumented Migrant: Illegalised Foreign-Nationals in Penal Institutions and Public Space." *Criminology and Criminal Justice* 16: 319–336.
- Bosworth, M., and M. Guild. 2008. "Governing through Migration Control: Security and Citizenship in Britain." *British Journal of Criminology* 48: 703–719.
- Bosworth, M., I. Hasselberg, and S. Turnbull. 2016. "Punishment, Citizenship and Identity: An Introduction." *Criminology and Criminal Justice* 16: 257–266.
- Bowling, B. 2013. "Epilogue: The Borders of Punishment: Towards a Criminology of Mobility." In *The Borders of Punishment: Migration, Citizenship, and Social Exclusion*, edited by K. F. Aas and M. Bosworth, 291–306. Oxford: Oxford University Press.
- Bowling, B., and C. Phillips. 2002. *Race, Crime and Justice*. Harlow: Longman.
- Cohen, S. 1973. *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*. London: Paladin.
- De Genova, N. 2002. "Migrant 'illegality' and Deportability in Everyday Life." *Annual Review of Anthropology* 31: 419–447.

- De Genova, N., and N. Peutz, eds. 2010. *The Deportation Regime: Sovereignty, Space and the Freedom of Movement*. New York: Duke University Press.
- De Noronha, L. 2015. "Unpacking the Figure of the 'foreign criminal': Race, Gender and the Victim-Villain Binary." *COMPAS Working Paper* 121. Oxford: COMPAS.
- Durkheim, E. 1974. *Sociology and Philosophy*. New York: The New Press.
- Durkheim, E. 1984. *The Division of Labour in Society*. Basingstoke: Macmillan.
- Equality and Human Rights Commission. 2010. *Stop and Think: A Critical Review of the Use of Stop and Search Powers in England and Wales*. London: Equality and Human Rights Commission. Accessed April 10, 2016. http://www.equalityhumanrights.com/sites/default/files/documents/raceinbritain/ehrc_stop_and_search_report.pdf
- Fanon, F. 1967. *Black Skin, White Masks*. New York: Grove Press.
- Fekete, L. 2001. "The Emergence of Xeno-racism." *Race and Class* 43: 23–40.
- Foucault, M. 1977. *Discipline and Punish: The Birth of the Prison*. London: Allen Lane.
- Fox, J., L. Moroşanu, and E. Szilassy. 2015. "Denying Discrimination: Status, 'race', and the Whitening of Britain's New Europeans." *Journal of Ethnic and Migration Studies* 41: 729–748.
- Garland, D. 2001. *Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
- Gibney, M. 2011. *Should Citizenship Be Conditional?*. Oxford: University of Oxford, Refugee Studies Centre.
- Giddens, A. 1991. *Modernity and Self-identity: Self and Society in the Late Modern Age*. Cambridge: Polity.
- Griffiths, M. 2012. "Anonymous Aliens? Questions of Identification in the Detention and Deportation of Failed Asylum Seekers, Special Issue: Immigration Detention." *Population, Space and Place* 18: 715–727.
- Griffiths, M. 2017. "The Changing Politics of Time in the UK's Immigration System." In *Timespace and International Migration*, edited by E. Mavroudi, A. Christou, and B. Page. Camberley: Edward Elgar.
- Hall, S. 2001. "Conclusion: The Multicultural Question." In *UN/Settled Multiculturalisms: Diaspora, Entanglement, Transruptions*, edited by B. Hesse, 209–241. London: Zed Books.
- Hansard. 2013. HC Deb. 23 April 2013, cols 786W–794W.
- HM Inspectorate of Prisons. 2006. *Foreign National Prisoners: A Thematic Review*. London: HMIP. Accessed December 14, 2016. <https://www.justiceinspectores.gov.uk/hmiprisoners/wp-content/uploads/sites/4/2014/06/Foreign-National-Prisoners-2005.pdf>
- Home Office. 2013. *Foreign National Offenders in Detention and Leaving Detention*. London: Home Office. Accessed May 8, 2016. <https://www.gov.uk/government/publications/foreign-national-offenders-in-detention-and-leaving-detention/foreign-national-offenders-in-detention-and-leaving-detention>
- Home Office. 2017. *Operation Nexus – High Harm*. London: Home Office. Accessed March 20, 2017. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/599878/Operation-Nexus-High-Harm-v1.pdf
- ICIBI. 2014. *An Inspection of Immigration Enforcement Activity in London and the West Midlands ('Operation Nexus'), March–June 2014*. London: ICIBI. Accessed July 22, 2015 <http://icinspector.independent.gov.uk/wp-content/uploads/2014/12/Operation-Nexus-Report-FINAL.pdf>
- Kahn, K. 2006. "One Step Forward, Two Steps Back? The Politics of 'Race' and Drugs and How Policy-makers Interpret Things." In *Drugs: Policy and Politics*, edited by R. Hughes, R. Lart and P. Higate, 45–58. Maidenhead: Open University Press.
- Kanstroom, D. 2010. *Deportation Nation: Outsiders in American History*. Harvard: Harvard University Press.
- Kanstroom, D. 2012. *Aftermath: Deportation Law and the New American Diaspora*. Oxford: Oxford University Press.
- Kaufman, E. 2012. "Finding Foreigners: Race and the Politics of Memory in British Prisons." *Population, Space and Place* 18: 701–714.
- Legomsky, S. 2007. "The New Path of Immigration Law: Asymmetric Incorporation of Criminal Justice Norms." *Washington and Lee Law Review* 64: 493–530.

- Luqmani Thompson & Partners. 2014. *Operation Nexus: Briefing Paper*. Accessed July 12, 2015. <http://www.luqmanithompson.com/Operation-Nexus-Briefing-Paper.pdf>
- Mills, B. 2016. "A privilege not a right": *Contemporary Debates on Citizenship Deprivation in Britain and France*. Oxford: University of Oxford, COMPAS.
- Mitsilegas, V. 2015. *The Criminalisation of Migration in Europe: Challenges for Human Rights and the Rule of Law*. London: Springer.
- NAO. 2014. *Managing and Removing Foreign National Offenders*. London. Accessed April 11, 2016. <https://www.nao.org.uk/wp-content/uploads/2014/10/Managing-and-removing-foreign-national-offenders.pdf>
- Phelps, J. 2010. *No Return, No Release, No Reason: Challenging Indefinite Detention*. London: London Detainee Support Group. Accessed March 24, 2013. <http://www.bctrust.org.uk/wp-content/uploads/2011/04/NoReturnNoReleaseNoReasonReport.pdf>
- Phillips, C. 2012. *The Multicultural Prison: Ethnicity, Masculinity, and Social Relations among Prisoners*. Oxford: Oxford University Press.
- Preston, P., and M. Perez. 2006. "The Criminalization of Aliens: Regulating Foreigners." *Critical Criminology* 14: 43–66.
- Ruggiero, V. 2013. "Illicit Economies and the Carceral Social Zone." In *Criminalisation and Advanced Marginality: Critically Exploring the Work of Loic Wacquant*, edited by P. Squires and J. Lea, 173–194. Bristol: Policy Press.
- Schuster, L. 2011. "Turning Refugees into 'illegal migrants': Afghan Asylum Seekers in Europe." *Ethnic and Racial Studies* 34: 1392–1407.
- Stumpf, J. 2006. "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power." *American University Law Review* 56: 367–419.
- Tonry, M. 2014. "Race, Ethnicity, Crime and Immigration." In *The Oxford Handbook of Ethnicity, Crime and Immigration*, edited by S. Bucarius and M. Tonry, 1–17. Oxford: Oxford University Press.
- Turnbull, S., and I. Hasselberg. 2016. "From Prison to Detention: The Carceral Trajectories of Foreign-National Prisoners in the United Kingdom." *Punishment & Society* 19: 135–154.
- Tyler, I. 2013. *Revolted Subjects: Social Abjection and Resistance in Neoliberal Britain*. London: Zed Books.
- Wacquant, L. 2001. "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh." *Punishment and Society* 3: 95–133.
- Wacquant, L. 2008. "Extirpate and Expel: On the Penal Management of Postcolonial Migrants in the European Union." *Race/Ethnicity* 2: 45–52.
- Wacquant, L. 2009. *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham, NC: Duke University Press.
- Walters, W. 2002. "Deportation, Expulsion, and the International Police of Aliens." *Citizenship Studies* 6: 265–292.
- Webster, C. 2008. "Marginalized White Ethnicity, Race and Crime." *Theoretical Criminology* 12: 293–312.
- Williams, P. 2015. "Criminalising the Other: Challenging the Race-Gang Nexus." *Race and Class* 56: 18–35.
- Yuval-Davis, N. 2011. *The Politics of Belonging: Intersectional Contestations*. London: Sage.