Working Papers

Unpacking the figure of the 'foreign criminal'
Race, gender and the victim–villain binary

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The IMI Working Papers Series

This working paper has been developed from the author's Masters Dissertation. Students in the MSc in Migration Studies at the University of Oxford receiving a distinction for their thesis are invited to publish a modified version as an IMI and COMPAS joint working paper.

Abstract

The UK's Foreign National Prisoner (FNP) crisis' of June 2006 provides a key moment to unpack the figure of the 'foreign criminal' through. Through an analysis of media articles, Commons debates and NGO documents, I discuss the racialised and gendered stereotypes that were invoked in the construction of 'foreign criminals', as they were positioned within the victim-villain binary that characterises migration debates. In explaining the specific kinds of migrantness and criminality made to represent the FNP 'crisis', I argue that race and gender matter, and that they work through one another. The FNP 'crisis' incensed the media and politicians who framed the issue in terms of dangerous foreign men whose hypermasculinist violence presented a severe and existential threat to the British people. These images relied upon race for their intelligibility. While NGOs and advocates sought to challenge the idea that all, or even most, 'foreign criminals' deserve to be deported, they still tended to frame their arguments in terms of victims and villains. In doing so, advocates failed to challenge the gendered and racialised stereotypes that distinguish good migrants from bad ones – victims from villains. In the end, advocates and academics should retain critical distance from state categories if they are to avoid reifying these deeply entrenched narratives surrounding race and gender.

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Only by zealously guarding the rights of the most humble, the most unorthodox and the most despised among us can freedom flourish and endure in our land.

(Judge Frank Murphy, 1945 – cited in Kanstroom, 2007:246)

Non-citizens are urged to differentiate themselves from failed citizens. Migrants are often presented as hardworking, good family members, law-abiding people. They are explicitly NOT criminals, NOT benefit dependents, NOT sex workers, NOT single mothers. This argument may work to support the claims of some 'migrants', and it may even work for many of them. Indeed too often this is what migration 'debates' are reduced to: are 'some', 'many', or 'most' migrants 'Good Citizens'? But what then of those migrants who ARE single mothers, or benefit dependents, or who have criminal convictions, or work in the sex sector? And similarly, what of those citizens who find themselves labelled in the same way? Ultimately this serves only to reinforce the logic of exclusion and failure.

(Anderson, 2013:28)

1 Introduction

The UK's Foreign National Prisoner (FNP) scandal erupted on 25 April 2006, when it emerged that 1,023 foreign offenders, who had been recommended for deportation by the courts or the prison service, had been released upon completion of their sentences. In essence, the Immigration and Nationality Directorate (IND) had failed to observe its own policies. The following day's newspapers declared a 'crisis', with coverage exposing the government's incompetence and the danger that grew from it. In the weeks that followed, the Home Secretary, Charles Clarke, was forced to resign and his replacement proclaimed the Home Office 'not fit for purpose' (BBC, 2006).

The FNP 'crisis' inspired a 'moral panic' (Cohen, 1972), in which a range of emergency measures and new policies were hastily instituted (Kaufman, 2013). After the 'crisis', 'foreign criminals' became increasingly salient in migration debates in the UK. The FNP 'crisis', thus, provides a key moment through which to explore and unpack the figure of the 'foreign criminal'. This paper analyses media articles, parliamentary debates and NGO documents, asking how the FNP was constituted as a 'manifest undesirable' (as phrased by Daily Mail columnist Melanie Phillips (2006a)).

The substantive part of this paper examines media articles and House of Commons debates, exploring the dominant construction of the 'foreign criminal' during this 'crisis'. I argue that the figure of the FNP cannot be captured by the simple migrant plus criminal equation. In fact, FNPs were depicted as specific kinds of immigrants and specific kinds of criminals. Firstly, FNPs were frequently represented as male asylum seekers who had abused human rights laws. These 'bad migrant men' were situated within the victim-villain binary that characterises debates on migration – as 'victims' turned villains (Anderson, 2008). Secondly, while we should position the 'FNP crisis' in relation to broader concerns about crime, FNPs were depicted as specific kinds of criminals – overwhelmingly as rapists and murderers. The crimes cited, and the language used to depict 'foreign criminals', indicate that the foreignness of FNPs really mattered. Importantly, race provides the crucial bridge between criminality and foreignness. In explaining the specific kinds of migrantness and criminality made to represent the crisis, I argue that race and gender matter, and that they work through one another.

With these points in mind I ask how NGOs responded to the policies instituted in the wake of the FNP scandal, asking what kinds of problems 'foreign criminals' present for migrant advocates. I suggest that NGOs, advocates and scholars often reify dominant narratives by emphasising victimhood and seeking distance from 'real criminals' and 'bad migrants'. They tend to claim that many FNPs are in fact victims. The danger here is twofold. Firstly, these 'counterstereotypes' (Pupavac, 2008) fail to sufficiently challenge the state's power to classify and categorise. By claiming that some FNPs are actually 'genuine refugees' or 'victims of trafficking', advocates seek distance from 'real criminals' and 'bad migrants'. But these categories are categories of state practice, not human types. The second problem in these narratives is that advocates are failing to interrogate the dominant ideas about race and gender in which the FNP scandal is rooted. However implicitly then, they end up perpetuating gendered and racialised ideas about deserving and undeserving migrants.

Importantly, these two points are related. State categories like the 'refugee', the 'victim of trafficking', the 'failed asylum seeker' and the 'foreign criminal' are categories that must be filled with discursive content. Certain noncitizens are made to embody these labels, symbolically and legally, and this process relies upon and perpetuates certain ideas about race and gender. Whether duly acknowledged or not, most people know what a 'victim of trafficking' might look like, or could articulate some characteristics of 'failed asylum seekers' and 'foreign criminals' (in raced and gendered terms). In filling these state categories with meaning, journalists and politicians, but also NGOs, play their part in constituting these figures.

In reaffirming state categories – by claiming that some FNPs are in fact 'genuine refugees' for example – advocates may be perpetuating deeply entrenched ideas about race, gender, danger, agency and deservingness that implicitly frame migration debates. The implication of my argument is that only through challenging state categories can one challenge the dominant ideas about race and gender that distinguish good migrants from bad ones. Conversely, in invoking state categories and simply moving migrants around within the state framework – we could think here about the popularity of the claim that 'refugees are not criminals' for example – advocates may be reifying and invigorating state categories of practice, categories that rely upon and perpetuate gendered and racialised stereotypes for their legibility.

1.1   The scandal and the policy response

The FNP was only 'discovered' in 2006 (Anderson, 2013:128). Foreign offenders – previously labelled the 'forgotten prisoners' (Cheney, 1993; Prison Reform Trust, 2004) – came to occupy centre-stage in national consciousness following the 'crisis' (Bhui, 2007). Newspaper articles on 'foreign criminals' and 'foreign prisoners' skyrocketed in 2006, ushering in a new 'folk devil'. In 2013, the phrase 'foreign criminal' or 'foreign prisoner' featured in 695 articles in national newspapers, dwarfing the number in the ten years before the crisis (see Figure 1).

Figure 1. Number of articles in national newspapers featuring the phrase 'foreign criminal' or 'foreign prisoner' by year (Nexis search)
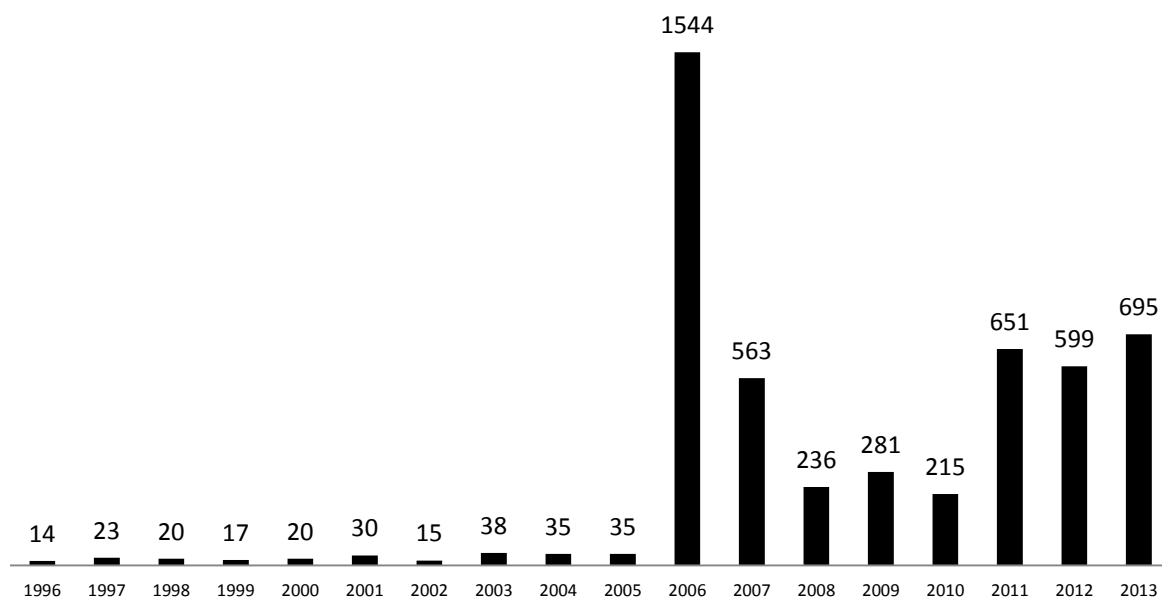
In the months and years following the 'crisis', the Home Office prioritised the management and deportation of foreign offenders; its Criminal Casework Directorate expanded to 35 times its original size (Kaufman, 2013), and the number of ex-FNPs deported increased five-fold, from 1,000 in 2005 to around 5,400 in 2008 (Fekete and Webber, 2009:6). Numbers remained relatively stable in subsequent years, averaging over 5,000 in the four years following the scandal (Vine, 2011). In 2013 4,667 ex-offenders were deported, accounting for 36% of total enforced removals (Home Office, 2014). Clearly then, the mushrooming of media stories on 'foreign criminals' was mirrored in deportation practices.

This drive to deport FNPs, often with complete disregard for length of residence and personal circumstances (Gibney, 2013), was facilitated by provisions introduced in the UK Borders Act 2007.

The Act signalled the most important change in policies surrounding the deportation of foreign offenders since the Immigration Act 1971 (Dubinsky, 2012:69). Any non-EEA citizen sentenced to 12 months or more was now subject to 'automatic' deportation. Before the scandal, a wide range of factors would be weighed in the balance when determining whether to deport (Fekete and Webber, 2009). The *Borders Act*, however, made deportation 'automatic', save for when expulsion would contravene the UK's human rights obligations under EU law or the refugee convention.

'Automatic deportation' forfeits the Home Secretary's discretion; the removal of those sentenced to more than 12 months in prison is, by definition, 'conducive to the public good' (Dubinsky, 2012:71; *UK Borders Act 2007* – Section 32 (5)). In the wake of the scandal, even before the introduction of the Borders Act, the Home Office was pursuing deportation in almost all cases in which offenders had been sentenced to 12 months or more (Dubinsky, 2012:72), leaving the assessment of mitigating circumstances to the courts. In this way, the beleaguered Home Office was able to blame the judiciary (and by extension the EU) for any leniency exercised towards foreign offenders (Gibney, 2013:233). In practice, this meant that ex-offenders were unlikely to get bail from the Home Office, or to be given leave to remain, and would instead have to appeal to the courts – a costly process (Vine, 2011).

The Home Office feared the political consequences of releasing non-citizens post-sentence (Vine, 2011:22). Consequently, many ex-offenders were kept in immigration detention indefinitely, while the Home Office pursued their deportation (LDSG, 2009). A report by the Independent Chief Inspector of Borders and Immigration highlighted that 97% of FNPs in his sample remained in detention after serving their sentences (Vine, 2011); he also confirmed that ex-offenders were likely to be kept in detention for longer than other immigration detainees (see also Home Office, 2013). Both Detention Action and Bail for Immigration Detainees report that the majority of long-term detainees are ex-offenders, and they acknowledge that this pattern only emerged in the wake of the FNP scandal (BiD, 2011; LDSG, 2009, 2010; Vine, 2011). As of 30 September 2012, 27% of immigration detainees were ex-FNPs, with over half (58%) having been in detention for over three months, compared with just 18% of non-ex-FNPs (Home Office, 2013). Moreover, as of 31 December 2013, 1,214 individuals were being held under immigration powers in prisons, after having served their sentences (HC Deb (9 April) 2014, cc.248-250W).

The FNP 'crisis' also catalysed a significant shift in the British penal estate (Kaufman, 2012a). In early 2009, the Prison Service announced new plans to distribute foreign prisoners according to a policy called 'hubs and spokes' (MoJ and UKBA, 2009). The 'hub' prisons were to house a majority of foreign nationals and 'spoke' prisons were to direct foreign nationals to 'hub' prisons where possible (Bosworth, 2011). 'Hub' prisons, and the 'foreign-national only' prisons which emerged at the same time, were to be furnished with immigration personnel who could facilitate the deportation process (MoJ and UKBA, 2009). This policy "constructed 'the foreigner' as a distinct category of existence in the prison" (Kaufman, 2012b:189). The prison is now a key bordering site which manages and disciplines foreignness (Bosworth, 2012; Kaufman, 2012a, 2012b).

The FNP 'crisis' clearly precipitated a number of profoundly significant policy changes. FNPs were increasingly prioritised in the UK's 'deportation regime' (De Genova and Peutz, 2010), the number of ex-offenders held under immigration powers drastically increased, and the prison estate was reorganised around the problem of 'foreignness'. All of these measures are indicative of 'moral panic', in which "punitive legislation is rushed through parliament and new control measures proliferate" (Carrabine, 2008:165; Cohen, 1972).

2 Unpacking the figure of the 'foreign criminal'

How should we think about the problem of 'foreign criminals' and what explanations can the extant literature offer us in answering this research question?

2.1 The Community of Value

"It is hard to think of any public policy that is less controversial than the removal of criminal aliens" (Schuck, 1999:372). Criminal deportees receive very little public support or sympathy (Bosworth, 2011;Hasselberg, 2013); they serve "as an important ideological marker, suggesting that it is possible to come to some sort of popular consensus over the desirability of deportation" (Anderson, 2013:128). Perhaps the universal unpopularity of 'foreign criminals' explains recent drives to prioritise their deportation, in countries on both sides of the Atlantic (see e.g. Fekete and Webber, 2009; Coutin, 2005; Warner, 2005; Chan, 2005). But why does the deportation of 'foreign criminals' serve as a point of consensus?

States present themselves, not as arbitrary collections of people sharing a legal status, but as communities of value (Honig, 2003). The 'community of value' is valued, and thus must be protected from both internal and external threats. While the 'community of value' is threatened from the outside by the Non-Citizen, it is also threatened from the inside by the Failed Citizen – in this instance 'the criminal' (Anderson, 2013). The 'foreign criminal', then, is the ultimate representation of all that the 'community of value' is not, the absolute obverse of the Good Citizen. Deportation, in general, is 'constitutive of citizenship' as a normative ideal, defining the values and value of the nation through the exclusion of those who do not belong (Walters, 2002; Anderson, Gibney and Paoletti, 2011; Peutz, 2006) – removing 'foreign criminals', then, both protects and defines the Good Citizen. Ultimately, the deportation of ex-offenders constitutes the nation as a 'community of value', demarcating the values and value of citizenship (Anderson, 2013).

Yet, if the deportation of ex-offenders constitutes the nation as a 'community of value', then what kinds of criminals and what kinds of migrants do 'we' define ourselves against? What do 'foreign criminals' look like and how do they behave? What are they guilty of? There are more questions to be asked about the role of race, gender and criminality in the "construction of the deportable subject" (Anderson, Gibney and Paoletti, 2011:552), and more that we can learn about the 'community of value' through exploring the discursive construction of 'foreign criminals'.

2.2 Race, crime and immigration control

Concern about 'foreign criminals' is hardly new. The first piece of modern immigration legislation in the UK, the 1905 Aliens Act, defined 'undesirable aliens' as "criminals, prostitutes, persons of 'notoriously bad character', lunatics, idiots or persons 'likely to become a charge on the public funds'" (Shah, 2000:33). This act was undeniably a response to Jewish immigration in the late 19th century (Dummett and Nicol, 1990:92-99). Race and crime have always been central to the construction of problematic migrants, whether Irish and Jewish migrants, black and brown migrants from the former commonwealth, or asylum seekers and Roma (Cohen, 2006). "Discourses on crime and on who commits it are saturated with the language of national citizenship, social class, gender and race" (Angel-Ajani, 2003:435).

"The language of denunciation of offenders betrays this tendency: the word hooligan is believed to be of Irish origin, while the word thug originates in India" (Canton and Hammond, 2012:5). The word 'chav' comes from the Romani word for youth or child; words like gangster and urban are racially coded; and as Stuart Hall noted in 1970's Britain "'mugging' and race play an elaborate game of hide

and seek" (1978:328). In the post-war years, 'coloured' migrants were represented as culturally alien and criminally inclined (Gilroy, 1987:85-142) – notably fears surrounding sexual violence and rape were commonplace:

> This case has highlighted and underlined the perils which confront honest, innocent and hardworking, unaccompanied women who are in the street after nightfall. I notice that not a single West Indian woman was attacked. (*Judge Gwynn Morris in sentencing five West-Indian young men*, cited in Hall et al, 1978:333)

> [T]hey are charged with all kinds of misbehaviour, especially sexual (*The Times, 3rd September 1958,* cited in Solomos, 2003:55)

In assessing the relationship between race, migration and criminality, there is a need to adopt a postcolonial sensibility (Cuneen, 2011; Kaufman, 2012b).

> 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. Rather, the 'post-colonial' marks the passage from one historical power-configuration or conjuncture to another" (Hall, 2000:213, original emphasis)

Describing non-citizen offenders as foreign rapists, violent asylum-seekers, gangsters or paedophiles; as Somalis, Jamaicans, Albanians, or Arabs, cannot be read or interpreted without an *intertextual* understanding of the 'maps of meaning', or cultural repertoires, into which they are emplaced (Hall et al, 1978:54; Bacchi, 2009:5). Locating this language, these arguments, and these 'ideal villains' (Christie, 1986), in their discursive context requires incisive analysis of the current "conjuncture" (Hall, 2000), and an interrogation of 'common sense' – which can be defined as "what all reasonable people know in their 'heart of hearts' to be right and proper" (Lawrence, 1982). Importantly, the public knows without having to be told what certain words and phrases refer to in certain contexts (Garland, 2001:136). The overwhelming hostility toward FNPs reflects 'common sense' ideas and concerns about race, and 'common sense' ideas about race are deeply gendered.

2.3 Gendering the 'bad migrant' and the 'criminal

While intersectionality is currently en vogue, conversations about race and gender, or "racialized gender" (Anthias and Yuval-Davis, 1992), tend to concern racialised women. Despite the chorus of scholars asserting that gender does not equal women, literature on racialised maleness and migration remains scant (Donaldson et al, 2009). As Connell notes (1995), racialised men are constructed with reference to hegemonic (white) masculinities – as 'Black Brutes', 'Muggers', 'Effeminate Asians' or 'Terrorists' (Alexander, 2004). Within migration studies, there is a need for more critical analysis that explores the relationship between the 'bad migrant' and racist imaginaries which work through gender.

It is worth making a point that might be obvious, but often goes unstated. In general, the 'bad migrant' is a man. Whether we think about the asylum seeker jumping fences in Calais, the undocumented worker, the smuggler, people-trafficker, sham husband, or international criminal – the undeserving migrant is, in general, gendered negatively, as a man. Of course there are a repertoire of discourses on bad migrant women: the benefit-cheats, irresponsible and overly fertile mothers, and drug mules (Wilson, 2008:100). In general however, women are constructed as victims at the mercy of bad

migrant men (Lutz, 2010). There is a need to challenge the gendered logics which position migrant men as villains, and indeed migrant women as victims.

Dominant discourse on migration in the UK rests upon a profoundly gendered victim-villain binary (Anderson, 2008). Given that images of vulnerability hold currency, men become easily situated in negative discursive space, exposed to the xenophobic representations of the unsympathetic media (Judge, 2010). Pupavac suggests that the 'counter-stereotypes' invoked in refugee advocacy marginalise "ordinary refugees 'warts and all'" (2008:284); only endearing refugees are presented and these images are heavily gendered – "male and female representations have become shorthand for negative and positive representations" (Pupavac, 2008:286).

The 'bad migrant' is gendered as male, but so too is the 'criminal' (Walklate, 2004). While feminist criminology has flourished in recent years, there has been a dearth of criminological literature assessing the relationship between maleness and crime[1] (McFarlane, 2013). A familiar pattern emerges: the significant role played by gender is identified, and yet in practice the resultant emphasis falls almost exclusively on women – particularly striking in the study of crime and criminal justice, given the overwhelming preponderance of male offenders. While it may be trite to repeat that "taking gender seriously involves much more than writing about women" (Bosworth and Kaufman, 2012:199) – it appears the mantra remains unheeded.

The collision of the 'bad migrant' and 'the criminal' in the figure of the FNP makes gender, or maleness, salient. Acknowledging that the FNP is a (racialised) man, and making it central to analysis, might yield fresh insights into the reasons why 'foreign criminals' are so patently beyond the pale. Thinking about race and gender can strengthen and deepen analysis on the problem of 'foreign criminals'. With these ideas in mind, we should view the FNP 'crisis' as a crucial moment through which to explore the problem of 'foreign criminals', questioning why they are so 'manifestly undesirable'.

3 Methodology

I opted to read articles from the most widely read dailies in each newspaper group identified by The Migration Observatory (2013) – the most popular *tabloid, mid-market and broadsheet* newspapers are The Sun, The Daily Mail, and The Daily Telegraph respectively. I searched for the terms 'Foreign Criminal', 'Foreign Prisoner' and 'Foreign National Prisoner'[2] through Nexis, and selected my time-frame (26th April to the 30th June 2006) based on the most intense period of reportage (see Figure 2) – yielding over 400 articles in the three papers.

"Parliamentary debates continue to provide a strong institutional locus for researching political positioning among the political elite" (Huysmans and Buonfino, 2008:766), and reading commons debates allowed me to examine the political construction of the FNP 'problem'. While I am not primarily interested in the formation of policy, I extended the time frame to cover the period from the outbreak of the scandal to the formation of the *UK Borders Act 2007*, given that FNPs were a regular topic of debate over this period.

In reading commons debates and media articles I was struck by the number and intensity of stories about specific 'foreign villains'. I ran an additional search for specific foreign offenders who

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[1] Of course there are exceptions (see e.g. Newburn and Stanko, 1995; Messerschmidt, 1993)
[2] I also searched for 'foreign killer', 'foreign rapist', 'foreign paedophile', 'foreign murderer' and 'foreign offender' – results which yielded a handful of additional articles.

appeared in my corpus and explored the wider media coverage of the most (un)popular offenders, in the national and regional press (Chapter 5).

Figure 2. Number of articles featuring the phrase 'foreign criminal', 'foreign prisoner' or 'foreign national prisoner' in 2006
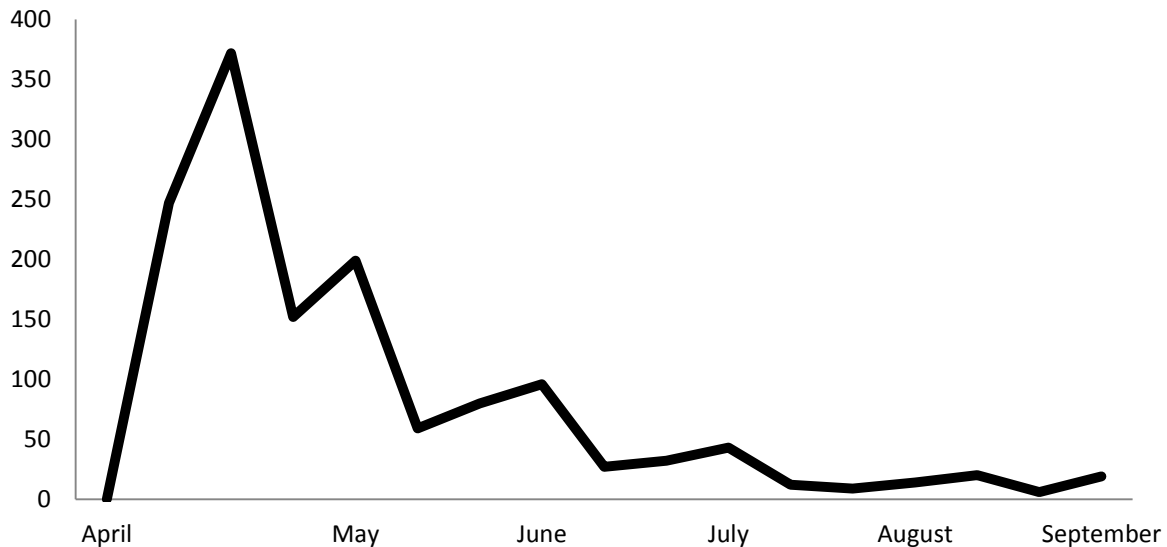
Focusing on the NGO 'response' was also an important element of this research. I searched for reports on the websites of numerous organisations in the UK, many of which I have some familiarity with. I focused on organisations working on asylum, detention, migrant rights and prison (Chapter 6).

3.1 The scandal and the consensus

Charles Clarke walked into the House of Commons on 26 April 2006 to a chorus of shouts to 'resign' (HC Deb, (26 April) 2006, c.573). The morning's papers were awash with the news of 1,023 'dangerous' foreign criminals, released and "free to roam our streets" (*Daily Mail*, 2006a). This wilful neglect of the public's safety was indicative of a "government in meltdown" (*Daily Mail* 2006b); in what Richard Littlejohn (2006) of the Mail would call "one of the worst ever political scandals in history".

In the weeks that followed, parliament was consumed by the scandal and the media coverage was unrelenting. The FNP 'crisis' came at a bad time for Labour, who went on to suffer severe losses in local elections on the 4th May, precipitating a cabinet reshuffle. Shadow Home Secretary David Davies would later claim: "this has been the year from hell in the Home Office, possibly the worst in its 224-year history" (HC Deb (23 November) 2006,c.700).

As MPs argued, and journalists offered their commentary on the causes and implications of the crisis, the underlying consensus was that this was, indeed, a monumental calamity. The issue was seen by most to be rather simple. The government had released over 1,000 dangerous criminals to commit more crime in a country they had no right to reside in.

The language employed, both in parliament and the media, depicted 'foreign criminals' through animal metaphors (see Olson, 2013); they were 'let loose', 'roaming', 'alien predators' who should be 'rounded up'. Richard Littlejohn (2006) expressed his "rage and a degree of guilt about being a citizen of a country which allows such animals to roam free – indeed, rolls out the red carpet for them". The danger posed was unequivocal and both journalists and politicians expressed disgust at the foreigners

who endangered 'our' streets, 'our' public and 'our' nation; 'we' had a right to answers, and, more importantly, 'we' had a right to action.

3.2 'Bad migrants'

Migrants, in general, are non-members on probation (Kanstroom, 2007), and must prove their deservingness. They should "work hard, play by the rules, speak English and get on through merit" (Home Office, 2007:2). Migrants must elude association with 'internal others': the 'criminals' and 'welfare-scroungers' (Anderson, 2013). The 'good migrant' should "walk on eggshells" when in Britain (Hastings, 2006 *Mail*), and any misbehaviour proves that which was always feared about their foreignness, that it renders them a threat to the nation's values and value (Anderson, 2013; Gibney, 2013). Importantly here however, the type of migrant abusing 'our' hospitality really was important.

FNPs were most commonly described as, and conflated with, asylum seekers:

> It's no coincidence that a quarter of these foreign criminals were failed asylum seekers. (*Daily Mail*, 2006a)

> It was its failure to get to grips with the abuse of the asylum system for many years that was the principal driver behind the influx of criminal elements, who exploited the shambles to get into the country and set up their networks (Johnston, 2006 *Telegraph*)

It was suggested that "serious criminals were seeking asylum and then vanishing" (Reid, Camber and Salkeld, 2006 *Mail*), and that the asylum system became "a ruse favoured by foreign convicts to avoid deportation" (Reid, 2006a *Mail*). This deep mistrust of the asylum system pervades media coverage on migration in the UK (Philo, Briant and Donald, 2013; Migration Observatory, 2013). Asylum seekers are portrayed as scroungers, taking advantage of Britain's soft-touch hospitality, bringing only insecurity and offering nothing in return (Kushner, 2003; Pirouet, 2001).

Framing the FNP 'crisis' through the lens of asylum opens a wider debate about human rights:

> He'd [Tony Blair] rather play Russian roulette with our safety than return murderous foreign scum to their homeland if they claim they face torture (Shanahan, 2006 *Sun*)

> Will he [Tony Blair] also make a commitment to scrap the Human Rights Act 1998, which in the public's mind has done so much to entrench a culture in which people believe that the system favours giving rights to criminals, prisoners and illegal immigrants at the expense of the ordinary, decent, law-abiding citizens of this country? (HC Deb (20 July) 2006 c.485)

The Human Rights Act (HRA) was introduced by New Labour in 1998, and sought to codify the European Convention of Human Rights into primary British legislation, thus reducing the need for claimants to take their cases to Strasbourg. In much of the coverage, the HRA was described as an enemy of ordinary, law-abiding citizens, and as a get-out-of-jail-free-card for criminals and immigrants. The HRA had always been controversial[3], but the FNP crisis acted as a conduit for this animosity. The HRA was described as a 'curse' making it impossible to deport anyone. It was argued that the "human rights industry" (Hastings, 2006 *Mail*) had "quite simply altered the entire legal and moral culture of this country and taken an axe to common sense" (Phillips, 2006b *Mail*); the HRA was described as a

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[3] The Sun, for example, called for the government to 'Scrap the Act' back in 2001 (27 September).

form of "tyranny" with profoundly perverse consequences, "a principle weapon against the culture and identity of the nation" (Phillips, 2006b *Mail*). The FNP 'crisis' provided ammunition for the anti-HRA onslaught, an onslaught very much alive and well today (Travis, 2013).

The reason FNPs served so well in this assault on the HRA is because they were so often constructed *as* asylum seekers. The FNP as asylum seeker provides conclusive evidence of the exploitation faced by ordinary, hard-working British citizens by those who abuse the 'human rights industry'. In general, 'the migrant' is conceptualised as either a victim or a villain (Anderson, 2008). The asylum seeker as offender plays his part in this discourse, confirming the fears of the sceptics, who knew that many crying 'victim' were in fact villains all along.

Importantly, this victim-villain binary is profoundly gendered: the released FNP villains, who never really made convincing victims, were men. Asylum seekers, like 'victims of trafficking', are most frequently 'good migrants', the referent of the receiving state's hospitality, when they are vulnerable, suffering and unthreatening (Fassin, 2001). Men, especially young men, are always potentially dangerous, morally deviant and sexually violent (Hubbard, 2005; Pupavac, 2008). Put simply, the asylum seeking 'foreign criminal' is a man. This is hardly surprising if we follow the argument I made earlier, that both 'criminals' and 'bad migrants' are overwhelmingly imagined as male. The point is that through gendering the FNP as an asylum-seeking man, as a victim turned villain, a wolf in sheep's clothing, the 'foreign criminal' is produced as dangerous, deceitful and undeserving.

'Bad migrants' were often gendered through opposition with a less threatening and vulnerable migrant woman. In discussions surrounding the UK Borders Bill, which would become the *UK Borders Act 2007*, politicians moved from discussing the problem of 'foreign criminals' to championing the need to protect women and children from trafficking:

> My view is that the Bill does not go far enough. On the 200th anniversary of the abolition of the transatlantic slave trade, I strongly urge the Minister to end today's modern slavery, which is women enslaved into providing sexual services. (HC Deb (8 October) 2007, c.90)

This highlights an opposition between womenandchildren (Enloe, 1991), who become 'victims of trafficking', and the slave-driver, the male silhouette, the absent presence, who *forces* the vulnerable into servitude for personal gain (see Srikantiah, 2007). This gendered victim-villain binary constructs the migrant man as a perpetrator[4] (Anderson, 2008; Lutz, 2010); the flipside of having agency is that the villain is responsible for his choices and actions.

It is important to note that women do not appear only as victims; indeed women appear as specific kinds of villains – as benefit-scroungers and irresponsible mothers (see e.g. Drury, 2006 *Mail*; Reid, 2006b *Mail*). However, in general, men appear as villains, women as victims. The FNP scandal did not only incense commentators because FNPs were migrants, but because they were specific kinds of migrants – almost always men, usually asylum seekers – who could be situated within the gendered victim-villain binary. Given that gender and race work through one another, these 'bad migrant men' were also implicitly racialised:

> Coming from societies in which men live by what they are strong enough to take, they seek to live by the same principle in Britain (Hastings, 2006 *Mail*)

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[4] A number of journalists were quick to highlight that immigration-offences included 'people-trafficking', just in case readers were unsure about the severity of all the offences committed by released FNPs.

This appeal to the dangerous, culturally depraved, 'bad migrant' chimes with a set of intersecting fears regarding racialised men (Alexander, 2004). The British people need to be vigilant in ensuring that the few victims worthy of their support really are victims. FNPs, quite crudely, prove that the system for ascertaining who goes where is rotten to its core. Framing the FNP 'crisis' in terms of asylum, and in terms of victims-turned-villains, allowed journalists and politicians to position the scandal in familiar territory.

3.3 'Evil criminals'

From my analysis it was clear that journalists and parliamentarians alike were quick to relate the FNP scandal to broader crises in crime control:

> It is not only foreign offenders who have enjoyed lenient treatment at the hands of your government. Labour's crazy early release scheme, whereby criminals are let off part of their sentences, has needlessly increased the crime rate (Davies, 2006 *Telegraph*)

Here we see a more general complaint about the prison system: there are not enough prison beds, sentences are far too lenient, and criminals are getting off scot-free.

Much concern was raised regarding recidivism: the result of this scandal was seen to be more crime, more danger and more victims. Fear of crime has become a 'political motif' in late modern societies; crime is seen to affect us all and is a prominent issue in politics (Garland, 2001:12). Simon (2007) notes that "people are seen as acting legitimately when they act to prevent crimes" and that "we can expect people to deploy the category of crime to legitimate interventions that have other motivations" (2007:4). We see this clearly in the FNP scandal: deportation becomes necessary, even righteous, not only or even primarily as a measure to control migration, but primarily as a means of reducing crime (Warner, 2005). Crime is bad, its reduction is good, and hence the deportation of 'foreign criminals' is necessary:

> The law should state that non-citizens who break the law should be instantly deported, without conditions, to the place from which they came. *Crime is voluntary*, and they will have volunteered for whatever they then face (Hitchens, 2006, *Mail*, emphasis added)

> Let's be clear, if someone comes to our country and abuses our hospitality by committing serious crimes, I don't give a toss what happens to them when they are thrown out. I'm willing to pay their airfare and for the bullet when they get home. We've got enough of our own villains without importing or releasing back into the community the rapists, muggers and murderers of the world…I am sick to death of paying to support these leeches, criminals and terrorists (Shanahan, 2006 *Sun*)

'Foreign criminals' elicit intense hostility largely because of the broader discursive construction of 'criminals'. Profoundly illiberal approaches to 'crime' provide one of the main explanations for the FNP 'crisis', and we should situate the FNP scandal within these broader narratives on crime and 'criminals'. However, we should stay alert to the work that foreignness is doing in conversations about FNPs. What is the relationship between foreignness and criminality and how are 'foreign criminals' different to 'home-grown' ones? To examine the foreignness in the 'foreign criminal' we should question what types of 'criminals' and crimes exercised the media.

The clause 'including murderers, rapists and paedophiles' (or some variation thereof) was repeated time and time again in the coverage; journalists and parliamentarians consistently invoked the rapist and murderer. While a number of articles detailed the number of offenders in each category (three for murder and nine for rape by most accounts), the ceaseless discussion of rape and murder had the effect of inflating the significance of these offenders within the population. Some articles carelessly exaggerated the numbers: "letting hundreds of foreign rapists and murderers out of prison" (Letts, 2006 *Mail*).

In my main data set – in articles from The Sun, Daily Mail, and Daily Telegraph – 134 of the 438 articles included the word 'rape' or 'rapist' (roughly 31%). Across all national newspapers in the selected time frame the proportion was similar – that is just under one third of articles referenced rape and/or rapists in reporting on the FNP scandal. This suggests that foreign criminals are especially likely to be guilty of rape, however rates of sexual and violent offences among non-citizens are either comparable to or lower than for citizens (Banks, 2011)[5].

Arguably however, this emphasis is common to media reporting on crime in general. The types of crime that are least common tend to be reported the most, in what has been termed the 'law of opposites' (Surette, 1998:47). Sexual attacks receive an inordinate amount of coverage (Carrabine, 2008:2), especially when the assailant is a stranger, imperilling weak, 'ideal victims' (Christie, 1986). However, we need to consider how 'the criminal' takes on contorted forms when foreign. While crime is generally reported in a sensationalist tone, and the media exhibit a fascination with sexual violence (Carrabine, 2008), the recurrent individual stories of the 'foreign criminal' as rapist cannot be read as just another set of crime stories; they echo deeply entrenched fears about the dangerous sexuality of racialised men (Hubbard, 2005:61).

Social events "must be brought within the horizon of the 'meaningful'" (Hall et al, 1978:54), and we should think critically about race and the 'horizon of the meaningful' in contemporary Britain. I agree with Stuart Hall when he argues that British "culture does partly live off a reservoir of unconscious feelings about race, and in particular those feelings remain unconscious because they are about race. It's difficult for them to get expressed somehow" (Hall and Back, 2009). Journalists and politicians rarely invoked the 'race' of 'foreign villains' in crude terms, but "in Britain the concepts of race and foreignness cannot be separated" (Kaufman, 2013:181).

My argument, simply put, is that the foreigner is racialised and that foreigners are racialised through gender. In thinking about the way foreignness and race are inextricably linked, we should think about what is meant by 'the migrant' in public debate. After all, 'the migrant' in discourse encompasses much more and much less than the noncitizen in law (Anderson and Blinder, 2014) – 'the migrant' in discourse is a foreigner. "In public debate [the] 'migrant' is not simply about either legal status or where a person is born but is about being one of the global poor" (Anderson, 2014:3). I would add that race is central to the discursive construction of 'the migrant', and suggest that race and class are hard to disentangle in this conversation. Race, nationality and poverty are not independent variables (Anderson, 2013:3), and even if the debate is couched in terms of nationality, legal status, social class, or 'integration', race matters. As De Genova notes, "race need not always speak its name" (2010:55).

We should also note that there are lots of migrants who rarely feature in debates about migration, who don't really count as foreigners. Australian backpackers and visiting academics are not really migrants or foreigners, and yet some citizens cannot shed their foreignness – they are the second

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[5] Foreign nationals are disproportionately imprisoned for drug offences and fraud and forgery crimes. Moreover, those held post-sentence in prisons under immigration powers, and immigration detainees held in HMP-run removal centres, contribute to the total number of 'foreign prisoners' (see Banks, 2011; Bhui, 2007).

and third generation migrants with the wrong kind of (read foreign) values. Not all non-citizens are foreign, and some citizens are (Honig, 2002). In other words, foreignness and legal citizenship do not map onto one another neatly; citizens and noncitizens alike are made foreign through racialisation.

Importantly here, gender is central to processes of racialisation. Groups subject to racist discourse are always described as displaying problematic, backwards and debased gender norms. If we think of the figure of the 'black brute' invoked to justify lynching in the antebellum South (Gunning, 1997), or the mugger in 70's Britain (Hall et al, 1978), or the 'Muslim grooming gangs' that have served as the platform for new modes of far-right activism in the UK (see e.g. Pidd, 2014), we realise that the dangerous sexuality of foreign men is a narrative with many historical precedents; it is a motif undergirding the whole FNP 'crisis' and the visceral response to it. The impulse to frame the FNP as a rapist cannot be interpreted without a critical reading of British national identity and the spectre of race.

4 Victims and villains

So far, I have argued that FNPs were constructed as specific kinds of 'bad migrants', regularly depicted as male asylum seekers who had fraudulently claimed victim status. FNPs were constructed as specific kinds of criminals, as rapists, murderers and paedophiles – despite the widely available statistics. Images of the FNP as rapist reflect deeply entrenched fears about the dangerous sexuality of racialised men (see e.g. Collins, 1990). Hopefully, in examining some of the case studies forwarded by journalists and parliamentarians, I will be able to explore the interplay of migration, criminality, race and gender in the discursive construction of the 'foreign criminal'.

4.1 Honouring victims

The victim has become the voice of the law-abiding citizen, the representative of the nation (Garland, 2001; Walklate, 2007), and this was manifest in the platform given to victims in the coverage:

> Perhaps if Mr Clarke saw a picture of my daughter it would be more real for him. Maybe then he might understand how I feel (Pyatt, 2006 *Sun*).

> If the Home Office and the prison authorities had done their jobs, then my son would still be alive (Dolan, 2006 *Mail*).

Victims, friends and families, and victim support groups were given significant voice, to air their anger, to tell their stories, to condemn, and to represent the readership (Reiner, 2007). MPs often brought cases, in which their constituents were victims, to bear in debates in the House of Commons. Victims must be protected, heard, and their fears addressed (Reiner, Livingstone and Allen, 2003); they are the representatives of ordinary citizens:

> Publicized images of actual victims serve as the personalized, real-life, it-could-be-you metonym for a problem of security that has become a defining feature of contemporary culture (Garland, 2001:11)

Yet all victims are not equal; some people are easier to feel sorry for than others (Butler, 2010), and are thus more likely to receive media coverage. Nils Christie (1986) suggests that the ideal victim is weak, respectable, and innocent and the ideal offender is big, bad, and unknown to the victim. As Christie notes, the more ideal the villain, the more ideal the victim (and vice versa). Moreover, ideal victims and villains bear little relation to the majority of real offenders and victims. Importantly for this paper, Christie notes that the ideal victim is almost always female, and the ideal villain almost always male:

> The ideal offender differs from the victim. He is, morally speaking, black against the white victim. He is a dangerous man coming from far away. He is a human being close to not being one (1986:26).

Ideal villains were depicted in media reports, as journalists drew on specific cases to ground the catastrophe in the real lives of ordinary, innocent British citizens.

4.2 The cases that said it all

The foreign villains who served as case studies in the coverage were invariably hypermasculinised; their crimes were violent and often sexual. Articles were devoted to criminal histories, details of offences, descriptions of brutality, and the anguish of victims and their families. Rapists were by far the most (un)popular criminals in the coverage. The nationality of villains was almost always referred to, with a notable number of stories on Jamaicans and Somalis. In the Daily Express (2006) article 'Gallery of Shame', a number of criminals were depicted as representative of the FNP 'crisis', all of them guilty of rape and sexual violence, all of them with 'Muslim-sounding' names.

Rashid Musa, a "fake asylum-seeker…released to rape" (Nugent, 2006 Times), was found guilty of "raping a 46-year-old mother and a 16-year-old schoolboy in separate attacks" (Gardham, 2006 Telegraph). The brutality of his offences, coupled with his status as asylum seeker, provided ammunition for the broader attack on the asylum system and the 'human rights industry'. Musa was sentenced back in 1999, yet his case was serviced in the coverage of the FNP scandal. The media were quite clearly scouring recent history for abhorrent crimes committed by non-citizens, yet the effect was to represent the FNP 'crisis' in terms of rape, murder and violence – often perpetrated by those who had claimed asylum.

Courtney Burry was described as the 'Jamaican paedophile' whose case said it all (Daily Mail, 2006c). He was sentenced to four years imprisonment for gross indecency and recommended for deportation, however he went on to marry (while facing deportation, the coverage notes), and claimed it would be unsafe for him to return to Jamaica. Burry was framed as a monster, whose family life was a sham and whose presence near a primary school was an outrage (Grant, 2006 Mail). The fact that Burry claimed it would be unsafe for him to return to Jamaica, because he would be persecuted for his criminal history, illustrated the absurdity of the human rights laws which protect those who deserve no sympathy.

The villain who garnered the most media attention was undoubtedly Mustaf Jama – another Somali asylum seeker – who was prime suspect in the murder of the female police officer Sharon Beshenivsky. "The whole nation was horrified by what happened to WPC Beshenivsky (Pascoe-Watson, 2006 Sun); "she had swapped her shift on the day of the murder last November so that she could get home in time for her daughter Lydia's fourth birthday party" (Stokes, 2006 Telegraph). Sharon was described as a good mother in a "decent family" (Daily Mail, 2006d), while Jama was described as a career criminal who had abused the asylum system. It was later reported that Jama escaped the country under the cover of a veil, perhaps sealing his fate as the ultimate ideal villain.

We should think about what work these stories do in discursively constituting the 'crisis'. The victims in these anecdotes were overwhelmingly British women and children. Victims were commonly described as law-abiding 'mothers', with strong family values. Women are seen as bearers of the ethnic community, transmitters of culture, and mothers of the nation (Yuval-Davis and Anthias, 1990), and this might explain why these violent sexual attacks by foreign men had such purchase among journalists and politicians. The threats were existential.

The villains were often depicted as deceitful asylum seekers who abused 'our' misplaced regard for human rights. Their stories framed the 'crisis' in terms of rape, murder and paedophilia. Race was rarely mentioned explicitly, but Somalis, Jamaicans and Arabs are hardly raceless categorisations – nationality stands in for race here (Gilroy, 1987). These stories highlight that the FNP 'crisis' cannot be interpreted as just the latest in a series of immigration scandals, nor a simple marriage of concerns about migration and crime – the specific kinds of migrants and criminals made to represent the 'crisis' animated 'the nation' at a much deeper level.

5 'The NGO response' – counter-stereotypes for whom?

It is important to note, first, that the government's renewed drive to remove thousands of ex-offenders evoked a limited response among migrant advocates, and this is perhaps the most telling facet of 'the response'. While vocal defence of FNPs was lacking, organisations did respond to the measures introduced in the wake of the scandal, whether they were working on prisons, detention, or migrant rights more broadly. Pupavac (2008) notes that the 'counter-stereotypes' involved in refugee advocacy portray refugees as gifted or traumatised, and in this section I want to consider the 'counter-stereotypes' invoked to defend foreign prisoners and ex-offenders.

In recent years, a vibrant movement to end the detention of children has gained significant media and parliamentary attention (see e.g. Campbell, Baqueriza and Ingram, 2011; The Children's Society, 2011; Medical Justice, 2010; Sanderson, 2013), and the coalition government has promised to end the detention of children and families (Watt and McVeigh, 2010; see also Immigration Act, 2014 *sections 5 and 6*). Moreover, a number of reports and newspaper articles on women in detention and prison have appeared in recent years (see e.g. Girma et al, 2014; Cochrane, 2014; Prison Reform Trust, 2012). However, very little has been written, more broadly, on the specific injustices faced by foreign prisoners and ex-offenders in the wake of the FNP 'crisis'. It seems that ex-offenders are difficult to defend *as* ex-offenders, 'warts and all'.

When searching for reports and articles on foreign nationals in prison, it is interesting to note the preponderance of writing on women (see e.g. Prison Reform Trust, 2012; Hales and Gelsthorpe, 2012). While 94% of FNPs are men (Home Office, 2013), the Prison Reform Trust's only report on foreign nationals in custody is titled 'No Way Out: Foreign National Women in Prison in England and Wales' (2012). The report starts with the line: "Foreign national women, many of whom are known to have been trafficked or coerced into offending, represent around one in seven of all women held in custody in England and Wales" (2012:1). While the issue of women imprisoned for smuggling drugs is real (48% of foreign women are imprisoned for drugs charges), the narrative in this report relies on, at times, the binary of woman-victim/male-villain (Lutz, 2010; Pupavac, 2008). One subheading claims that "coercion by men can form a route into criminal activity for women" (2012:7), and urges the authorities to focus on prosecuting those behind the industry in people-trafficking.

This appeal to the female foreign prisoner as 'victim of trafficking' problematises migration rather than immigration controls themselves. We might argue that immigration controls and criminalisation force women and men to make difficult decisions regarding migration and employment. In other words, we might re-centre the state and problematise immigration controls and a lack of labour market regulation (O'Connell Davidson, 2012). However, the tone of this report sometimes seems to imply that the blame for women's suffering lies in the hands of unscrupulous and abusive foreign men. The state's power to categorise and place people in boxes emerges unscathed, even as the report seeks to move *some* people around, from one box to another. It could be argued that this report bolsters the gendered victim-villain binary that defines and limits the way the issue of migration is thought and managed.

The report also emphasises the prisoners' motherhood (Prison Reform Trust, 2012:11-15). It is stressed that women should be kept close to their children, and that the welfare of the child should be prioritised. It is rare to hear such sentiments expressed with male foreign prisoners, many of whom were relocated within the prison estate, away from their families, often overnight, following the introduction of the 'hubs and spokes' policy (Kaufman, 2012a:702). The problem with this narrative, in emphasising the suffering of women prisoners, is that it fails to challenge the gendered logics that legitimate the treatment of male FNPs[6].

This binary is reflected in the general tone of debate on trafficking, with Theresa May promising to get tough on the 'slave-drivers' so as to protect women and children (see the 'Modern Slavery Bill' – HC Deb (10 June) 2014, cc.414-430). The incumbent government promise to act swiftly and effectively to deport 'foreign criminals', while protecting women and children from 'slavery' (May, 2013). 'Saving brown women from brown men' (Spivak, 1985) is a trope that runs through discourse on immigration in the UK, and the FNP as vulnerable woman helps construct the 'real FNP' as rapist, criminal, and trafficker through opposition.

I do not want to criticise this report, or others like it, for drawing attention to the very real issues surrounding women's imprisonment. Nor am I suggesting that women do not face specific hardships leading up to, and as a result of, incarceration. However, such reports are not commissioned, consumed and acted upon within a social vacuum:

> People know what they do; frequently they know why they do what they do;
> but what they don't know is what what they do does.
> (Foucault, *in conversation with* Dreyfus & Rabinow, 1983, p. 187)

In this case, this report plays into the gendered victim-villain binary, and thus does little to shift the terms of debate (Anderson, 2008). Given that FNPs were constructed as dangerous men by journalists and politicians, arguing that some FNPs are in fact mothers with children does little to unsettle the dominant narrative.

Detention Action, then London Detainee Support Group (LDSG, 2009), produced the report 'Detained Lives', which explored the stories of 24 long-term detainees, all of whom were ex-offenders whose deportation was impracticable. The interviewees, all men, were given significant space to tell their stories; they were portrayed as textured, fallible social actors – neither straightforward villains nor victims.

In the process of contextualising their life histories, most of the men were described as 'genuine refugees', often guilty of immigration crimes (such as using false documents), or of 'crimes of survival', explicable in terms of their precarious immigration status[7]. But not all non-citizen offenders claim asylum and not all are convicted for immigration violations. By arguing that some FNPs are 'genuine refugees' we might ask what should happen to those who don't have legible fears of persecution to call on.

Organisations working on detention had tended to view detention through the frame of asylum (Phelps, *personal communication*), yet in the months and years following the scandal, Immigration Removal Centres were increasingly housing ex-offenders. Examining the civil injustices meted out to

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[6] See Griffiths (2013) on gendered narratives surrounding male immigration detainees, who are assumed to be better able to cope with destitution, detention, deportation and family separation than women. These narratives constitute a form of 'gendered common sense'.

[7] This narrative might be due to the preponderance of asylum seekers in the report's sample. 20 out of 24 interviewees had claimed asylum, which is by no means representative of the broader ex-offender population.

ex-offenders, required a move away from the 'migrants are not criminals' line, a move that proved difficult[8]. Detention Action initially emphasised document crimes, before realising that this did not reflect the reality for most ex-offenders (Phelps, *personal communication*). In their follow-up report, Detention Action argue that we need to "challenge the terms of the debate [and] question what happens to 'bad migrants'" (LDSG, 2010:21; Johnston, 2009), marking a significant departure from most migrant advocacy arguments. Detention Action acknowledge that migrant categories are legally and socially constructed, and note the porousness of these categories for individual noncitizens.

The counter-stereotypes appealed to in the NGO response, broadly conceived, include the FNP as victim of trafficking, as mother, as 'genuine refugee', or as destitute migrant. Much of 'the response' sought to reassert the distance between foreign offenders and 'real criminals'. It appeared that the victim trope was deeply embedded in migrant organisations and within the sympathetic media – essentially the FNP was reframed as the 'good migrant' through victimhood (Anderson, 2008). While there were some who portrayed FNPs as emotional, textured, complex social actors (notably LDSG, 2009, 2010; see also Grant, 2011), these were voices crying in the woods.

While the FNP as vulnerable woman offers us no radical perspective on the dominant gendered construction of FNPs, the FNP as 'genuine refugee' works to exclude those who do not have stories of trauma or destitution to call on – many of whom are likely to look rather like (non-white) British national offenders (Bosworth, 2012). By arguing that some FNPs are victims, advocates fail to interrogate the state's power to categorise. Is arguing that FNPs are not 'real criminals', but are 'genuine refugees' or 'victims of trafficking', the best way to think about this issue? By reaffirming state categories – even while seeking to move people from one box to another – advocates end up reifying the labels through which noncitizens are produced as victims and villains, a process which relies upon and perpetuates dominant ideas about race and gender. The NGO response, on the whole, did not challenge categories of state practice but reified them.

My argument here is indebted to Foucault, who reminds us of the "power-effects of seemingly innocent or inevitable scientific classifications" (Hacking, 2007:290). In this instance I argue that we should remain live to the power-effects of juridical and policy classifications. With this in mind, seemingly innocuous rallying calls like 'refugees are not criminals' become increasingly problematic. Power is dispersed throughout the social body and advocates construct 'bad' and 'good' migrants too, along with politicians and journalists. My analysis suggests that often advocates think with state categories and thus legitimate the state's mode of classification. As Bourdieu notes: "State bureaucracies and their representatives are great producers of 'social problems' that social science does little more than ratify whenever it takes them over as 'sociological problems'" (Bourdieu, 1994:2).

Perhaps by ratifying state categories – by seeing like a state (Scott, 1999) – advocates are unwittingly perpetuating a classificatory framework which relies on gendered and racialised stereotypes for its intelligibility. In my view, figures like the 'victim of trafficking' and the 'genuine refugee', as well as the 'failed asylum seeker' and the 'criminal', are not meaningful classifications without problematic gendered and racialised stereotypes. If advocates and academics want to employ these classifications they should be live to some of the trade-offs, or, in Foucauldian terms, to the "power-effects" of their choice of words and modes of argument.

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[8] Amnesty International (2005) have argued that the international norm, according to which asylum seekers should not be detained with convicted criminals, is an important one that should be honoured. Clearly, some NGOs and advocates have tended to define asylum seekers in opposition to 'criminals'.

6 Concluding remarks

'Foreign criminals' continue to attract both public and political attention. In 2012, the Metropolitan police instituted a joint operation with the UKBA, titled Nexus, which sought to embed immigration teams within London's police stations, ensuring arrestees' personal details could be checked against UKBA databases (Metropolitan Police, 2012). This efficient data-sharing enterprise ensures those arrested – not yet charged, least of all convicted – can have their immigration status verified (MRN, 2013). Such policies, implemented to make "London's streets safer" (Metropolitan Police, 2012), in fact transport the border into the heart of British police work, and promise, in true 'minority-report' fashion, to catch 'foreign criminals' earlier, to 'deport on suspicion' (Webber, 2013), and to "use the full force of immigration powers on those who seek to commit crime and damage our communities" (Metropolitan Police, 2012, emphasis added; see also Greenwood, 2013).

As the *Immigration Act 2014* receives royal assent (May 18th 2014), echoes of the FNP 'crisis' now reverberate in primary legislation. In drastically cutting appeal rights and extending the number of non-suspensive appeals, the Act ensures that the UK can "deport foreign criminals first and hear their appeal later" (May, 2013). The Act also requires that the courts have due regard for the 'public interest' when considering article 8 cases – a response to popular outrage at foreign offenders circumventing deportation because of their rights to private and family life (in fact a right to *a respect for* private and family life). The government is seeking to harden the boundary separating victims from villains, ensuring that 'foreign criminals' stay in their rightful place and cannot escape their fate through appeals to human rights. These policies continue the process of isolating and dehumanising non-citizens convicted of criminal offences.

In unpacking the discourse on 'foreign criminals', I have argued that we need to move beyond the simple migrant plus criminal calculation. During the 'crisis', FNPs were depicted as specific kinds of undeserving migrants, usually male asylum seekers, who had deceitfully and callously abused 'our' hospitality. These 'bad migrant men' dirtied the entire system for assigning victimhood status, proving just how dangerous liberal human rights considerations can be. FNPs were also constructed as 'evil criminals', and profoundly illiberal approaches to crime legitimate deportation as a decisive form of crime control. Further however, FNPs incensed public commentators because they were described as specific kinds of violent criminals. These rapists, paedophiles and murderers were seen to endanger innocent, law-abiding citizens. In the case studies forwarded by journalists and politicians, these narratives were combined in the construction of 'ideal villains'. We can only interpret the work these stories do through exposing the 'common sense' ideas about race and gender on which they play.

Commentators consistently appealed to 'common sense' when discussing, or more accurately creating, the 'crisis'. 'Common sense' ideas about who belongs, who deserves, who is good and who is bad offer insights into dominant conceptions of Britishness. The 'community of value' is peopled by Good Citizens who work hard, respect one another, abide by the law, and cherish family values (Anderson, 2013). 'Common sense' also defines those who do not and cannot belong (Lawrence, 1982). Importantly, 'common sense' harbours racist attitudes which justify and even celebrate the incarceration, indefinite detention and forced expulsion of certain bodies. In the analysis of the 'NGO response' I was seeking to draw attention to the ways in which advocates are drawn into these webs of 'common sense', at least to some extent. My argument is that challenging the 'common sense' ideas about victims and villains means unearthing racist and gendered stereotypes; doing so requires critical distance from state categories (from the 'victim of trafficking' to the 'criminal', the 'refugee' to the 'failed asylum seeker').

The FNP 'crisis' incensed the media and politicians who framed the issue in terms of dangerous foreign men whose hypermasculinist violence presented a severe and existential threat to the British people. These images relied upon race for their intelligibility and these racialised stereotypes were articulated through gender. The 'foreign criminal' is a dangerous racialised man. While NGOs and advocates sought to challenge the idea that all, or even most, 'foreign criminals' deserve to be deported, they still tended to frame their arguments in terms of victims and villains. With a lack of critical distance from state categories, advocates often fail to challenge, and can even reproduce, the dominant ideas about race and gender which are so central to the construction of the 'foreign criminal' as a 'manifest undesirable'.

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