

THE POLITICS OF DEPORTATION



Deportation, as a form of expulsion regulating human mobility (Walters 2002), is a practice of state power that reinforces its own sovereignty, renovating concepts such as ‘citizens’ and ‘aliens’ that establish the boundary between those who are included and those excluded, attributing certain benefits to the former that are denied to the latter (Allegro 2006; Bosniak 1998; De Genova 2002; Peutz 2006). While an examination of practices of deportation is thus located at the intersection of several oppositions – such as citizen/foreigner, home/away, mobility/emplacement, inclusion/exclusion and deserving/un-deserving – these are uneasy binaries, constantly challenged and re-shaped by different actors. In this chapter I discuss these issues while providing an overview of existing scholarship relevant to the study of the deportation of foreign-national offenders. I then consider the major political and legal developments that brought the deportation of foreign-national offenders onto the public and political agenda, and culminated in the introduction of automatic deportations from the UK. Finally, I will discuss the policy imperatives to deportation in this context.

Membership, Contestation and the Criminalisation of Foreign Nationals

Though forced migration has long been studied by social scientists, the forced removal of long-term migrants constitutes an emerging field of studies. Literature on this topic has emerged mainly in the past decade, in the wake of changes to US immigration policies in 1996, which led to the deportation of thousands of legal permanent

citizens to their countries of origin after being convicted of criminal charges.¹ Indeed, the majority of these early ethnographies of deportation dealt with deportations of long-term residents in the United States (Moniz 2004; Peutz 2006; Yngvesson and Coutin 2006; Zilberg 2004).

The Soviet forced population movements generated an earlier literature on deportation, dating back to the 1960s. As Walters (2002) notes, deportation is but one form of expulsion. Others include religious expulsion, the transportation of criminals, political exile and population transfers. However, these are not necessarily neatly bounded concepts, and at times they may be overlapping categories. Soviet forced population transfers removed people from their place of birth and relocated them to a designated area. Their removability was grounded on who they were (such as Chechens, Polish, Ingush). Deportation, on the other hand, is intended to forcibly remove a person from their place of residence to their purported country of origin. Here, deportability tends to be grounded on lack of legal immigration status or the undesirable actions of the individual – such as moral behaviour, political ideology, criminal conviction. However, these are not neat categories. For one thing, long-term migrants may perceive their country of residence as their home. This is more so for second-generation migrants, as ‘the more time spent in the host country, the greater the imbalance of social, linguistic, or familiar ties between the host and the home country tends to be’ (Bhabha 1998: 615). In this sense, contemporary deportees, like displaced populations under the Soviet regime, may feel they are being forced to leave their home. On the other hand, deportability is not as rooted in one’s actions as it first may seem, but may serve other political intentions, as discussed by Bullard (1997), Cohen (2006), Gabriel (1987), Maira (2007) and Moloney (2006), among others.

Anderson, Gibney and Paoletti (2011) make the case that deportation is constitutive of deservedness of membership (see also Anderson 2013; Gibney 2013). Deportation constructs citizenship (Walters 2002) because ‘every act of deportation might be seen as reaffirming the significance of the unconditional right of residence that citizenship provides’ (Anderson, Gibney and Paoletti 2011: 548). Deportation policies comply with public expectations and electoral politics; they assure the voting public that the problem has been identified, and is being addressed through state power (Bosworth 2008; Gibney and Hansen 2003; Leerkes and Broeders 2010). In seeking to expel the unwanted, deportation reveals ‘citizenry as community of value as much as community of law’, and this is where the symbolic and definitive

power of deportation lies (Anderson, Gibney and Paoletti 2011: 548). Deportation thus has the potential to be divisive (Anderson, Gibney and Paoletti 2011; Freedman 2011; McGregor 2011), as the grounds of who belongs, and who should decide on who belongs, are contested not just between the state and the public but also between different actors.

Conflicts are brought about for instance during Anti-deportation Campaigns (ADCs). It has been shown how the dynamics of migration control vary during the policy cycle (Ellermann 2009; Freedman 2011): a person may vote for restrictionist policies while also campaign against the deportation of their neighbours. Where people may in general and abstract terms want stricter immigration control, when faced directly (through a neighbour or colleague) with the harsh reality of deportation, they may seek to prevent particular migrants from being deported. It is in this sense that Gibney (2008) argues that deportation invites contestation.

But who is worthy of contestation? ADCs may make use of human rights language, but mostly they deploy ideas of integration, belonging and 'the good citizen' to underline the contribution of removable foreign nationals to their community and the society at large. As ADCs emphasise normative identification and relegate human rights considerations to second place, foreign-national offenders may be left out of their reach. In fact, as explored in Chapter 5, foreign-national offenders with no asylum claim seldom campaign against their deportation. Society's normative behaviour deems them less worthy than others (Anderson, Gibney and Paoletti 2011), and 'the good citizen' argument is hardly convincing.

Current reliance on criminal justice and punitive rhetoric about the dangers embodied in foreign citizens is used in policy to secure the border, both in the UK and elsewhere (Aas 2013; Bosworth 2011, 2012; Inda 2006; Khosravi 2011). The increasing tendency towards governance through criminal law is prevalent in the management of migration (Stumpf 2006), through the practices of detention, bail, reporting and deportation, which not only allows for the close monitoring of foreign nationals but also reinforces the notion that the public needs protection from them. The policing and criminalisation of foreign nationals thus sends the message that foreigners pose a risk to society. Harsh immigration policies may be a symbol of strength, but one indicative of an actual weakness in authority and inadequate controls – it is indicative of government's inability to control the border (Bosworth 2008; Leerkes and Broeders 2010).

But while policy is developed and applied, it may not be carried through to the end. There is an ‘increasing inability of states to conduct the kind of mass deportation campaigns they claim to aim for’ (Paoletti 2010: 13). For one thing, there is often a lack of cooperation from receiving states, which refuse to provide travel documents to deportable migrants. There are legal and human rights constraints and, through immigration appeals, deportation and removal can be delayed for long periods of time. Most foreign nationals participating in this study, for instance, had been appealing their deportation for over two years. The Home Office also faces financial and administrative constraints (Paoletti 2010). The non-deportability of some foreign nationals (Paoletti 2010) leaves them in a legal limbo where they are not included in the host society even if they are physically present as they are prevented from actively participating in it. This was particularly felt among research participants as evidenced in Chapter 4. Not being able to work or actively plan their future and carry on with their lives, their existence in the UK is effectively interrupted even if they are still in the country.

The criminalisation of immigrants in liberal democracies and elsewhere has been examined and discussed in a comprehensive body of literature that discusses the legality and social legitimacy of such practices (Aas and Bosworth 2013; Bhabha 1998, 1999; Cohen 1997; Cohen 2006; De Genova 2002; Hayter 2003; Kanstroom 2000, 2007, 2012; Maira 2007; Morawetz 2000; Nyers 2003). These debates are again intrinsically connected with notions of citizenship, entitlement and justice. Stumpf (2011) argues that the convergence of criminal and immigration law also reduces migrants’ lives and existence to a particular point in time – that of a criminal or immigration offence:

This extraordinary focus on the moment of the crime conflicts with the fundamental notion of the individual as a collection of many moments composing our experiences, relationships, and circumstances. It frames out circumstances, conduct, experiences, or relationships that tell a different story about the individual, closing off the potential for redemption and disregarding the collateral effects on the people and communities with ties to the noncitizen. (Stumpf 2011: 1705)

In the UK, deportation and related practices of surveillance are indeed a straightforward consequence of a criminal conviction. But while the decision to exclude migrants is reduced to that particular moment of their lives, when deciding on deportation appeals, the Asylum and Immigration Tribunal (AIT) does bear in mind the ‘circumstances, conduct, experiences, or relationships that tell a different story about

the individual' of which Stumpf writes (see also Chapter 2). That their lives were now dominated by that one moment in time when they were convicted was in fact all too present in research participants' lives. They had become labelled as offenders, which, coupled with being foreigners, not only subjected them to deportation and state surveillance (see Chapter 3) but also prevented them from openly resisting and protesting for their rights (see Chapter 5).

Banishment and Exile

Deportation ethnographies do illustrate, as Siulc (2004) puts it, the differences between lived and legal definitions of citizenship, belonging and justice. A good example is Davies's study of the deportation of Claudia Jones from the US in 1953 on the grounds of allegiance to communist political ideology (Davies 2002). What is of interest here is the political terminology used by Jones. She was a young child when she moved to the United States, and that country was therefore her home; she had even applied for American citizenship. When the deportation order came through and Jones lost the appeal, she voluntarily moved to the United Kingdom, instead of being deported to the Caribbean, and has since referred to her deportation as exile. An exiled person is one who is banished from their home, as opposed to a deportee who is forced home. As Davies puts it, '[b]y identifying her experience as an exile, Jones was able to challenge the idea of citizenship and belonging' (Davies 2002: 963).

In fact, many authors use the words 'deportation' and 'exile' interchangeably (e.g. Bullard 1997; Comins-Richmond 2002; Pohl 2002). It is argued here, however, that the words connote different meanings, and it is indeed this difference that allows deportees to contest established concepts of justice and citizenship by resisting the notion that they do not belong to the country from which they have been removed. The choice of the word 'exile' is often used exactly to resist this idea that someone has been deported to their home as opposed to being forced to leave it. The title of Moniz's work on the forced return of foreign-national offenders of Azorean origin – *Exiled Home* (Moniz 2004) – reflects this paradigm. My own findings also suggest that for settled migrants, whether 1.5 or first generation, deportation may indeed be experienced as exile, as deportees are being expelled from their residence of choice, separated from their families and everything they have worked for – their lives in the UK remain suspended and interrupted. As Yngvesson and Coutin put it so well,

'deportation interrupts what would presumably otherwise have been the migrant's continued existence' in the country of residence (Yngvesson and Coutin 2006: 181).

'Deportation' is a strong word. It may invoke images of the Second World War, of Jews and many others being deported from Europe, and of harsh Soviet population movements (Burman 2006). Similarly strong are 'banishment' and 'exile', words that evoke images of people expelled from their home country, resonating with notions of injustice and persecution, mostly associated with repressive political regimes. 'Removal', on the other hand, 'is a seemingly benign term seldom applied to humans in other contexts, that simply describes making disappear a stain or a wart on the body politic' (Burman 2006: 280), especially as discourses of 'removal to', not 'removal from', veil 'the prospective deportees dwelling place completely' (Burman 2006: 280).

In the UK, the two terms – deportation and removal – are used for two different practices that have different implications for those subject to them and, most important, elicit different public opinions. The choice of words resonates with their political uses. Asylum seekers, more likely than others to obtain public sympathy and support when campaigning against their deportation, are 'removed to' – or in other words, are 'sent home' (and what harm can come from returning home?); 'foreign criminals', meanwhile, are 'deported from' the UK. Deportees have no public sympathy, no public support.

Deportation and Deportability

Recognising that migrant illegality is more than a juridical status led anthropologists in the early 2000s to call for a shift of focus away from the illegal migrant and the deportee towards illegality and deportability as conditions ensuing from the social and political processes that legally produce them (Coutin 2003; De Genova 2002). Focusing on illegality and deportability emphasises both socio-political (De Genova 2002) and phenomenological dimensions (Willen 2007). As socio-political modes of existence, they profoundly affect migrants' everyday lives, 'shaping their subjective experiences of time, space, embodiment, sociality and self' (Willen 2007: 10).

Consequently, the past decade has witnessed a rise in studies engaging critically with deportation to explore the intricacies of sovereignty, space and the freedom of movement (Aas and Bosworth 2013; De Genova and Peutz 2010). Academic attention has focused both

on experiences of deportation and deportability as lived by those remaining in the host country (Burman 2006; Willen 2007), and in post-deportation circumstances (Drotbohm 2011; Moniz 2004; Peutz 2006; Schuster and Majidi 2013; Zilberg 2004). The latter focus tends to emphasise the removal of second-generation migrants – people who ‘are returned “home” to a place where, in their memory, they have never been’ (Zilberg 2004: 761). Issues of identity formation and alienation have been central in these studies. Studies of deportability on the other hand, have underlined questions of exclusion, entitlement, human rights and the foreigner/citizen divide. Here deportation is most evident as a disciplinary tool of social control (Kanstroom 2000). Both approaches examine the way deportability impacts on migrants’ perceptions of justice, of public/private spheres of life, and of their sense of security (Bhabha 1998). What these studies emphasise, as does this book, is that deportation is not merely an event that forcibly relocates foreign nationals from one nation to another, but rather a process that exerts its power far before, and long after, removal takes place, and over a wider group of people than just the deportee.

When narrating the experiences of deportees, these ethnographic studies have pointed to several domains of forced return. Peutz (2006, 2007) explores the embodied and chronotopic experiences created by the deportation of Somali nationals, as well as deportees’ perceptions of the law and their uses of it (Peutz 2007). The author finds an apparent contradiction: her informants, expelled for breaking US law, believe that deportation proceedings against them were not lawful, and yet, while in ‘exile’, they trust the power of the law to defend them – they desire the (US) rule of law. Zilberg (2004) focuses on the criminalisation and transnationalisation of Salvadoran migrant identities and the recreation of the geographies of violence of Los Angeles at the receiving end.

Siulc (2004) has examined strategies deployed by nationals of the Dominican Republic who have been deported from the US, and who, perceiving their removal to be unjust, attempt to return illegally, thus becoming ‘illegal’ migrants in a place they call home and where they were legal residents before. Siulc’s approach is particularly important in that, by looking beyond deportees’ suffering, emphasis is not placed on what is being done to the deportees but rather on what they are doing about it. It acknowledges their agency and their resistance. Like Peutz (2007), she also emphasises deportees’ perceptions of justice and law. Related to this is the notion of double punishment. One of Zilberg’s informants, for instance, states that he feels exiled in El Salvador because he has not been given a passport and hence

cannot leave the country (Zilberg 2004). He feels he is being punished twice: he was incarcerated and served his sentence, after which he was deported. Many others, including my own research participants, have echoed this perception (Moniz 2004; Peutz 2006). Double punishment in these circumstances has been equated to ‘double jeopardy’ (Bhabha 1998, 1999) in the sense that it ‘violates human rights norms of non-discrimination and presumptions of equality of treatment before the law’ and ‘negates the historical and psychological reality of third country nationals’ (Bhabha 1998: 615). Here again, lived concepts of citizenship and justice are at play, and stand in opposition to legal and institutionalised ones.

These studies were mostly concerned with long-term migrants forcibly removed from the US due to their criminal convictions, and centre their analysis on the deportees themselves at the receiving end. Another literature has focused on the experience of deportability, of waiting for deportation to come through and the experience of living in a community in which deportations have occurred (Gabriel 1987; Gardner 2010; Lesch 1979; Taagepera 1980). In illegality studies, deportability is constructed as inherently tied to illegality. Deportability is a means of guaranteeing a vulnerable and cheap pool of ‘disposable’ labour were ‘some are deported in order that most may remain (undeported) – as workers, whose pronounced and protracted legal vulnerability may thus be sustained indefinitely’ (De Genova 2009: 456).

Longva (1999) writes about labour migrants in Kuwait being in check due to their imminent deportability. In Kuwait, the violation of moral norms is an offence conducive to deportation, a vague term that has the potential for arbitrary use, and hence leaves immigrants in a constant state of fear that is exploited by their employers (see also Gardner 2010). Mountz et al. set out to examine how ‘immigration policies shape identities through both their texts and their effects’ (Mountz et al. 2002: 246). In particular, the authors look at Salvadoran migrants in the US holding ‘temporary protected status’, which, by perpetually granting them only temporary protection from deportation, places their lives in limbo, in a constant state of transition where the uncertainty of the future curtails any attempt to make the most basic decisions. Willen (2007) examines the impact of illegality on migrants’ sense of embodiment and experiences of time and place in Israel. She does not assume that all migrants are victims of structural violence and social suffering, but rather documents how the new ‘arsenal techniques’ developed by the Israeli Immigration Police criminalise undocumented migrants, and how the ‘newly intensified threat of arrest and deportation began to reverberate into every corner

of migrants' complicated lives' (Willen 2007: 17). Like Mountz et al. (2002) and Willen (2007), Burman (2006) focuses on migrants' fear of deportation (in her case, in Montreal), revealing how they are haunted by their deportability and insecurity. Like Willen, she examines how migrants' deportability affects their sense of time, space and mobility. Focusing on 'how absence is lived presently – how it is kept moving, not still', Burman reveals 'how absence is made presence when those left behind develop a well-founded suspicion of the state, one that transforms their sense of possible futures' (Burman 2006: 281).

These and other recent studies of illegality and ethnographies of the lives of undocumented migrants have emphasised feelings of constant fear and insecurity, and detailed strategies of evasion and invisibility (Castañeda 2010; Talavera, Nunez-Mchiri and Heyman 2010; Wicker 2010; Willen 2007). In this study however, research participants were experiencing their deportability only after deportation action was taken against them, as prior to criminal conviction most had been living legally in the UK for a number of years. Most did not have the memory of living in fear of being caught by immigration officials prior to their first time in detention. Their deportability is nevertheless an embodied experience: one expressed not in relation to 'being caught' but in appealing at the AIT and performing a good case, in complying with state orders and enduring uncertainty (see Chapter 4).

Margaret Randall addresses these issues when narrating 'the relentless experience of living with the daily threat of physical removal' (Randall 1987: 465) and the aggressiveness of court hearings where it is decided whether or not she is desirable to the US. Although born a US citizen, in 1966 Randall adopted her husband's citizenship and became a Mexican national. Years later, upon return to the US, she was denied permanent resident alien status on the grounds of her political ideology. Randall appealed repeatedly and eventually won her case in 1989. She writes how that experience affected her life: she describes the uncertainty of waiting, the difficulty of making basic decisions and what she calls the 'imposition of false guilt' (Randall 1987: 466) – feeling responsible for what her family and close friends are going through on account of her imminent deportation. In many ways, her deportation narrative mirrors those of foreign nationals facing deportation from the UK. Their narratives, as shown in this book, highlight how the interruption of their existence in the UK is effected long before their actual removal from the territory. It is a process developing from the embodiment of their deportability as their present and future lives become suspended by the threat of expulsion from their residence of choice.

This study is thus located at the intersection between deportation and deportability – the stage when the state has already begun to wield its power by seeking to deport, but at a point when it is not yet able to remove the unwanted migrant who is appealing against deportation. This is a stage wrought with uncertainty and the suspension of lives, where migrants’ deportability is not experienced in relation to illegality. Furthermore, this book also acknowledges that experiences of deportation and deportability affect not only those the state seeks to deport but also their immediate family and close relatives, who here express their concerns and anxieties over it.

The Politics of Exclusion in the UK

International law generally holds that sovereign states have the right to regulate and control the entrance, permanence and expulsion of foreign nationals in their territories (Dembour 2003; Hammar 1990). Immigration legislation therefore has always included clauses allowing for the deportation of foreigners on national security grounds – such clauses have been in British legislation throughout the twentieth century, though they tended to be used to exclude people at particular times of crises, such as the two world wars, or in the odd case of espionage (Bloch and Schuster 2005; Cohen 1997; Dummett 1994; Schuster 2005). With the Commonwealth Immigrants Act 1962, deportation was decoupled from war and emergency scenarios, and it became available as a broader migration control tool (Baikin 2008: 880).

The 1950s thus saw the development of legislation that sought to allow the removal of Commonwealth citizens upon criminal conviction, should they have resided in the UK for less than five years and be recommended by the sentencing judge – provisions ultimately incorporated into the Commonwealth Immigrants Act 1962. Here deportation was dependent on the judiciary to initiate deportation proceedings (even if the Home Office had the last say), and its focus on expelling individuals who were new to the country and committed crimes was directly linked to ‘moral purification’ and public security concerns (Baikin 2008). It was not until the Immigration Appeals Act 1969 that deportations were no longer dependent on the judiciary (Baikin 2008) and that the eligibility for deportation was widened to include foreign nationals who failed to comply with conditions of admission: ‘This was a significant step as it developed deportation as a means of enforcing immigration rules, not only a means of

excluding people who were considered socially undesirable' (Clayton 2008: 571). The Immigration Appeals Act 1969 also obliterated the distinction between Commonwealth citizens and other foreign nationals for the purposes of deportation. The only distinction in place today concerns European Economic Area (EEA) nationals exercising treaty rights.

Subsequent legislation has worked to expand deportation eligibility, yet it was not until the end of the twentieth century that deportation, along with detention and dispersal, became normalised tools, deemed necessary to control and manage immigration (Bloch and Schuster 2005; Fekete 2006; Gibney and Hansen 2003; Nyers 2003; Schuster 2005) – a trend that has been amplified since the events of the 11 September 2001. This is not particular to the UK: the US and Canada, for instance, have been deporting foreign citizens en masse since the mid 1990s, with devastating effects both for the receiving countries and for the families left behind (Allegro 2006; De Genova 2002; HRW 2007; Moniz 2004; Peutz 2006; Zilberg 2004).

In the UK, the 'deportation turn' (Gibney 2008) was brought about by a change of government and increasing public concern over rising numbers of asylum seekers. As long as the Conservatives were in power there was no interest, for either the ruling party or the opposition, to make an issue out of the Home Office's inability to process and manage the rising numbers of foreign nationals seeking asylum in the country. When New Labour won the election in 1997, the issue was immediately placed on the public and political agenda by the Conservatives, then finding themselves in opposition (Gibney 2008). Detention and deportation came to be seen as the answer to managing such anxieties. Although at first glance these practices seem incompatible with liberal democratic rule, Matthew Gibney (2008) argues that it was actually through a discourse of human rights protection that the Labour party managed to enforce such policies. By advocating the need to protect the asylum system from 'bogus' refugees, the government was able to enact harsh measures with little opposition. Since 2000, the British government has increasingly used removal as a strategy to deal with rejected asylum seekers and other unwanted foreign nationals (Gibney 2008).

Over the last decade, there has been an increasing trend among Western states to tighten immigration laws to allow easier removal of unwanted foreign nationals – deemed dangerous to national security – even if they have not been formally accused or convicted of terrorist acts (Bhabha 1999; Fekete 2006). This has been achieved through an expansion of national security crimes to include 'speech crime'.

In Germany for instance, since 2005, a foreign national may be deported on ‘evidence-based threat diagnosis’, meaning that there is no need to prove that a crime has actually been committed. Similarly, in Spain, foreign nationals may be deported if suspicion arises that they may in the future attempt criminal action against the state (Fekete 2006). In the UK, following the July 2005 London bombings, Charles Clarke, the then Home Secretary, announced his decision to ‘broaden the exercise of the powers [to exclude or deport on non-conducive grounds] to deal more fully and systematically with those who in effect, represent the same categories, in particular those who foment terrorism or seek to provoke others to terrorist acts’ (HOCD 2005). A list of ‘unacceptable behaviours’ inserted in the document (HOCD 2005) included:

- Writing, producing, publishing or distributing material.
- Public speaking including preaching.
- Running a website.
- Using a position of responsibility such as teacher, community or youth leader.
- To express views which the Government considers:
 - Foment terrorism or seek to provoke others to terrorist acts
 - Justify or glorify terrorism
 - Foment other serious criminal activity or seek to provoke others to serious criminal acts,
 - Foster hatred which may lead to intra community violence in the UK
 - Advocate violence in furtherance of particular beliefs.
 - ad those who express what the Government considers to be extreme views that are in conflict with the UK’s culture of tolerance.

Civil rights groups were highly critical of such changes in the law, claiming that the wording was so vague as to allow the deportation of people on grounds other than the original purpose of the regulations. They also called attention to the effects these changes were likely to have upon rights to free speech (see Article 19 2005; Justice 2005; Liberty 2005; MCB 2005), and concerns were raised regarding the denial of equal rights as British citizens may express views not allowed to foreign nationals. The lack of transparency of the appeals processes was also contested (see JCWI 2005). The ‘unacceptable behaviours’ listed above were not ultimately placed in the deportation legislation, but contributed to the Terrorism Act 2006 (Clayton 2008: 572).

It was in this climate of a highly politicised public agenda in favour of both increased control over asylum seekers and the prevention of further terrorist attacks that, in 2006, the public confronted the news that over the previous seven years 1,023 foreign-national prisoners had been released after completing their sentences without being

considered for deportation (Anon. 2006; Bhui 2007; Macdonald and Toal 2006). This information generated much polemic, ultimately leading to the resignation of Charles Clarke. The scandal fed public anxieties over crime and immigration – two areas of great political sensitivity. It resulted in critical discussions over public security (Bhui 2007: 370) in which crime trends became increasingly addressed through deportation policies and enforcement. This was despite the fact that there was (and is) no evidence that foreign-national prisoners present more of a risk to society than British prisoners when released after completing their custodial sentences. Embedded in the discussions were both an underlying prejudice against foreign nationals and a concern on the part of politicians to restore public confidence in migration management (Bhui 2007: 370). Foreign-national offenders thus appeared in the political agenda ‘as a virtual combined threat (immigrant/criminal) presenting a series of political hazards and operational headaches’ (Bhui 2007: 378).

The deportation of foreign-national offenders has, since then, been a priority for the Home Office. The scandal also prompted a series of changes in immigration law and policy that culminated in automatic deportation for foreign nationals convicted of criminal offences. Provisions for automatic deportation under the UK Borders Act 2007 ‘create statutory obligation to make a deportation order in many criminal cases, and deem these to be conducive to the public good’ (Clayton 2008: 572) – meaning that there is a presumption in favour of deportation. Automatic deportations set very clear indicators of who ‘qualifies’ for deportation, and Home Office caseworkers have only minimum discretion to assess the merits of a particular case before issuing a deportation order. This means that the assessment of the merits of a case, the protection of human rights and the responsibility for any subsequent public scandal that may arise from an incident with a re-offending migrant have been transferred to the AIT. The Home Office thus maintains its credibility in seeking to expel foreign-national offenders and making Britain a safer country. New Labour thus created legal intersections between criminal justice and migration control, and spoke of crime and immigration in political discourse as inseparable phenomena (Bosworth 2011: 587).

The process of the criminalisation of immigration in the UK resonates with the transformation of immigration management and control in many liberal democracies (Bosworth 2011; Bosworth and Guild 2008; Ellermann 2009; Gibney 2008). The deportation of foreign-national offenders has become a symbol of both border control and governance in the UK, visible in the adoption and promotion of annual targets for deportations (Bosworth 2011). An official post on

the Home Office webpage proudly announced in big, bold letters: 'Since January, more than 2400 convicted criminals have been deported, putting the government on track to improve on its record-breaking level of removals in 2007' (HOCD 2008). This represented a 22 per cent increase on 2007 figures. The Home Office was also proud to claim that removals of failed asylum seekers had risen by 127 per cent between 1997 and 2006, with 18,235 individuals removed in 2006 alone (HOCD 2007). By 2009, three years later, Home Secretary Jacky Smith was no longer setting numerical targets but rather expressing them as headline-like goals – for example, 'a record number of foreign prisoners' (Bosworth 2011: 587).

In 2007, Hindpal Bhui challenged the supposed dangers posed by foreign-national offenders, arguing that the dangers had been 'overstated and that a move towards risk aversion in both the political and operational arenas has effectively resulted in group sanctions against all foreign-national prisoners' (Bhui 2007: 369). Indeed, the fear of subsequent scandals and the increasing portrayal of foreign-national offenders as a risk and threat to public security has translated into operational practices that affect all foreign-national offenders independently of the risk they were assessed as posing to society. This is particularly clear in the detention of foreign-national offenders. Current policy states that there is a presumption in favour of temporary admission or release for foreign-national prisoners, which may only be outweighed when the individual circumstances of the migrant reveal a high risk of absconding or re-offending (UKBA n.d.a). Yet, a recent report by the Independent Chief Inspector of Borders and Immigration noted a culture of detention where 'a decision to deport equals a decision to detain' (ICIBI 2011: 22). Moreover:

In interviews with staff and managers, we encountered genuine fear and reluctance to release foreign national prisoners from detention in case they committed a further crime. This, together with the potential media and political scrutiny, is fuelling a culture where the default position is to identify factors that justify detention rather than considering each case in accordance with the published policy. (ICIBI 2011: 22)

The reluctance to release foreign-national offenders despite what is prescribed in policy is translated into operational procedures in which the level of authorisation required to release a foreign-national offender is much higher than that required to detain them (ICIBI 2011).

Another result of the 2006 media scandal has been increasing interdependence between the UK Border Agency (UKBA) and Her Majesty's Prison Service (HMPS) in the management of

foreign-national prisoners (Bosworth 2011; Kaufman 2012). The latter is responsible for providing the former with the details of any foreign national serving custodial sentences so that deportation can be considered. Since 2006 the government has made efforts to restructure the penal estate in order to facilitate the deportation of foreign-national prisoners. In line with this, a hubs-and-spokes system was devised to concentrate foreign-national prisoners in designated prisons to facilitate their removal. Hub prisons are exclusive to foreign-national prisoners and have UKBA staff on-site. Prisons acting as spokes house a significant proportion of foreign-national prisoners that are to be directed to the hub prison. Included in the rationale for this segregation is the realisation that this particular section of the prison population has its own needs and challenges (Bhui 2007). They all face immigration issues, some might have recently arrived in UK and hence face language barriers and isolation. In this sense, these prison facilities may provide better cultural support to foreign-national prisoners – many provide classes in English as a second language, for instance.

However, concerns have been raised over this segregation, especially regarding the quality of care and support provided to the foreign-national prisoner population and the need to ensure that rehabilitation and reintegration initiatives are as equally accessible to them as they are to the British prisoners (Clinks 2010; ILPA 2011; Webber 2009). Transfer to open prisons, home detention curfews and other parole arrangements are not made available to foreign-national prisoners, thus hindering their rehabilitation. Other key issues relate to contact with family and friends, maintaining access to legal advice and accessing other support services that may not be part of the hub prison facility. Bosworth (2011: 586) argues that the ‘hub and spokes’ system focuses on deportation at the expense of addressing the rehabilitation and preparation of prisoners for their lives upon release. In short, the development of policies regarding foreign-national offenders has thus resulted in the portrayal of foreign-national offenders as a risk to (British) society. A risk to be controlled through operational procedures that impact on all foreign-national offenders independently of the risk they were assessed as posing to society, and a risk ultimately dealt with by deportation.

Policy Imperatives in Deportation

Administrative removal and deportation in the UK echo Kanstroom’s (2000) division of deportation laws into those aiming at border

control and those aiming at social control. Writing of the US context, Kanstroom suggests that this division casts light on different uses of the expulsion of foreign nationals. Border-control deportation laws are essentially contractual, where expulsion emerges as ‘a consequence of a violation by a non-citizen of a condition imposed at the time of entry’ (Kanstroom 2000: 1898). These laws cover foreign nationals who enter the country illegally or under false pretence, who fail to comply with a condition of entry (for example, a migrant on a student visa is expected to be enrolled in a school, college or university), or who breach a prohibition (for instance, if the visa stipulates that the migrant is not to be on benefits for a certain amount of time). In the UK, administrative removals would fall into the category of border-control laws.

On the other hand, social-control deportation laws concern long-term lawful permanent residents. These are not tied to borders or to admission but ‘follow what might best be termed an “eternal probation” or perhaps, an “eternal guest” model’ (Kanstroom 2000: 1907). Here, deportation is used ‘as a method of continual control of the behaviour of non-citizens’; it is closer to criminal law and ‘more punitive than regulatory’ (Kanstroom 2000: 1898). It resonates with what British immigration law terms ‘deportation’ – a tactic of social control discussed herein. Of course, Kanstroom acknowledges that this division is uneasy as the increasing criminalisation of immigration offences, such as the use of false documents, is leading to a merging of the two.

The rationale for deportation of foreign-national offenders from the UK consists of three imperatives: the protection of the public from possible future offences by deportees; deterrence of crime; and demonstration of society’s revulsion (such as in cases of incest and paedophilia). As a protection measure, deportation appears as a successful strategy only if the deportee is likely to re-offend. There are, however, no definitive indicators of recidivism – the fact that one has committed a crime before does not guarantee that one will offend again. Furthermore, ‘risk is framed in relative terms ... with terms such as “possible” and “probable” necessarily being imprecise and subjective’ (Grewcock 2011: 62).

As a tool to control crime, deportation is successful only locally, as the deportee is sent elsewhere, and in the short-term, as it does not address the roots of criminal behaviour (Clayton 2008; Kanstroom 2000). But, as Kanstroom adds, ‘efficiency is not justice’ (Kanstroom 2000: 1898). What of those who have been ‘rehabilitated’, present a low-risk of re-offending, have long been in the UK and have established

family and social links? Citizenship is often a technicality as it can be granted after three years of residency in the UK (Clayton 2008), which means that many long-term migrants being deported would have been eligible for British citizenship prior to conviction had they applied for it. Thus Clayton argues that the deportation of foreign nationals and the harm it inflicts on their families and social networks, as illustrated in the narratives below, 'is a greater fracturing of the social fabric than the continued presence of someone who has committed a criminal offence' (Clayton 2008: 573). This is a particularly pertinent point considering that, for citizens and non-citizens alike, the risk of re-offending does not prevent release once the custodial sentence has been served (Grewcock 2011: 62).

As a tool of crime deterrence, the effectiveness of deportation is untested and far from established. What is clear is that a particular practice can only serve to deter certain actions if people are aware that that is the consequence of those actions. My own findings reveal that migrants were usually not aware that they were liable to deportation. Field research took place just three years after the 2006 scandal and the consequent systematic enforcement of deportation policies. This meant that prior to conviction, research participants did not know of anyone (with leave to remain) within their circles that had been deported. Furthermore, while the deportation of foreign criminals features increasingly in the British media, the foreign nationals participating in this research assumed that it applied to those who did not possess leave to remain. Being 'legal residents' in the UK for years prior to their convictions, it had never occurred to them that they might be deported. In any case, it remains unclear whether such knowledge would have prevented them from committing their offences. The prospect of imprisonment certainly did not.

Deterrence and protection are closely interrelated. The idea is that if deportation is successful in deterring criminal activity the public will be safer (Macdonald and Toal 2009: 373). However, the validity of these imperatives can be contested. Firstly, one may ask, whose public good is being protected? The deportation of foreign-national prisoners can only be conducive to the British public good. Deportees are sent elsewhere. As Grewcock asks in the Australian context, 'if they are considered a risk, how does banishing them reduce the risk either to themselves or others?' (Grewcock 2011: 61). If one believes that the public needs protection from the individuals who are being deported, then deportation becomes but a means of the 'exporting and circulating of crime – "not in my back yard" – you can have them' (Macdonald and Toal 2009: 374).

Indeed, many have argued that there is a general ‘lack of post-deportation accountability’ (Grewcock 2011: 64), which is particularly relevant in the case of second-generation migrants (Bhabha 1998). Of pertinence here is whether crime prevention should be an aim of immigration control in the first place. Clayton argues that ‘punishment as meted out by the court is already intended to deter others and prevent re-offending and if it fails to do so that is a matter for criminal policy, not immigration control’ (Clayton 2008: 573). The author goes further, stating, ‘if deportation is not a punishment, the philosophical basis for it is hard to find’ (Clayton 2008: 573). It cannot be seen as a breach of hospitality when deportees have often spent most of their adult lives as ‘contributing’ citizens (Clayton 2008). Ironically, deportation can hinder the efforts of rehabilitation developed by both HMPS and foreign-national offenders themselves, as they are prevented from moving on with their lives (such as furthering their education, obtaining employment) after serving their sentences. An idle rehabilitated convict is hardly in the best interests of the public good.

Grewcock argues that deportation and the ‘routine imposition of multiple punishments’ inherent to the system – detention, reporting and so on – ‘undermines the principles of rehabilitation and reintegration and enforces permanent separation from social and family networks beyond any measure contemplated by the sentencing court’ (Grewcock 2011: 69). In this sense, the author suggests that the deportation of foreign-national offenders operates as a kind of ‘social death’ as they are no longer given the opportunity to reintegrate into society and their communities. This is, in fact, a perception reflected throughout the empirical chapters of this book. Deportation is a practice of state power embedded in anxiety, uncertainty and unrest that elicits different perceptions of (un)justice and deservedness. If deportation policies may be justified by public authorities as measures responding to anxieties over migration, they also bring out uncertainty and unrest to deportable migrants and their families. The empirical chapters of this book provide insights into how deportation and deportability translate into social reality, and the lives of the people they affect the most.

Notes

1. These changes consisted of widening the scope of crimes leading to deportation, with this new deportation eligibility becoming retroactive. Also, those awaiting deportation no longer have a legal resource to challenge their deportation orders (HRW 2007; Moniz 2004).