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# Immigration policy and the role of political discourses in the relationship between foreign nationals and crime in England and wales

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IMMIGRATION POLICY AND THE ROLE OF POLITICAL  
DISCOURSES IN THE RELATIONSHIP BETWEEN FOREIGN  
NATIONALS AND CRIME IN ENGLAND AND WALES

By

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A research submitted to Plymouth University in partial fulfilment for the  
degree of

**DOCTOR OF PHILOSOPHY**

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# **Immigration policy and the role of political discourses in the relationship between foreign nationals and crime in England and Wales**

Khamael Hasan Naji Al-Faris

## **ABSTRACT**

Significant criminological attention has been given to the relationship between immigration and crime. However, this relationship has not been researched in the UK to any great extent, and consequently the information on the UK context is limited. This research investigates how the criminality of foreign nationals have been constructed by examining the nature of immigration policy, foreign criminality discourses, and the media in the UK to understand how crime in particular has been used to define, refine, and inform control of immigrants.

This study refers to the legislative, policy, and political factors that underpin this process, and particularly explains how immigration policy and political debates have emphasised the criminality of foreign nationals in the UK. In order to achieve these goals, this research reviews a brief history of British immigration policy and legislation and outlines the connections made between foreign nationals and non-immigration criminal offences. In addition, secondary data from different British institutions and data collected via the Freedom of Information Act 2000 have been used to illustrate the level of foreigners' criminality as well as the type of crimes compared to the British representation. Finally, Parliamentary debates and related political discourses have been used to examine the role of politics has in reinforcing the relationship between foreign nationals and crime and elevating negative public sentiment and the relationship with media reports.

This research highlights the limitations of existing data relating to the criminality of foreign nationals in offending records in England and Wales, partly due to the disorganised recording of offender nationality. This study reveals that nationality is the new racism; whilst immigration has become a central focus in political and public discourses on crime they as a group in statistical terms exhibit low levels of offending but are more likely to be imprisoned for less serious crimes.

The relationship between foreign nationals and crimes is thus a political issue rather than a legal one. As such, foreign nationals supposed criminality has been used to control immigration, avoid the blame of failing policies, gain electoral votes, and facilitate changes in immigration and crime policies.

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## **LIST OF ACTS**

Importation Act 1463

Aliens Act (AA) 1483

Navigation Laws started 1651

Aliens Act 1793

Poor Law Amendment Act 1834

Public Health Act 1848

Alien Act 1905

Alien Registration Act 1914

British Nationality Act 1948

Commonwealth Immigration Act (CIA) 1962, 1968, and 1971

Race Relation Act (RRA) 1965, 2000

Iraqi Criminal Law No. 111 1969

Immigration Appeals Act 1969

Forgery and Counterfeiting Act 1981

Nationality Act 1981

Police and Criminal Evidence Act 1984

Public Order act 1986

Police and Criminal Evidence (Northern Ireland) Order 1989

Criminal Justice Act 1991

The Asylum and immigration Appeal Act 1993

Criminal Justice and Public Order Act 1994

The Asylum and Immigration Act 1996

Human Rights Act 1998

Immigration and Asylum Act 1999

Freedom of Information (FOI) Act 2000

Terrorism Act, 2000

Anti-Terrorism, Crime and Security Act (ATCSA) in 2001

The Nationality, Immigration and Asylum Act 2002

Sexual Offences Act in 2003

Criminal Justice Act 2003

Asylum and Immigration (Treatment of Claimants) Act 2004

Prevention of Terrorism Act 2005

The Immigration, Asylum and Nationality Act 2005

Terrorism Act 2006

The Identity Cards Act in 2006

Immigration, Asylum and Nationality Act 2006

UK Border Act 2007

Registration Service Act 2007

Prevention of Illegal working Guidelines 2008

Borders, Citizenship and Immigration Act (BCIA) 2009

Immigration Act 2014

## **LIST OF BILLS AND CONVENTIONS**

Murder Bill 1858

Alien Bill 1905

Alien restriction Bill 1919

Geneva Convention 1951

The European Convention on Human Rights enacted 1953

European Communities (Amendment) Bill 2001/02

Counter-Terrorism Bill 2008

Philip Hollobone (Conservative MP) Private Bill 2010

Immigration Bill 2013

Foreign national offenders (exclusion from the UK) Bill 2013/2014

Criminal Justice and Courts Bill 2014

## **LIST OF WHITE AND GREEN PAPERS**

Fairer, Faster and Future, A modern approach to immigration and Asylum 1998:

White Paper

Secure Borders, Safe Haven 2002: White paper

Controlling our borders: Making migration work for Britain' 2005: White paper

Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders 2010: Green paper

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The Home Affairs Committee 2012. (August-December 2011)

## LIST OF ABBREVIATIONS

<b>Abbreviation</b>	<b>Full term</b>
CJS	Criminal Justice System
FNPs	Foreign National Prisoners
UKVI	United Kingdom Visas and Immigration
HMPS	Her Majesty Prison Service
ONS	Office For Nationals Statistics
IPS	International Passenger Survey
LFS	Labour Force Survey
APS	Annual Population Survey
NISRA	Northern Ireland Statistics and Research Agency
E&W	England and Wales
BAME	Black and Asian Minority Ethnic
FOI	Freedom Of Information
MPS	Metropolitan Police Service
MoJ	Ministry of Justice
NOMS	National Offender Management Service
CIA	Commonwealth Immigration Act
RRA	Race Relation Act
UKBA	United Kingdom Border Agency
IAA 1999	Immigration and Asylum Act 1999
NI	Northern Ireland
PCEA 1984	Police and Criminal Evidence Act 1984
ATCSA 2001	Anti-Terrorism, Crime and Security Act 2001
FTRs	Fixed Term Recalls
VATP	Violence Against The Person

PPR	Primary Purpose Rule
NCRS	National Crime Recording Standard
HOCR	Home Office Counting Rules
NHS	National Health Service
NASS	National Asylum Support Service
NIAA 2002	Nationality, Immigration and Asylum Act 2002
IRA	Irish Republican Army
ECHR	European Convention on Human Rights
DOJNI	Department of Justice in Northern Ireland
ICSR	Immediate Custodial Sentenced Receptions
IRCs	Immigration Removal Centres

## DEDICATION

To my husband

*Haider*

Without you, I would never be able to continue

To my beautiful daughter

*Sama*

Every time I hold your little hand, I feel stronger

Thank you for being in my life and making me feel special

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Khamael



## **AUTHOR'S DECLARATION**

This is to confirm that at no time during the registration for the degree of Doctor of Philosophy has the author been registered for any other University award. The Ministry of Higher Education and Scientific Research in Iraq funded this study.

During the work on this research, the following activities have been undertaken:

### **1. Courses and sessions**

- Quantitative Research Analysis/ Bivariate Analysis, (master level course) Jan-Feb 2012/ Plymouth University.
- Quantitative Research Analysis/ Multivariate Analysis, Feb-Mar 2012/ Plymouth University. Attendance
- Qualitative Research Methodology, Jan-Feb 2012.
- SPSS programme.
- Qualitative method and NVivo 9 analysis for qualitative data, 2012, University of Plymouth.
- Higher Education discipline 'Graduate Teaching Associates (GTA) Course/ Plymouth University Sep - Jan 2012
- Postgraduate Certificate in Academic Practice (PGCAP 600) Feb – Sep 2012

### **2. Conference presentations**

- Al-Faris, K. (2011). 'The political, economic, and social context of British immigration policy'. Paper presented at Plymouth Business School

Postgraduate Symposium in 27<sup>th</sup> May 2011. Robbins Conference Centre, Plymouth University, UK.

- Al-Faris, KI, (2011). 'Islam-Terrorism nexus and British counter terrorism policy'. Paper presented at Plymouth University Research Centre for Sustainability, Leadership, Governance and Policy (SLGP) Doctoral Symposium, December 2011.
- Al-Faris, K, (2012). 'The political, economic, and social context of British and Canadian immigration policy'. Paper presented at the Canadian Association for Refugee and Forced Migration Studies (CARFMS) 12: Restructuring Refuge and Settlement. 16-18 May 2012, Toronto, Canada.
- Al-Faris, K, Green, A, Johns, N, and Tripathi, S, (2012). 'Faith Groups and Social Welfare: The equal opportunities implication'. Paper presented at Social Policy Association International Conference, 15-19 July 2012, York University, York, UK.
- Al-Faris, K (2013). 'No place to stay: Homosexuals in the Middle East as a cause for forced migration' Paper presented at CARFMS 13: 'Spaces of Refuge: Exploring practices, Perceptions and policies in Forced Migration and (Re) Settlement' 7-10 March 2013, The Atlantic Metropolis Centre, Saint Mary's University, Halifax, NS, Canada.
- Al-Faris, K, Barton, A, (2013). 'Retribution or Rehabilitation: the British penal policy approach'. Paper presented at the 'Crime, Justice and Social

Democracy 2<sup>nd</sup> International Conference' 8-11 July 2013, Queensland University of Technology, Brisbane, Australia

- Al-Faris, K, Barton, A, Pac-Soo, C (2014). 'Immigration policy, political discourses, and public perception of foreign nationals-crime nexus in the UK' paper presented at the International Association for the Study of Forced Migration (IASFM) 15. 15-18 July 2014, Pontificia Universidad Javeriana, Bogota, Colombia.
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- Al-Faris, K. 'Constructing the criminality of foreign nationals in the UK' paper presented at the British Society of Criminology conference (main conference)'Criminology Voyage of Critical discovery' 30June - 03July 2015, Plymouth University, UK

### **3. Publications**

- Al-Faris, K. (2012) 'The political, economic, and social context of British immigration policy'. Proceedings of the Plymouth Business School Postgraduate Symposium pp. 6-15, ISSN: 9781841023229
- Al-Faris, K, Barton, A (2013). 'Immigration policy criteria: A comparative study between the UK and Canada' paper accepted to be publish in Social & Public Policy Review, ISSN 1752-704X.

- Al-Faris, K (2013). 'The death penalty between retain and cancellation: an exploratory research for the views of a group of Judges and Jurists'. *The Technical Journal*, 26, 7, pp. 270-288 Baghdad, Iraq.
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# Chapter 1 Introduction

## Background of the study

*'The perception of a high rate of criminality among foreigners has often emerged in western world, especially in the nations in which the immigration rate has been particularly high' (Solivetti, 2011, p 18)*

Human have always been nomadic creatures, but boundaries and borders have not always been a part of human life. However, the progress of civilisation and the eventual establishment of nation states gradually brought with it, restrictions on free movement and the arrival of newcomers (Anderson et al., 2011).

Historically, foreign nationals have been represented as external pressures on demographic, health, the economy, and crimes (Warner, 2005, Swift, 2002, Jones, 2013). The increase numbers of foreign nationals within a country, and the economic success they achieve, can be seen as some of the early motivations for complains against them and moves to link their presence to various kinds of illegal activities (Panayi, 2010, Layton-Henry, 1992). Consequently, foreign nationals from different ethnicities and religions (with different levels) have been stereotyped as criminals (Swift, 1997, Smith, 2009) and overrepresented in Criminal Justice System (CJS) statistics, which has exacerbated negative public sentiments that connects the rise in Foreign National Prisoners (FNPs) with the increasing population of newcomers (Banks, 2011).

The USA saw the first empirical studies on the relationship between immigrants and crimes. The earliest American studies concluded a positive

connection between immigration and crimes when they compared criminals' population of foreign and native born in the prisons with general population of foreign and native born (Hart, 1896). Hart (1896) proved methodological errors in the old studies, and found a negative relationship when he demonstrated the large number of native born prisoners in the Northern States prisons comparing to foreign-born prisoners. Subsequent empirical studies have mostly found a negative relationship between immigration and crime through using different measures such as the proportion of foreign nationals in prisons (Hourwich, 1912, Abbott., 1916, Claghorn, 1918), or the crime level and type of crime committed (Lee et al., 2000, Martinez and lee, 2000, Lee et al., 2001, Camarota and Vaughan, 2009).

In the UK, the political, public and media representation of the relationship between foreign nationals and non-immigration criminal offences has been of recent concern to academics (Al-Faris, 2010). However, these studies are limited in scope, either by their data or by their review of the literature review. Some UK research has examined the relationship between foreign nationals' criminality and the nature of criminal offences from an economic perspective (Bell et al., 2010, Papadopoulos, 2010, Bell and Machin, 2011). Others (Banks, 2011, Bhui, 2007, Bhui, 2009a) have looked at the overrepresentation of FNPs in British prisons from a criminological perspective.

Banks (2011) and Bhui (2009a) have summarised the reasons behind the overrepresentation of FNPs in England and Wales (E&W); the high population of foreign nationals in the UK, their economic situation leading them to engage in particular crimes like drugs and fraud, the long sentences

they receive, and finally, the discrimination in how they are treated by the legal system.

Increases in the population of FNPs have caused many scholars from across the world to analyse the reasons behind their overrepresentation in offending data. Scholars vary in the emphasis they place on economic, social, and discriminatory factors to explain this overrepresentation (Butcher and Piehl, 1998, Sampson and Raudenbush, 1999, Papadopoulos, 2010, Simon, 2005, Williams, 2000).

However, there are many difficulties preventing the findings of such studies being applied on a larger scale. For instance, there are differences in the foreign nationals' characteristics, the different methods that have been used to clarify the foreign nationals-crime nexus, and just who is foreign national. Hagan and Palloni (1999), Miller and Gibson (2011), Wu, Sun, and Smith (2010), and Veen, Stevens, Doreleijers, and Vollebergh (2011) have looked at different ethnicities of foreign origin in different countries and compared them to the criminal behaviour of the indigenous population. In short, the findings varied due to the different methodologies used and the variety of different ethnicities in different countries.

Although the existing literature would seem to suggest some general reasons for the relationship between FNPs and immigration, this research intends to look more deeply at the basis of foreign nationals' criminality it will do this by acknowledging the different characteristics among foreigners, and comparing them to the majority indigenous population. However, one important factor has been ignored by previous studies, the application of immigration policy that determines the legal status, obligations, and rights of

foreigners and how different systems and measures are used to achieve its aims. Treating all foreign nationals as one homogenous group without acknowledging these differences would affect the validity of the outcomes of research. In addition, there is confusion in defining just who immigrants are, and whether immigration policy, political discourse, and different governmental institutions are using the same definitive frameworks. As such, the next section will clarify the different meanings and definitions of immigrants, in order to understand different studies and their varied outcomes, and to give greater clarity to the subject of this research.

### Who is an immigrant?

The first challenge when looking at the relationship between immigration and crime is how to define immigrant, and whether there even is a single clear definition at all. In 1998, the United Nations defined international migration (long-term) (United Nations, 1998 , p 18, para 36) as:

*'a person who moves to a country other than that of his or her usual residence for a period of at least a year (12 months) so that the country of destination effectively becomes his or her new country of usual residence'*

The United Nations (1998 p18, para 37) defined short-term migrants as:

*'persons who move to a country other than that of their usual residence for a period of at least 3 months but less than a year (12 months) except in cases where the movement to that country is for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage'*

The above definitions seem to be very general and as such do not provide precise criteria to identify who should be considered immigrants and who should not. For example, Does the term immigrant mean foreign born, foreign



nationals, those who does not hold British passport, those who are titled to immigration regulation, and does the term immigrant still apply for first generation who have been naturalised?

Therefore, immigration policy in different parts of the world has interpreted its own definition to clarify the meaning of immigrant. In addition, the wide and diverse perception of the meaning of immigrant made different governmental institutions and national surveys putting their own definitions as well. This clearly impacts on the ability to produce comparative studies of the phenomenon of immigration across different countries. Furthermore, the study of immigration impact and issues related to immigration in a single country that does not acknowledge different meanings and definitions will also be problematic in terms of the collection and analysis of data, as the next section of this chapter will demonstrate.

### **1.2.1 Immigration policy and the definition of immigrants**

As has been mentioned above, the absence of a universal definition for immigrant, alongside the sovereign power for every country to define who should be considered as foreign or indigenous has produced different interpretations of the word 'immigrant'. For example, although USA immigration policy considers every child born on its land as an American (Sergot et al., 1986, Bauer et al., 2001), since 1983 when the Nationality Act 1981 came into force, British immigration policy removed a similar mechanism and requires children to have British parents or grandparents. These two different policies affect the meaning of immigrant in research; American studies mostly define immigrant based on place of birth, rather than lineage. Using the same methodology in a UK context would lead to different

outcomes, as not all native born are British and vice versa. Furthermore, US immigration policy distinguishes between immigrant and non-immigrant inflow according to the intention of spending time in America or the purpose of visit (Marron, 2006). British immigration policy considers every non-British entrant to the UK as an immigrant<sup>1</sup>.

### **1.2.1 Political discourses and the definition of immigrants**

There are numerous historical examples of the criminality of immigrants entering the national discourse; however, every time foreigners have been represented differently and mostly connected to different ethnicity.

Between the 1950s and 1980s, the foreign nationals were linked to ethnic minority categories; therefore anti-immigration discourse were combined with Black and Asian Minority Ethnic (BAME) discourses (Pettigrew, 1998). At the time when the public sentiments and the media were opposed to non-white, foreign nationals and immigration policy was linked with every clash or issue between white and non-white communities. There were therefore many appeals from politicians to follow a 'closed door' policy to foreigners because of their 'violence' and their connection to crime (Travers, 1999, Small and Solomos, 2006, Smith, 2008b).

During the 1980s and 1990s, when the population of the asylum seekers and refugees had increased significantly, the relationship between immigration and crimes was expressed through a linkage between asylum seekers/refugees and immigration crimes. At that time, the political focus was on linking immigration crime to bogus asylum seekers and connecting the

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<sup>1</sup> However, Some British passport holder who are living abroad are controlled by the immigration regulations GOV.UK (2014). *Types of British nationality* London <https://www.gov.uk/>,

increase of asylum seeker population to negative impact on social policy and welfare benefit (Calavita, 2005, Bosworth and Guild, 2008b).

However, post 2006 FNPs scandal, when over 1000 FNPs released from prison without considering their cases for deportation and resulted in the resignation of the Home Secretary, 'foreign nationals' was the most used term within the discourses of deportation predominating in parliamentary debates and other political arenas (6th Report of the Public Accounts Committee of the House of Commons, 2006). The subsequent discourses of the population of European citizens in the UK post 2004 have also been influential but the focus has remained on foreign nationals.

### **1.2.2 National surveys and the definition of immigrants**

The different surveys that have collected the data on immigration have used different methods according to the aim of gathering these data and the definitions they are using to identify their sample. Immigrants have been presented differently under different categories like foreign nationals, foreign born, British passport holder, or country of origin.

For example, the International Passenger Survey (IPS) has defined immigrants as '*those who entering (or leaving) for an intended period of at least a year, after at least a year aboard (or in Britain)*' (Hatton, 2005, p 721). IPS counted as immigrant every newcomer who does not have a British passport and sometimes those who have not been born in the UK, thus, there is a possibility that some individuals of dual nationalities are counted twice, which has confused the result and led to a total percentage of over 100 (Office for National Statistics, 2012b).

Another example of two national surveys Labour Force Survey (LFS)<sup>2</sup> and Annual Population Survey (APS)<sup>3</sup>; those two surveys have different aims and methods of collecting their data, which eventually will result in variation in the data and confusion of determining the population of immigrants in the UK (Office for National Statistics, 2011, 2012a). Moreover, the different methods by the different national surveys will result in variation in the data, referring mostly to foreign-born data to represent immigrants and mixing the latter term with statistical data by nationality.

There is a serious implication of not distinguishing between cases, or depending on foreign-born data to represent immigrants, when most of foreign nationals are foreign born; some native born individuals are foreign nationals according to the Nationality Act 1981. At the same time, many of foreign-born have British citizenship and are therefore no longer considered as foreign. Hence, mixing the two terms confuses the outcome of different research, with some referring to immigrants as foreign-born and vice versa (Rienzo and Vargas-Silva, 2013).

Finally, the definition of immigrant used in this research is consistent with the National Archives definition of 'alien': *'An alien is a person present in a country who is not a citizen of that country'* (The National Archives). Hence, the subject of this research (an immigrant) is a person who does not hold British citizenship, and instead is either a foreign citizen or stateless.

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<sup>2</sup> LFS is a household survey of the employment circumstances of the UK population, the sample of this survey is conducted with up to three hundred thousand homes.

<sup>3</sup> APS is a combined survey of households in Great Britain. Its purpose is to provide information on key social and socioeconomic variables between the 10-yearly censuses, with particular emphasis on providing information relating to sub-regional (local authority) areas.

### **1.2.3 The implication of adapting different definitions and the subject of this study**

Looking at different definitions of immigrants and the subsequent methods of collecting immigration data brings many advantages, such as giving a clear idea about what sort of immigrant the research is focused on, as well as also displaying the vague meaning of most political and media debates evaluating the impact of immigrants in the UK.

There are two implications on adopting different definitions in different immigration policies. Firstly, immigration policy plays a significant role not only in determining the meaning of immigrant, but also in influencing studies focused on the impact of immigrants, and their relationship with different economic, social, and legal issues in their host countries. Secondly, comparative studies concerning immigration should acknowledge the differences in applied immigration policies. The outcomes of different empirical studies in different countries will be influenced by the difference in immigration policy therein, and this should be kept in mind when considering their findings.

In addition, the nature of the relationship between foreign nationals and the CJS will therefore be affected, due to the differential foreign national populations depending on the different methods and categories that national surveys have used. Table 1.1 (in Appendix 2) illustrates the practical difference between the population of foreign-born and foreign nationals, the considerable differences in the population between the two categories is resulted an exaggeration in the impact of immigrants (foreign nationals) have on British society and elevate negative public sentiments.

The issue is further confused by debates in immigration policy in relation to EU and non-EU citizens, despite neither of these being British. The concept of 'foreignness' in relation to these two groups is quite different, and EU citizens are afforded more freedom to enter, live and work in the UK, whereas non-EU citizens face significant social and economic barriers. Thus, it is important to recognise that 'non-British' is not a single group, but one that can be differentiated at a range of levels.

### **Motivations for this study**

The relationship between immigration and crime is a controversial topic, especially with the lack of data in research (Bhui, 2009a). There is a Western concern in regard to the level of criminality that foreign nationals demonstrate in Western countries, and the different types of illegal activities that foreigners are more likely to get prison sentences. Despite the wealth of research and the various theories that have been applied to explain the overrepresentation of foreign nationals in crimes, which have focused on structural and cultural factors, as well as discrimination against foreign nationals in different stages of the legal process. However, the fluctuation and change in the prison population still needs more explanation. The main motivation for this research comes from a desire to examine important factors that have a significant impact on the overrepresentation of foreigners in statistical data on offending, and to interrogate the oft-repeated political discourses that focus on 'foreigner criminals'. The broad literature review conducted shows a clear lack of a comprehensive framework regarding the link between foreign nationals and non-immigration criminal offences in the UK, which motivated this research to contribute to the migration and criminological studies.

## **Aims and objectives**

The purpose of this study is not to simply critique others for their oversights, but to develop a new, empirically based, theoretical framework of analysis that will persuade criminologists to think in a new direction. The main aim of this study is to provide a criminological understanding of the links between foreign nationals and non-immigration criminal offences. The research argues that consistent criminalisation of foreign nationals, including linking foreigners to different crimes and blaming them for many issues in this country, which the immigration policy and the oft-repeated political discourses show, affects the representation of those foreigners in the CJS. In addition, there are tough numerous crime policies, some of which result in a significant negative impact on the relationship between foreign nationals and the CJS. To achieve the aims of this research the objectives are as follows:

1. Review the extant empirical and theoretical studies related to change in immigration policy and how foreign nationals have been connected historically to different issues including crimes
2. Identify the 'methods of blame' which the political, public discourses and media have used to represent the relationship between foreign nationals and non-immigration criminal offences
3. Determine how the role of immigration policy, political discourse and the media in constructing foreign criminality.
4. Identify the challenges and barriers to collecting and publishing data in regards to the nationality of offenders.

5. Recommend possible ways of addressing the identified findings within immigration policy and the construction of foreign criminality

## **Research questions**

This research will consider the extensive literature, reviewing both immigration policy and criminological aspects of the relationship between foreign nationals and crimes in E&W, and identifying the gap in the previous studies, particularly in the UK context. The research intends to answer the following questions in order to achieve the mentioned objectives:

- 1. Why there is a wide perception of a relationship between foreign nationals and crime in the UK?**
  - Are foreign nationals more criminalised than British Nationals?
  - Are foreign nationals subject to stereotyping and/or a target of discrimination?
- 2. What is the historical basis of the relationship between foreign nationals and crime in the UK?**
  - When did the criminalisation of foreigners started?
  - What are the factors that helped to raise the criminality of foreigners?
  - What was the public attitude to foreign nationals?
- 3. What was the role of immigration policy, which has been adopted by different ruling political parties?**
  - What was the influence of the Labour party on the criminalisation policy of foreign nationals?
  - Was there any difference when the Coalition Government came to power in 2010?



- How has immigration policy helped to enhance the construction of foreign criminality, or obligated some foreign nationals to commit different sorts of crimes?
- 4. How can the overrepresentation of foreign nationals in British prisons be explained?**
- Are foreign nationals more likely to commit crimes than British nationals?
  - What sorts of crimes foreign nationals are more likely to commit?
  - Are foreign nationals targeted in the CJS institutions, and why?
- 5. How has the relationship between foreign nationals and crime discussed in the political and parliamentary debates, and what are the implications?**

## **Data and Methodology**

This research looks at how measures of immigration and crime policies, and related legislation, directly and indirectly impacts on the criminal behaviour that foreign nationals display in E&W and if those foreigners present a real threat to British society.

The idea of looking at the relationship between foreign nationals and crime in the context of social constructivism and immigration policy was one that arose out of an initial duality of research interests: (1) New immigrants and their impact on present-day immigration policy (2), Historical immigration policy. What seemed at the start to be two quite separate fields of interest came to gradually appear more closely connected. In particular, the study of present day immigrants and immigration policy implications demand a historical perspective.

This research considers the impact of immigration policy on enhancing debates relating to foreign national criminalisation. It does so by both reviewing the theoretical and empirical literature and by providing an extensive evidence base for the UK. Offending data that includes the nationality of those people caught up in the CJS has been collected from different sources, including different government institutions, and national surveys, as well as Freedom of Information (FOI) requests to the Home Office, Metropolitan Police Services (MPS), Ministry of Justice (MoJ), and UKVI. These secondary data have been analysed in order to illustrate the level of criminality that foreign nationals demonstrate in E&W, the type of criminal offences those foreigners are imprisoned, resulting in a comparison of these results with British nationals' criminal behaviour and representation in the CJS statistics.

Although this research is not explicitly focused on the expansion of immigration crimes, presenting insight into this helps illustrate the general tendency of the government to criminalise foreign nationals, and connect them to different illegal activities. This will ultimately feed negative public sentiment and perpetuate the stereotyping of foreigners as criminal.

In addition, the general themes of the parliamentary debates and the related political discourses have been gathered from a time period of 2001-2014. This has facilitated an analysis of the political language and the impact of the political focus on the criminality of foreign nationals in the UK. Finally, the outcomes of these two methods have brought into dialogue with another in order to produce a logical conceptual framework for interpreting the relationship between the criminal offences of foreign nationals and the remainder of the offending population.

## Overview of the research plan

This research has used the restrictive immigration policy and foreign criminality discourses as main variables to examine foreigners' criminality. In doing so, it begins by looking at the historical context of immigration policy and its influence on encouraging or discouraging different nationalities to settle in the UK. The literature has also shown how foreign nationals have been linked with different issues. It provides a background for analysing foreign national offenders and their relationship with criminal offences. The literature review also considers other aspects, such as how different political parties have changed crime policy when in government between 1997 and 2014. A methodology chapter that outlines the methodological approach taken in this research follows the literature review. Two chapters describing and analysing the collected data follow this. A discussion chapter then presents an evaluation of the findings and analysis of data; before a final chapter concludes, this research findings and limitations (see Table 1.2).

Table 1.2: Research plan Navigation

Chapter	Description
Introduction	Chapter (1) outlines the background of this research, explains the definitional challenge of immigrant, explains the aim, objectives, and research questions, and presents an overview of the data and methodology and the research's plan.
Literature review	Chapter (2) looks at the historical background of foreign' criminality from 12 <sup>th</sup> century -1997, and includes three case studies explaining the construction of foreign criminality in different times; 19 <sup>th</sup> century (Irish), the first half of 20 <sup>th</sup> century (Jews), and the second half of 20 <sup>th</sup> century (BAME)

	Chapter (3) looks at the immigration and crime policies at two different governments: the Labour 1997-2010 and the Coalition (2010-2015). This chapter includes the final case study that explains how political discourses, immigration policy and the media constructed the criminality of asylum seekers.
Theory	Chapter (4) incorporates social constructivism theory to foreign criminality in order to explain how the criminality of foreign nationals constructed by immigration-crime policies, political and parliamentary debates, the media and CJS data.
Methodology	Chapter (5) shows the research aim and strategy, which includes the secondary (numerical) data and the parliamentary debates. This chapter also shows the challenges that changed the focus of this research completely and obligated the researcher to follow an alternative plan.
Data and analysis	Chapter (6) presents the statistical representation of foreign nationals in the different stages of the CJS and analyses this data to explain the different trends in FNP population, and the sorts of crimes they are imprisoned for.  Chapter (7) presents foreign criminality discourses in the Westminster Hall, discusses the implication of the anti-immigration debates in the English parliament and shows how foreign criminality discourses change immigration and crime policies, CJS practise and relatively the public attitude.
Discussion	Chapter (8) evaluates the findings of this research (the history review, secondary data, and the parliamentary debates) and presents a developed understanding of the reasons behind the over criminalisation and the overrepresentation of foreign nationals in the political debates, offending data and punishment institutions
Conclusion	Chapter (9) presents an over view of the whole research; it shows the

	contribution of this research and the limitation, and finally puts some recommendations and future studies.
Appendix 1	The refusal letters of National Offender Management Service (NOMS) to make interviews with FNPs inside prisons.
Appendix 2	Tables of this research

## **Chapter 2 The historical background of linking foreign nationals to non-immigration criminal offences**

*'The claims that the current developments are new or without precedent...are mostly not supported by extensive knowledge of migrations in the past'*  
(Lucassen and Lucassen, 2009 quoted in Anderson, 2013, p 12)

The exaggeration of exploring immigrants' criminality and their dangerous impact is not a new phenomenon it influenced by the vulnerable position of these foreigners in Western countries. Foreign nationals have been considered as an easy target during economic crises and can be blamed for creating problems.

This chapter will explore the temporal aspects of constructing the criminality of foreign nationals and connecting them to different non-immigration criminal offences in order to understand the background to this issue and track the historical role of immigration policy and political debates in the construction of immigrant criminality. The historical journey this chapter takes will shed some light on the economic and social restrictions placed on foreign nationals' activities, and the role of public sentiment and media coverage in connecting foreign nationals to non-immigration criminal offences. In other words, the historical background will attempt to establish some answers for questions such as:

1. From what period did foreign nationals begin to be linked to non-immigration criminal offences? What was its purpose?
2. Did foreign nationals show more criminality than the indigenous population?

3. What evidence has been used to support the relationship between foreign nationals and crime?
4. How have government and immigration policy contributed to constructing foreign criminality?
5. What was the role of public attitude, and how has it been formed?
6. How has British immigration policy developed to encourage/discourage the criminality of foreign nationals to serve different motivations?
7. What role has the media played in constructing foreign nationals' criminality?

## **Immigration discipline and the early criminalisation of 'aliens'**

Those engaged in research on immigration policy and the historical background of immigration issues have the difficult task of knowing precisely where to start. Therefore, this chapter does not attempt to provide a comprehensive historical account; rather, it takes specific events and periods to illustrate the abiding relationship made between foreign nationals and alleged criminality.

### **2.1.1 The beginnings of the criminalisation of foreign nationals**

Foreign nationals have been encouraged for centuries to come and settle in England in order to meet demographic and economic demands. For example, during the 12<sup>th</sup> century Jews were encouraged by the Crown to enter the country and to assist in running the fiscal matters of the Kingdom (Harper and Constantine, 2010, Wilson, 1970, Bevan, 1986, Skinner, 2003). Other foreign nationals were formally encouraged to revolutionize the English economy by importing and teaching technical skills to indigenous population. Edward III opened the door for skilled workers to enhance the cloth industry in the 14<sup>th</sup> century (Bevan, 1986). Although foreign workers made a positive contribution to English industries and general economic wellbeing, an

unrestricted open door immigration policy led to a negative public attitude regarding foreign nationals' overrepresentation in the economic sector. It was during this period that the first records are made of the concern over foreign nationals taking English Jobs.

The negative sentiment against foreign nationals and especially against Jews increased during the 12<sup>th</sup> century. There were violent attacks on Jewish communities, which resulted in butcheries. Consequently, in 1290, Pope Edward I dislodged all Jews from England, although they were later readmitted from the 1650s (Harper and Constantine, 2014, Wilson, 1970, Bevan, 1986 ).

Wilson (1970), argued that fear of the other and religious factors were the real motivations behind anti-Semitism, rather than economic competition, particularly in relation to employment. However, religious differences between foreign nationals and the indigenous population may not have been the reason for hatred and fear; Bevan (1986 ) shows that the economic success of foreign nationals was the most important factor in fuelling negative sentiments towards them. For example, the fear of foreign nationals continued in subsequent centuries with a different race and motivation. During the 13<sup>th</sup> and 14<sup>th</sup> centuries, Italians had achieved far broader business success in England than the Jews had. In 1463, the Importation Act prohibited the import of a 'long list of manufactured articles' mostly manufactured by Italian industries. This competed with the Papal economic oppression, which came alongside negative racial stereotypes of the Latin character: futility, lying and wiliness (Wyatt, 2005, Wilson, 1970).



The Importation Act, which was an Act of the Parliament of England passed during the reign of Edward IV (Cunningham, 1890), stands as the first official policy to use the construction of foreign nationals criminality to control the economic activities of foreigners.

Negative sentiments against foreign nationals continued to be motivated by economic factors in the 15<sup>th</sup> century, rather than being founded in race or religion. This was due to the success of foreigners at the expense of native workers, who mostly did not have the same skills or had not learnt from foreign national tradesmen and merchants (Bevan, 1986 ). As the preamble to a statute of Richard III in 1483 noted, strangers would:

*'not take upon them any laborious Occupation, as going to Plough and Cart, and other like business...and will in no wise suffer nor take any of the king's subjects to work with them' with the result that subjects 'for lack of Occupation, fall into idleness, and be Thieves, Beggars, Vagabonds, and people of vicious living...'* (Pickering, 1763, p 14, Cunningham, 1890, p 388, Bevan, 1986 , p 52).

Richard III's immigration control statute referred to the negative role 'strangers' took in society; foreign nationals were taking scarce jobs and did not employ locals, but were clannish. In consequence, natives were 'forced' to engage in violence and criminal activities because of unemployment and their poor economic situation. Richard III's statute made it clear that there was an indirect relationship between foreign nationals and crime; foreign nationals monopolising non-dirty jobs and their economic success elevated the negative public and royal (political) sentiments, and for the first time the relationship between foreign nationals and crime was used to inform Law.

The relationship between foreign nationals and crime thus helped to create a restrictive immigration policy; Richard III reacted to the negative public

attitude and restricted the economic activities of foreign workers. For example, foreign nationals were obliged to live with native merchants, administrate their commerce under native management and could only work as servants for citizens (Bevan, 1986 , Anderson, 2013).

Moreover, the hate filled sentiments, which were accompanied by physical attacks and riots against foreign nationals in London in 1456, 1457 and 1517, saw the eviction of some foreigners from certain cities (Bevan, 1986 , Ross, 1983, Fryde, 1983). These were followed by a band of Navigation Laws, starting in 1651, which restricted the use of foreign shipping to trade only between England and its colonies, and restricted foreign business to British merchants (Reeves, 1792, Ransom, 1968).

### **2.1.2 Welcoming refugees and connecting them to crime**

Following the reformation in England and other parts of Europe, England was forced to adopt a more 'open door' immigration policy. This was to allow other followers of the Protestant doctrine to escape from the persecution being waved over by the Catholic church (Bevan, 1986 , Weir, 2011). This section will show how the change in religious primacy has affected immigration policy, and how the new foreign nationals (refugees) been criminalised and linked to different illegal activities.

#### **2.1.2.1 From Catholic to Protestant doctrine: England has changed**

The 16<sup>th</sup> century saw big changes in religious trends and consequently a new element – the plight of religious refugees – in the admission of foreign nationals into the country. The holder of Crown now had the power to admit foreigners more than any time before. The religious leaning of King Henry VIII

attracted Catholics in his earlier reign, but he later offered protection to European Protestants (Bevan, 1986 ).

The big religious shift in the Henry VIII era contributed to accepting Protestant asylum later. Henry VIII is known for his role in the separation of the Church of England from the Roman Catholic Church after his decision to divorce Catherine of Aragon. Thus, Henry's struggles with Rome led to the separation of the Church of England from papal authority, the Dissolution of the Monasteries, and his own establishment as the Supreme Head of the Church of England. Yet he remained a believer in core Catholic theological teachings, even after his excommunication from the Roman Catholic Church (Weir, 2011).

However, during the rule of Mary Stuart (who took the country back to the Catholic religion), Protestant aliens were unwelcomed people, and French non-residents were removed (although they were later allowed to return under the sovereignty of Elizabeth I, who followed the Anglican Church). Her reign had seen a continued arrival of different refugees from Holland, France and Huguenots (French Protestant). Thus began the receiving of refugees into the UK from other states (Frow, 1997, Kreis, 2010 , Anderson, 2013).

#### **2.1.2.2 Criminalising the newcomers (refugees)**

The majority of refugees who came to the UK during the 16<sup>th</sup> century were poor, unemployed, had language barriers, and lived in their own separate religious communities. This created problems, especially as these foreign nationals competed with locals for the available jobs. Subsequently, negative attitudes developed with foreigners being seen as untruthful and unprincipled

people. Again, it was claimed that indigenous people were being forced to commit crimes because of the lack of economic opportunities (Bevan, 1986 ).

The open door policies of Henry VIII and his daughter Elizabeth I to religious refugees, along with the provision of a place of safety and protection, gave foreign nationals the ability to work. This situation did not please British merchants who sent many petitions to the Crown Lessor explaining the negative economic impact of foreign nationals on their income. These petitions included accusations against foreign national workers of committing property and violent crimes, and resorting to idleness.

In consequence, the open door immigration policy and the right to work freely in England by foreign nationals were changed to be more restrictive. For example, foreign nationals who were openly hostile to the English local population because of religious or public order implications, were entitled to be deported whatever their economic impact in their area (Reeves, 1792, Bevan, 1986 ). Moreover, foreign workers banned from working in certain industries and suffered a withdrawal of the full rights of denization.<sup>4</sup> This policy might be the basis of abolishing the right to work for asylum seekers suspected to be motivated by economic factors, rather than seeking safety (see Chapter 3).

The Immigration Act by Richard III in 1483 was revitalized and adjusted by Henry VIII whereby foreign nationals were forbidden to take non-British trainees, or keep approximately two foreign servants. Moreover, the local wardens and bailiffs were given the power to monitor and supervise foreign nationals' activities (Roche, 1969). This policy has been repeated, as Chapter

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<sup>4</sup> Denization is an old process in English Common Law, starting from the 13th century, by which a foreigner became a denizen, gaining some privileges of a British subject, including the right to hold English land, through letters patent.

3 will show, in the Immigration Act 2014. This recruited the service institutions and local people to monitor and check for legal status to determine if foreign nationals are committing any sort of immigration crime.

Historically, foreign nationals were accused of committing criminal offences and blamed for causing different economic and social issues at the time when those foreigners were using their own skills and working to create wealth and promote the English economy. Professor William Arthur Lewis has explained why immigrants were successful and how this has elevated the negative sentiments and the violence against them sometimes; the culture of immigrants are different, in the time when immigrants are able to work for most of the day for six days a week, as they knew their efforts and hardworking is the only way to succeed. It follow also that such groups are clannish. They preferred to hire they own people for their job because they knew from better experience that the locals surrounded them do not have what the success business requires. Competing with aliens was too hard as natives were not able to understand what business takes. In addition, aliens' methods of learning that would be training their youngsters in other people's business raised the negative attitudes towards them until they erupted in violent outbursts in the second half of the 19<sup>th</sup> century (Plant, 1970, p xiii).

Thus, it would appear that jealousy regarding economic success is an important factor in explaining the historical root of criminalising foreign nationals.

### **2.1.3 The national security threat and the right of seeking asylum**

By the end of the 18<sup>th</sup> century, manufacturing development and the high demand on labour capital contributed to modify the public and political

attitude to foreign nationals, largely due to the positive impact foreigners were seen to be having on world trade. However, during the conflict between Britain and France, the fear of political and military subversion directed the sights again towards foreign nationals, especially those asylum seekers from France, who were suspected to be a threat on British national security (see for example, Aliverti, 2013a).

After the French Revolution and during the Napoleonic wars, the introduction of the Aliens Act 1793 was arguably the birth of current immigration law. The 1793 Act aimed to protect the public from those who were seen as dangerous threat to the British public, especially radical troublemakers and refugees or foreign nationals who came from France. The Act gave the authorisation to remove the suspected persons (Ferch, 1978, Aliverti, 2013a). At the same time, the AA 1793 and the parliamentary debates in 1798 restricted entry and did not provide protection for refugees and asylum seekers; exactly those groups who suffered from persecution and harassment in France (Ferch, 1978).

The large population of foreign nationals consisting of refugees led to a wide range of debates in 1848. In response to fears of internal rebellion, particularly from undesirable foreign nationals, a new Bill was introduced. Essentially, the Bill was based on the fear of abuse of British hospitality by some foreign nationals, and therefore new legislation was needed to deport undesirable newcomers. The Bill was passed comfortably. It gave the power of removal of foreign nationals to Secretary of State in such instances when he believed it would benefit the peace of society (Bevan, 1986 ).

However, the mid-19<sup>th</sup> century period marks the beginning of the modern state, and certainly as a period when the labour market finally changed from a relatively fixed, local agrarian-based one to a flexible industrial urban-based market. At the time, the general parliamentary and public attitude was against the open door policy due to conflicts in Eastern and Central Europe, and the high number of incoming refugees (Bevan, 1986 ).

## **The industrial revolution and criminalising foreigners**

The industrial revolution, which started in the second half of 18<sup>th</sup> century, influenced immigration policy (which has been shown to be affected by economic policy in terms of how immigration might contribute to the national economy) and the reception of refugees for humanitarian motives. British immigration policy at that time showed an appreciation for foreigners who have an economic and technological value and it encouraged them to enter Britain (Plant, 1970). This section will look at the economic impact of the industrial revolution and the role of foreign nationals. At the same time, it will consider how debates around criminalising foreign nationals emerged due to the political and public concerns of their economic and social impact on British society. Special attention will be directed to Irish migrants as a case study of this era.

### **2.2.1 Economic impacts and foreign nationals' criminality**

The first half of the 19<sup>th</sup> century saw significant changes to British society mainly because of the industrial revolution and its impact on British life. The need for labour capital affected immigration policy and the open door was opened more widely (except in the times of war) especially for British subjects or those who has been born in the British territory. Hence, the Alien Act 1793

requested only registration from non-enemy aliens upon arrival, although the failure to do so might lead to deportation (Halliday, 2010).

However, later in the 19<sup>th</sup> century there were large appeals to restrict the immigration movement especially those from Eastern Europe (Bevan, 1986 , Harper and Constantine, 2014, The National Archives (NA)).

The open door policy placed restrictions on citizens from enemy countries or countries in conflict with England like France; foreign nationals from these countries were stereotyped as being 'dangerous' and the wide-ranging power of the Secretary of State meant many refusals of entry. In addition, suspected foreign nationals were detained and examined by magistrates who were able to influence the Secretary of State, who in turn had the final say on deporting or releasing them (Dinwiddy, 1992).

By the end of the 19<sup>th</sup> century, the population of foreign nationals further increased due to large numbers of newcomers, mostly persecuted Jews from Eastern Europe. The bad economic situation of the newcomers, coupled with falling wages caused by the Great Depression in 1889, raised the negative public sentiments and political concern to the point where the tightening of immigration policy became an urgent necessity (Wilson, 1970).

During this period, the fear of foreign nationals and their intention to commit crimes in the UK fed into public and political concern, especially after bomb explosions in Paris linked to refugees in Britain. As a result, the Palmerston Government of 1858 introduced the Conspiracy to Murder Bill to criminalise those involved in conspiracies (Porter, 2008, p 170). The Bill tried for the first time to enforce criminal law as part of immigration law; the existing British law on conspiracy made it a misdemeanour, and there was no extradition (Porter,



2008, p 176). The implications of the new Bill, which increased penalties and the of conviction of conspiracies in England, had been criticised in the UK Parliament members who saw the new restrictions on receiving refugees and suspecting them to be fleeing to the UK of their crimes, or they have a tendency to commit crimes in the UK (See the long argument in the House of Commons Hansard, 1858, col 1741-1758).

Milner Gibson in the House of Commons, had argued the Bill by showing the concern of the British reputation in the world if they closed the door in front of vulnerable refugees, especially when the investigations and the court has not proved the involvement of those foreign nationals who were living in the UK in the assassination attempt in Paris (Hansard, 1858, col 1746-1758).

Ultimately, Palmerston government fell within a month; and some related trials of radicals ended without convictions, in the middle of British public discontent towards French pressure (Porter, 2008).

## **2.2.2 Irish experience: A case study**

At this time, the Irish were the largest foreign group coming to the UK and they continued to arrive into Britain from the Irish Sea. By the beginning of the 19<sup>th</sup> century, Irish foreign nationals were already a familiar sight in Britain, and they were to become the largest, most dispersed and most controversial foreign group (Harper and Constantine, 2014).

### **2.2.2.1 The characteristics of Irish foreign nationals**

Before the 1841 census, the official statistics of the ethnic minority population and foreign nationals in particular were very poor, if valid at all (Jones, 2013). Moreover, there was no precise number of Irish foreign nationals, and even the estimation of those entering the ports did not distinguish between

permanent and temporary arrivals, or between those destined to stay in Britain and those intending to move elsewhere via British ports. Moreover, it is difficult to use the town-based statistics, as these did not separate 'Irish' individuals from the wider 'Catholic' population, not altogether the same thing (Jones, 2013, p 44 , Harper and Constantine, 2014).

Up to one million Irish settled in Britain during the 19<sup>th</sup> century, with approximately 300,000 arriving during in the 'famine decade' of 1845-55. The Irish-born population numbered 601,634 in England and Wales in 1861, 3 percent of the population, and made up as much as 7 percent of Scotland's population in 1851. Between 1876 and 1921, 12 percent of Irish emigrants settled in Britain, so that even as late as 1931 the Irish-born population in England and Wales totalled 381,089. Although their absolute and relative significance declined in 20<sup>th</sup> century, the Irish-born remained the largest minority foreign group in Great Britain until 1971. Eighty percent of post-war Irish emigrants went to Britain, mainly to England, with a significant surge in the 1950s (Layton-Henry, 1992, p 3, Harper and Constantine, 2014).

Easy access, ready employment, and higher wages in the world's first industrial economy were the incentives that encouraged many Irish, particularly unskilled labourers, to make the short journey to Britain. The Irish immigrants in the first half of the 19<sup>th</sup> century briefly were mostly poor, unskilled, insular by choice or necessity, and predominately inhabited the industrial and manufacturing cities (Jones, 2013).

#### **2.2.2.2 Irish population pressure and public negative sentiments**

Having provided a summary of the nature of Irish immigration during this period, this part will explore some of the issues and pressures (such as

overcrowding, health, drunkenness and economic impact) that were associated with foreign nationals from Ireland, which helped establish a stereotyped image of Irish immigrants as criminal.

#### **2.2.2.2.1 Overcrowding**

Britain's economic and demographic changes during the industrial revolution were extraordinary. The population of the UK increased from 10 million in 1750 to 42 million in 1900. The need for labour and the growing industries, all of which were located in the cities, led to large migration from rural areas to the big industrialised cities. By 1900, most British people were living in urban rather than rural areas (Swift, 1997). The growth of the Irish population in the UK raised many debates and in some cases hatred. For example, many British people thought that the Irish should never have entered a country of Britain's stature because they were 'less civilised' strangers (Jones, 2013).

#### **2.2.2.2.2 Public health pressures**

Irish people were accused of bringing disease and causing health problems among the British population due to their lifestyle and living conditions. Subsequently, public and political concerns regarding general health were raised and led to legislation such as the Poor Law Amendment Act 1834 and the 1848 Public Health Act. In addition, many investigations took place in order to evaluate the Irish lifestyle and their overall behaviour in the UK (Lynch, 1997, Jones, 2013). Irish health problems also brought a lot of attention from academic studies that examined the lifestyle and housing conditions of the Irish. The low wages that Irish foreign nationals were earning played a significant role in determining housing conditions at time when many of them were fleeing hunger and death in Ireland (Lynch, 1997).

### **2.2.2.2.3 Labour market pressures**

The low wages that Irish workers achieved contributed to a decline in the wages of English workers', who seeking better pay than the Irish. As a result, English workers' wages decreased in different cities according to some reports and statements by politicians (Jones, 1977, Jones, 2013). The public blamed the 'gentlemen of Ireland' who were transporting Irish employees, and the 'English capitalists' who were taking advantages of these workers and employing them at lower wages. Moreover, the lifestyle of the Irish, who were living in very low standard houses and suffering from different diseases due to their low income, increased negative public sentiments (MacRaled, 1999).

The begging phenomenon, which was seemingly created by the influx of Irish foreign nationals, built the impression that the Irish were a burden on the British economy. In addition, the large volume of Irish applications for financial support (welfare benefit) from different charities and the government only added to this perception (Jones, 2013).

The Poor Law Amendment Act (similar in nature to the current welfare system) offered workhouses as a way to limit the application for financial support by unemployed people especially the Irish (The National Archives, 2008). In England and Wales, a workhouse was a place where those unable to support themselves were offered accommodation and employment. Conditions of poverty, for both foreign nationals and the indigenous population were bad, which led to attributing of blame towards the arriving Irish. For example, a common feeling during the mid-Victorian time was that the Irish were committing more crimes than indigenous population. The

substantial growth in Irish foreign nationals, especially those who were poor, facilitated the stereotyping of the Irish and their connection with crime, mainly due to their levels of hygiene and drinking issues (Swift, 1997).

#### **2.2.2.2.4 Drunkenness concern**

As above noted, there was visible concern about the Irish in terms of both recklessness and fecklessness (although the same concerns were being levelled at the indigenous 'undeserving poor'). Measures to curb these alleged characteristics were an integral part of the 1834 Poor Law Amendment Act (MacRallied, 1999, Jones, 2013).

Although commanding low wages, Irish immigrants had a reputation for drinking on Saturdays, and the image of them spending their weekly earnings in pubs on Saturdays persisted (Jones, 2013). However, Lynch (1997) has showed that Irish drunkenness was not different from that of other ethnicities or nationalities, and in addition the Irish tended not to drink on work days. In relation to their perceived public health issues, because Irish people tended inhabit industrial cities it could be argued that the inherent conditions of these cities made low levels of hygiene and general health inevitable (Jones, 2013). Even so, the Irish lifestyle and their drinking habits mean they were associated with other issues such as crime.

#### **2.2.2.2.5 Crime pressures**

In addressing the construction of Irish migrants as criminals, this section will consider the Irish relationship with the police, their representation in prison statistics and the reasons that led them to engage in illegal activities.

#### **2.2.2.2.5.1 The Irish migrants and the police**

Generally, the Irish showed less respect for the police, and much was made of how their violence was fuelled by alcohol consumption. It could be argued that the image of the Irish as out of control criminals was in part due to the more passive nature of policing in England, especially in Manchester and Lancashire; in Scotland where the police administration was firmer, the Irish did not have the same reputation (Swift, 2002).

In addition, the relationship between Irish immigrants and the police (represented by the street brawl that occurred in Wolverhampton) meant their behaviour was categorised as anti-police, which increased cultural conflict and violence between the Irish and local English, particularly between the 1870s and 1880s. This might also explain why the Irish were targeted by the CJS more than the British were (McManus, 1994).

#### **2.2.2.2.5.2 The representation of Irish migrants in prison statistics**

Equally, evidence shows that during this period, the Irish were overrepresented in prison statistics; the Irish were five times more likely to be imprisoned than their English counterparts. In Carlisle gaol in 1861, 23.4 percent of male prisoners were Irish and 12.6 percent of female prisoners were Irish. Ten years later, the figure went down for male prisoners to 18.9 percent, but increased for Irish female prisoners to 16.6 percent.

The Irish born male prisoner population was 23.1 percent, with 20.1 percent for Irish women in Lancaster gaol late in 1891. In Preston gaol, the Irish-born male prison population fell into single figures at 9.2 percent in 1870, while in Durham gaol Irish-born prisoners fluctuated between a high of 21.4 percent and a low of 12.4 in the second half of the 19<sup>th</sup> century.

The figures show that the Irish were five times more likely to be imprisoned than the English, making up 15 percent of all prisoners in 1861 (an index of overrepresentation of 4.9), 14 percent in 1871 (5.7), 12 percent in 1881 (5.7), 8 percent in 1891 (5.3), and 7 percent in 1901 (5.6). Although the general Irish population in the UK declined in the second half of the 19<sup>th</sup> century, judicial statistics showed that the Irish were more likely to be convicted and imprisoned for breaking the law and committing crimes than British citizens (Swift, 1997). The overrepresentation of Irish born individuals in the criminal statistics fuelled negative sentiments and used to prove the relationship between foreign nationals and crime (Swift, 1997, Swift, 2002).

In summary, the presence of the Irish in crime statistics is hard to interpret fully because the statistics referred only to the Irish-born and did not include the second generation born in Britain. This means that the contribution of all Irish immigrants to local criminality was probably higher than these figures suggest. Moreover, many second and third-generation Irish were designated as Roman Catholic, hence the proportions of Catholics in crime statistics were higher (Swift, 2002).

#### **2.2.2.2.5.3 Irish criminality by crime type**

A large proportion of the British public blamed the Irish for the spread of prostitution in the UK, and this created a stereotype of the Irish criminal, despite several local studies showing that Irish criminals engaged in less serious crimes and violent crimes (Swift, 1997).

The types of crimes that Irish committed were not serious, and most assaults were committed while Irish offenders were drunk. Serious crimes that the Irish used to commit in Ireland, which required premeditation or was

committed by gangs like murder, night attacks on houses and rapes, barely ever saw Irish conviction in Britain (Bowman, 2006, Swift, 1997).

Therefore, despite their reputation and stereotyping, the sort of crimes that the Irish commonly committed in the Great Britain were alcohol-related violence, and this was mostly among the Irish themselves rather than against the indigenous population. There was a tendency for the Irish to use any available weapon they found rather than using their fists in their fighting. This can explain the high representation of the Irish in criminal statistics relating to the consequences of using such weapons in fighting (Swift, 1997, Lynch, 1997, Bowman, 2006).

#### **2.2.2.2.6 The reasons for Irish criminality**

In addition to the negative economic situation and the bad relationship with the police, there are other explanations for the Irish engaging in crime in the UK. These can be found by examining their overrepresentation in prison statistics, social and familial relationships, and the racism that the Irish were subject to.

##### **2.2.2.2.6.1 Explaining the overrepresentation of Irish in prison statistics**

The over-representation of Irish offenders in magistrate courts (proportionally twice as much as English offenders) and prison statistics enhanced the construction of the relationship between Irish foreign nationals and crime. However, looking in depth at these statistics reveals another side to the story. McManus (1994), found that the majority of Irish offenders in 1861 were charged for drunkenness and being drunk and disorderly, the rest were charged for minor crimes with very few charged for theft.



Evidence thus indicates that the representation of the Irish in the criminal statistics was high due to drunkenness, disorderly behaviour, assault (including assaults on the police), and to a lesser extent petty theft and vagrancy. Generally, at least one-third of all prosecutions in these categories in Leeds, York, Manchester, Liverpool and Wolverhampton during the 1850s involved Irish people (Lynch, 1997).

Swift (1997) analysed the overrepresentation of Irish foreign nationals in the CJS, and found it disproportionate to their numbers in the community at large. He showed that Irish-born individuals were almost three times as likely to face prosecution as their English counterparts. Swift thought that the overrepresentation in the crime statistics built a stereotype of Irish criminality even before the new waves of poor Irish came to the UK during the 1840s and 50s.

Moreover, Swift (2002) has assessed The Report on the State of the Irish Poor in Great Britain, parliamentary Papers, XXXIV (1836), xx-xxiii. He used quotes from different police and prison officers, and their statements have reached a similar conclusion to the above studies: drunkenness, cultural background and bad parenting were the main three factors that made Irish-born individuals more prone to criminal activities than English. Although this may be true, the interviewees stated again that the Irish engage mostly in minor crimes and offences against public peace rather than crimes of felony like murder.

#### **2.2.2.2.6.2 Irish parenting and the relationship to crime**

Many young Irish boys and girls were forced by their parents to beg in the street and their parents would punish them if they came back home without

any money. Therefore, many of these children were seen on the streets at night, afraid to go back home because they had not gained any money that day (Swift, 2002). Hence, parental pressure could be regarded as having forced children to engage in stealing and other criminal activities to gain money. Additionally, the houses many Irish foreign nationals lived in were extremely overcrowded and unhealthy, and this contributed to compel Irish children to beg and steal, as well as some engaging in more serious criminal activities with older people (Swift, 1997, Swift, 2002, Jones, 2013).

#### **2.2.2.2.6.3 The impact of racism on perceived Irish criminality**

Notably, many historians have referred to the racism that Irish foreign nationals faced in the UK and noted the exaggeration of the negative impact of Irish on the UK. For example, MacRaled (1999), thought that Irish foreign nationals were 'a ready-made scapegoat' for the disease, overcrowding, immorality, drunkenness and crimes of the urban world; even without Irish foreign nationals, the industrial environment would still have been a miserable and unhealthy place to live and work.

In return, Irish scholars consider the relationship between Irish and crime in the UK to be as a result of these negative sentiments, and the English bias in Victorian England. The overrepresentation of Irish in crime statistics, public disorders, small disturbances, violence in the work place, and individual attacks on Irish people have been used as evidence to show the prejudice against the Irish and the spread of anti-Irish sentiment (Swift, 1997).

To summarise, there are numbers of inter-related reasons why there was a perception that Irish foreign nationals were more criminal than the British. Firstly, cultural differences especially around the use of alcohol:

contemporary evidence found that when the Irish were drunk, their level of assaults was higher than those committed by Britons. Secondly, religious differences between the Protestant and the Catholic communities. Thirdly, low wages, large families and poor housing conditions leading in some cases to begging and other low-level crimes; the Irish were more likely to be involved in other crimes like stealing and unlawful distillation of spirits. Fourthly, stereotyping and the targeting of Irish communities by the police and the courts, especially when the police forces were seen as not able to confront the criminality of Irish foreign nationals (Swift, 2002, Jones, 2013, McManus, 1994).

Finally, the media also played a part in the stereotyping of the Irish, especially those workers who were pictured lazy and too unreliable for any sort of work in the UK. In consequence, the only available jobs for the Irish were for casual occupations paying low wages and requiring little skill (Jones, 2013).

### **■ The first half of the 20<sup>th</sup> century**

Restrictions to control immigration were again recognised as important at the beginning of 20<sup>th</sup> century when the foreign national population increased due to a large number of poor Jews fleeing persecution by the Russian Empire. What was termed as an 'open door' immigration policy started to decline in the initial part of the 20<sup>th</sup> century, due to immigration causing further financial and cultural problems. Therefore, naturalization rules and procedures to enter legally and settle down in the UK were increasingly controlled and limited (Mynott, 2002, Humphries, 2004). In this section, the connection between foreign nationals and criminal offences will be explored, as well as how this relationship was used to restrict immigration policy and lead to anti-

immigration legislation. These factors led to physical attacks on foreign nationals, especially those who did not fit with the 'British' appearance.

### **2.3.1 Restricted 'undesirable aliens' (poor and criminals)**

Media campaigns on the negative impact of foreign nationals in the UK, coupled with consistent public complaints supported by some politicians and political parties, combined to produce accusations of foreign nationals as the dirtiest, unhealthiest, overcrowded population, and thus associated them with criminal offences (Panayi, 2010).

Jewish migration came at a time when anti-Irish sentiments were still running high. Combined anti-Jewish and anti-Irish feelings led to accusations of them creating extra competitive pressure in the labour market, as well as rising crime levels and a dilution of 'British culture' (Bevan, 1986 , Panayi, 2010).

Public dissatisfaction grew, and appeals to control immigration were raised. A campaign from Evans-Gordon (Con MP) finally succeeded, when he got strong support from his party to control immigration; in 1894, Lord Salisbury (Con MP) introduced a new Bill to control immigration and especially control 'undesirable aliens'. In 1898, Lord Hardwicke (Con MP) introduced the same Bill. Both Bills had aims to control foreign nationals in relation to health, economic and legal (crimes) issues in the UK. At the same time however, the Select of Committee in the House of Commons in 1889 and the Royal Commission of Alien Immigration in 1902 demonstrated that the overcrowding in certain communities was the primary problem and the population, health issues and criminality of foreign nationals were not significant enough to cause alarm (Layton-Henry, 1992).

As a result of the tireless efforts by Evans-Gordon and his party, the 1905 Alien Act was passed in order to control 'undesirable aliens': those who cannot support financially themselves or their families, ill foreigners, and those who had a criminal records in another country or were well known criminals. 'Undesirable' foreign nationals were liable to deportation unless they proved they fled their original country due to political or religious persecution (Pellew, 1989, Panayi, 1999, Harper and Constantine, 2010). This Act has been criticised by academics, and described as 'unnecessary legislation' and an 'anti-alien supporter' (Layton-Henry, 1992)

The criminality of foreign nationals, and the numbers of charged and convicted foreign national criminals, had a significant enough presence in parliamentary debates for the Alien Act 1905 to be passed, which restricted immigration in general. Associating foreign nationals with different criminal offences, and blaming foreigners for increasing crime in the UK, both resulted in the widespread notion among political and parliamentary debates of the time that immigration had to be more strictly controlled (see the debates about the Alien Bill in Hansard, 1905a, col 332, Hansard, 1905b, col 280). Some politicians (like Evans-Gordon) and political parties (the Conservatives in particular) leveraged attitudes of the judiciary and the contemporaneous CJS statistics to support their campaign of the necessity to control foreign nationals (see table 2.1 in Appendix 2).

Table 2.1 is very valuable to this research, as it shows how foreign nationals have been connected to criminal offences, what sorts of offences foreign nationals blamed for, how the immigration policy influences the relationship between foreign nationals and crime, and the foundation of the type of

arguments for criminalising foreign nationals, and how this association served different motivations.

Furthermore, the table raises some key issues. Firstly, most of the evidence used by Evans-Gordon came from interviews with people who had contact with 'foreigner criminals', and all complained of the change to the crime levels with the increase in the UK foreign national population. Secondly, although there were relatively high numbers of 'foreigner criminals', it would appear that a small number of recidivists committed the majority of crimes. For example, 13,114 foreign nationals were sent to prison between 1898-1903, nearly 24 percent of those FNPs were convicted before; 17.5 percent have been convicted between 1-5 times and over 6 percent have been convicted between 6-over 20 times. It is also important to bear in mind the racism and hatred in political and parliamentary discourse relating to foreign nationals, especially those from Russia and Eastern Europe (Hansard, 1927, col 1604-1605, Hansard, 1906, col 1408-1410). Thirdly, in the interviews which Evans-Gordon (1903) presented, there are a some serious crimes committed by foreign nationals, but in most cases those 'foreigner criminals' have a criminal record or have been imprisoned in a foreign country before they came to the UK. Therefore, the evidence linking foreign nationals to crime was weak, and the Royal Commission on Alien Immigration report in 1902 placed less emphasis on the relationship between foreign nationals and criminal offences. It instead concentrated more on population density and economic factors that foreign nationals are experienced in the UK. This was despite the attempt of Evans-Gordon to focus on the criminality of foreign nationals in order to push the legislation of Alien Act 1905 forward.

However, the Alien Act 1905 was not robust enough to face the new challenges that occurred with the onset of WWI (1909- 1914), when some nationalities were named as 'alien enemies'. This again raised appeals around the need to control immigration and the status of 'dangerous' foreign nationals who settled in the UK before the war (Pellew, 1989, Panayi, 1999, Mynott, 2002).

The Alien Restriction Act 1914, passed in a rush on the first day of the conflict, gave the home secretary wide powers over the landing, movement and deportation of all aliens. The British Nationality and Status of Alien Restriction Act 1914 followed. This required those aliens applying for naturalisation to demonstrate good character and an adequate knowledge of English; it also defined British nationality (Harper and Constantine, 2010).

Feelings around dangerous foreign nationals were running high. For example, Colonel Charles Burn (Con. MP) noted the necessity to update the Alien Restriction Act 1914 (Hansard, 1919, col 2804):

*'No German has ever come to this country for the good of the British, and I am wholly in favour of those who are here being sent back to their own country... We know the sort of enemy alien we have here, and when we know 2804 that men and women of enemy origin are the instigators of crime, and have proved themselves again and again to be some of our greatest criminals, now is the time to get rid of them. Men have been brought up in the Courts in connection with the white slave traffic, and they were nearly always Germans'*

As a consequence of the anti-immigration environment, hostile political and parliamentary discourses, negative media coverage and the attitude of CJS workers, the negative public attitude towards foreign nationals increased. Violence against ethnic minorities or "anti-ethnicity" in the UK returned by

1919; there were a number of assault cases against blacks in particular in Wales (Cardiff), Scotland (Glasgow) and England (London, Hull, Liverpool, Manchester) (Skillington and Morris, 1996).

### **2.3.2 Jewish experience: A case study**

Many Jews in the UK were alien by origin, race, religion, and culture. The nature and makeup of the population and the economic situation of the Jews who fled to the UK at the end of the 19<sup>th</sup> and the beginning of 20<sup>th</sup> centuries was different from those who moved to the UK in the 11<sup>th</sup> century. As a result, the 19<sup>th</sup> century Jews were blamed for many issues relating to crime. As a result, there were many calls to move them to a new country (Palestine).

#### **2.3.2.1 The characteristics of Jewish foreign nationals**

During the last decades of the 19<sup>th</sup> century, a number of different events taking place in Eastern Europe forced Jews to migrate. These included the Russo-Turkish war in 1875, widespread pogroms in Southern Russia in 1881, Jewish expulsion from Russian cities in 1890, mass migration from Romania in 1900 and the Russian revolution in 1905. However, the exact number of permanent Jews resident in the UK was not available at that time, because many recorded Jews moved to the US. Furthermore, British records had not distinguished newcomers from Eastern European by their religion (Jones, 2013).

It must be noted that the new wave of Jewish foreign nationals was unsuited to the newly industrialised and skilled nature of the British economy. Many Jewish foreign nationals came from rural agrarian backgrounds and possessed skills unsuited to industrialise urban living. In addition, these newcomers did not speak English and had different cultural background, in



addition to the differences in religion that separated them even from those so-called 'co-religionists' established in this country. This led to the development of what has been called an 'immigrant trade', and the return of some old trades like peddling, hawking and shop keeping that required working for longer hours with little return (Endelman, 2002, Jones, 2013).

### **2.3.2.2 The Jewish issues and negative public sentiments**

Some of the Jewish refugees arriving in Britain faced negative political and public attitudes. However, such criticism was often veiled, as anti-immigration campaigns did not want to be accused of anti-Semitism or seen as unwelcoming toward genuine refugees (Jones, 2013). We thus see that these waves of Jewish foreign nationals were accused of the same issues that the Irish had been before them, but with two new themes emerging: housing, and education.

#### **2.3.2.2.1 Public health pressures**

The differences between UK natives and Jewish foreign nationals were obvious in relation to language, dress and customs. Like the Irish, Jews were seen as strangers, 'less-civilised', 'unclean', and 'immoral'. It was alleged Jews in particular brought ruin to the neighbourhood because of their carelessness and ignorance (Endelman, 2002, Jones, 2013). Paradoxically, at that time the Irish were considered as a part of society, and thus were able to blame social issues on 'foreigners' (Henriques, 2005, Jones, 2013).

#### **2.3.2.2.2 Labour market pressures**

The 'prescribed' negative role of foreign nationals on the British labour market was connected directly to foreign nationals being poor, unprincipled and willing to take advantage of any available charity and financial support.

However, Jewish foreign nationals who were in employment created a different form of economic problem. Unlike the Irish who were seen as low-value, low-wage workers, the new wave of Jews were willing to take any job. As a result, indigenous workers were now competing with a hungry and ambitious influx of Jewish foreign nationals (Endelman, 2002, Drewry, 2010, Jones, 2013).

Thus, Jewish foreign nationals were very different from other foreigners; they were able to work in minimal working conditions, take a low paid job rather than be unemployed, and were 'the fittest' for the hard economic competition, especially in London where bad work conditions were associated with the 'notorious sweated trade'. Jews provided competition for jobs by producing high quality products at low cost, and this threatened British workers (Lipman, 1959). This led to negative sentiments from the unskilled working class, due to high competition for the available jobs, as foreign nationals were a willing supply of unending cheap labour. As a result, the working class supported control legislation against poor Jews in particular (Lipman, 1959, Jones, 2013).

#### **2.3.2.2.3 Housing pressures**

Additionally, it was claimed at the time that Jewish foreign nationals were creating a shortage of housing, particularly in the East End of London. This was driving rents upward, to the extent that some property owners preferred to rent their houses to foreign nationals rather than English. There are two reasons for this: First, many houses were let as multiple occupancy with whole families living in one room. Secondly, many foreign nationals managed to buy cheap houses and used multiple occupancy letting to pay the

mortgage, as an HM Government report in 1902-3:309 recorded (quoted in Jones, 2013, p 76):

*'...these men came over here and they save a little money and they live in the worst style imaginable, and they get these houses and let them in tenements, and then they buy the property and get £100 or £50, and they mortgage it. They do not pay the mortgage; it is the incoming tenant who has to pay the mortgage'*

#### **2.3.2.2.4 Crime pressures**

Jews from across Europe and the Soviet Union were infamous because of their perceived relationship to serious crime and gang activity (Bell, 2008, Vyleta, 2012). With the absence of statistical data at that time regarding the quantity and the quality of the type of crimes committed by Jews, anti-Semitic sentiment was used to justify Jewish criminalisation (Bell, 2008).

Vyleta (2012), analysed some Austrian press (newspapers) that touched important social problems and covered sensational trials in public discussions of the Jewish criminality. The author explained how political narratives and the media (Viennese press) that covered those trials constructed the Jewish criminality, and shaped the public perception and the nature of temporary discussion concerning the Jewish question. The criminality of part of the Jews were applied to the majority and were seen as a part of their lifestyle (Vyleta, 2012, Knepper, 2007). Consequently, different criminal activities were alleged to be associated with Jews; some of these were so-called to be created and enhanced by Jews, such as the trade in girls or 'white slavery'. Viennese press and the surrounded political discourses then promoted public awareness of Jewish involvement in illegal trade and used the girls in prostitution, exporting them to different parts of the world. The trade started in Britain in 1885, and many parliamentary debates, CJS workers raised the

public awareness that poor Jews made prostitution their livelihood (Knepper, 2007). Few of CJ workers like Judges and police officers support the allegations that prostitution had risen significantly after refugee Jews arrived in large numbers at the end of the 19<sup>th</sup> century and the beginning of the 20<sup>th</sup> century:

*'as regards of prostitution, the evidence shows that in certain parts of London there are a large numbers of foreign prostitutes...the number of charges against prostitutes in 1892 were 256 against British subjects and 150 against foreigners; in 1902 these figures were 350 and 347 respectively' (Evans-Gordon, 1903, p 262).*

However, Knepper (2007) highlighted the role of Jewish Association for the Protection of Girls and Women in 1885 that countered the racialisation of crime, and denied the relationship between Jews and sex trade and considered such narratives as a reflection of anti-Semitic sentiment.

Jewish foreign nationals were also known as being 'fraudulent aliens', with the forging of stamps and banknotes connected largely to Jews in London. In addition, convictions for fraud grew in the East End of London after the arrival of Jewish foreign nationals. In 1897, there were six fraud convictions but this rose to 51 convictions between January 1898 and December 1902 (Evans-Gordon, 1903, p 266 ). In one account of Jews and fraud (Evans-Gordon, 1903, p 267-268) wrote:

*'in October 1901, two officials of the Russian Government came to London in consequence of information they received that Russian state notes, postage stamps, and excise labels for tobacco, which are found to be imported into Russia were manufactured in London by a gang of Jews emigrates of Russia...they found a man... called himself Samuel Miller, a Russian*

*emigrant... on the third [interview] he produced to him 96 sheets of forged Russian postage stamps ... forged Russian notes...and he said he could procure forged Russian excise labels for Tobacco if required'*

Although some Jewish foreign nationals undertook criminal activity, this did not mean that all foreign national Jews were prone to commit crimes. Most of them were hard workers, and worked for longer hours and less return, which caused a direct threat to English workers. The English complained of wage undercutting and competition in the labour market, especially those working in the National Union of Boot and Shoe Operatives. Hence, anti-immigration voices united and rose to again call for greater control in immigration policy, and to cut the new flood of foreign nationals because of their criminality or negative economic impact on British workers (Bell, 2008, Jones, 2013). Jews were overall law-abiding, particularly in East End area; they were less prone to engage in criminal activities their rejuvenation of the worst East London streets has been praised. However, Jews were maligned for the offences of perjury and adulteration of nutrients, in addition to swindling and duplicity as a part of their overall supposed degeneracy and degradation (Jones, 2013).

As a result, there was a rise in anti-Jewish sentiment, especially in London's East End where criminality, a negative impact on the local economy and a refusal to embrace 'British values' were all seen as negative consequences of Jewish foreign nationals (Jones, 2013). At this time, opponents of immigration were, not for the last time, aided by the lack of statistical evidence regarding the economic and criminal impact of foreign nationals. This allowed for eagerly voiced 'fear mongering', with no danger of structured evidence being used as a counterpoint:

*'The important changes in the content and style of the campaign were, firstly, the more skilfully orchestrated opposition to aliens, partly as a result of better means of communication and partly because of a Parliament more receptive to shades of public opinion and pressure... second, to the usual armoury of anti-alien propaganda was added the charge of racial inferiority based on Darwin's theory of evolution... third, opponents were able to point to recent immigration legislation in other countries, notably the United States' (Bevan, 1986 ).*

## **■ The second half of the 20<sup>th</sup> century**

From the end of WWI to the 1950s, immigration ceased being a social issue. However, following the end of WWII and the British economy's need for labour, a new wave of foreign nationals again raised what are by now familiar concerns relating to health, housing, criminality, wages and jobs (Panayi, 1999). This section will focus on how immigration policy was which affected by the political factors, public sentiment, and the media, and will therefore attempt to explain the relationship this had with criminalising foreign nationals.

### **2.4.1 'Legal discrimination' in immigration policy**

After the WWII (1939-1945), Europe was destroyed physically and collapsed economically. The continent needed to be rebuilt, and an open immigration policy was seen as the best approach. This period saw a huge number of newcomers; 145,000 Poles (the majority from the Polish army after Poland's collapse into Soviet power), as well as Italians and Irish were followed by newcomers from the Commonwealth regions of South West Asia, Africa, Hong Kong and Cyprus (Panayi, 1999).

Theoretically, the British door was open for all races, but especially for Commonwealth citizens according to the British Nationality Act in 1948, which

facilitated their entry to work without obstacles (Bell, 1997, Small and Solomos, 2006). However, in practice, Asians and Black British faced tough procedures for settlement as 'the British Government throughout this period adhered to a racially discriminatory immigration policy' (Spencer, 2003).

From the 1940s to the late 1960s the UK used the 'guest-worker' method to support its economy; labourers from Eastern Europe were brought to stay in Britain to work for as long as the labour market needed them, whereas West Indians or Caribbean natives who were already in the UK were suffering from unemployment (Hansen, 2003, Panayi, 1999). The British immigration policy was unfair to colonial Commonwealth workers when it required 180,000 European labourers, and reduced Asians and 'Black' people to enter or to settle down in Britain for work purposes (Spencer, 2003).

Getting rid of some foreign nationals, who had been connected to financial, social and crime issues, was a big concern for the British government. Initially, the British government used diplomatic/informal channels to cut the immigration flow. For example, it granted the Indian subcontinent and Caribbean nations' self-government. Consequently, in 1947 these new independent states were encouraging their own wave of immigration in order to strengthen their own economic bases. Furthermore, the British government made many visits to the Caribbean in order to convince people not to immigrate to the UK. This was attempted via restricting borders and passports, or by using documentary films. These films depicted the winter of 1947-48, showing a miserable life for Caribbean without jobs who were living in very bad conditions in the cold British winter. In addition, some British officials visited Jamaica to persuade people not to come to the UK by

showing them the difficulties and dark side of immigrating to the UK (Spencer, 2003).

At the same time, concerns were being raised in the UK about the difficulties of integrating existing immigration into the 'British' way of life. Despite many attempts and policies, discrimination against foreign nationals continued in the arenas of education, health, employment and crime (Small and Solomos, 2006).

By the mid of 1950s, demographic changes, limited jobs and increased unemployment resulted in an increase in negative perceptions towards immigrants. These negative attitudes were mainly targeted towards West Indian immigrants, and produced violence in 1958 toward some ethnic minorities (Skillington and Morris, 1996, Spencer, 2003). In the meantime, hostile rhetoric coming from the Conservative party encouraged and supported tough immigration policy legislation (Humphries, 2004).

Responding to all these pressures, in July 1962 the Commonwealth Immigration Act (CIA) (amended and restricted in 1968 and 1971) came into force to limit immigration and remove the prerogative of commonwealth citizens (Small and Solomos, 2006, Hansen, 2003). The CIA 1962 created huge arguments about racism and immigration, and was arguably the starting date for racist legislation debates (Smith, 2008b). It seems that Britain had learnt its lesson since the large wave of Jews at the end of 19<sup>th</sup> century, and the British government wanted to send a message to all newcomers that Britain is not a 'soft touch' (Spencer, 2003).



#### **2.4.2 The political role in creating an anti-immigration society**

Whilst there were some serious attempts to foster racial harmony and community integration during the 1950s and 1960s, the beginning of a downturn in the British economy of the late 1960s and early 1970s saw a re-emergence of hostility toward BAEM and foreign nationals. A notable role was played by Enoch Powell (Con MP) in attract media attention, through his discourses of repatriating and minimizing the foreign national population (Studlar, 1978, Small and Solomos, 2006).

In 1964, the Labour party won the general election, and in the next year, the Race Relation Act (RRA) was legislated. This act aimed to achieve integration by ensuring equality, avoiding any kind of discrimination or racism (Small and Solomos, 2006). Ironically, in the same year the Labour party introduced an amendment of CIA in a white paper. The new Bill intended to decrease the population of foreign nationals in the UK. Roy Hattersley (Lab MP) clarified the relationship between integration and immigration reduction in his speech:

*'Without integration, limitation is inexcusable; without limitation, integration is impossible'* (Miles and Phizacklea, 1984, p 57).

The RRA 1965 was an official appeal for a 'closed door' immigration policy, especially for coloured foreign nationals like blacks and South Asians, creating a new discriminate society (Modood, 1997). Racism in immigration policy has developed from the social and political attitudes toward difference races, especially towards Asians and 'Black' people. Their integration in British society is correlated with a restrictive immigration policy approach towards them (Kostakopoulou, 2006 ).

Due to the 30 November 1967 Law in Kenya, which requires being a Kenyan national to register for an 'entry certificate', and to stay there to live and work, a significant number of Asians (non-Kenyan citizenship holders) migrated from Kenya to the UK seeking jobs (Lattimer, 1999).

Responding to these changes, the Labour party amended the RRA in 1968 and forbade discrimination in public institutions. In the same year, the CIA 1962 was revised and became restricted (Geddes, 2003). Arguably, the CIA 1968 carried within it a racist implication such as disclaiming the free ingress and habitation right from British passport holders who were black (East Africa) or South Asian (especially of Indian origin) (Smith, 2008a). This series of strictures persisted; in 1969, the Immigration Appeals Act came into force, requiring foreign nationals' dependents to get a certificate of entry from the British embassy in their hometown before they entered the UK (Small and Solomos, 2006).

In 1970, the Conservative party won the election. The first legislative step of their policy was amended the CIA in 1971, which ended the citizenship of thousands of Commonwealth citizens, remove their prerogative, and put them on the same footing as other foreign nationals by requiring them to get a British visa before coming to the UK (Bell, 1997, Small and Solomos, 2006).

With a fast-growing foreign national population, the debate about second-generation immigrants in the 1970s took things further. It carried racist overtones by focusing on black native-born Caribbean individuals facing problems in education or the labour market. The economic situation for some West Indian youth was tinged with racial discrimination, especially in terms of employment. However, this period saw the development of a more organised

opposition to discrimination; this stance refused racism and emphasises the connection between racism and capitalism (Small and Solomos, 2006).

At the end of 1970s, Margret Thatcher (Con) became Prime Minister, and she brought with her a very strict approach towards economic foreign nationals (Small and Solomos, 2006; Smith, 2008b). At the time, British immigration policy was still relatively open for political refugees (Kaye, 1994). The Nationality Act legislated in 1981 (which came into force on January 1<sup>st</sup> 1983) was one of the most important pieces of legislation, both in the history of UK immigration and in Thatcher's own immigration policy. The Act ended the right to receive British nationality through physical location; every baby has born from January 1<sup>st</sup> 1983 in the UK would no longer be a British citizen unless its parents or grandparents were British, or had settled in the UK for longer than five years. (Sergot et al., 1986, Humphries, 2004).

This came at the time when global political tensions and changes were unfolding. For example, the dissolution of Soviet Union; political change in Eastern European countries; the war between Iraq and Iran; the war in Yugoslavia and the Balkan's war; the unsteady political situation between Turks and Kurds in Turkey; and finally increasing global poverty (Bauer et al., 2001, Smith, 2008b). Therefore, the number of asylum seekers and refugees into Europe increased from 190,000 in 1987 to 700,000 by 1992. Nevertheless, British policy during the Yugoslavian war meant it received the fewest refugees of any country in Europe; it received 2000 refugees while Germany received 220,000 (Panayi, 1999).

By the end of the 1980s ended, Britain was a multi-faith and multi-ethnic society, despite the variety of immigration policies that preceded that point.

However, as this chapter has demonstrated race relations between the state and majority population were sometimes tense: the riots of 1981 and the ensuing Scarman Report confirmed racism in British society (Pettigrew, 1998, Small and Solomos, 2006). By the time the 1990s had reached its mid-point there were further strict changes in immigration policy and the re-emergence of foreign nationals being seen as economic rather than politicised incomers; 1993 saw the decrease in the welfare benefit to asylum seekers as well as changes to housing legislation (Mau, 2007 ).

On the other hand, institutional racism became a popular topic, especially following the murder of Stephen Lawrence and subsequent Macpherson Report of 1999. Stephen Lawrence, a black man of 18, was stabbed to death by a white gang, and this was compounded by the poor attempt by the police, which led to them being described as 'institutionally racist' (Macpherson, 1999). The report attracted much public and media attention, and became the focus of Tony Blair's New Labour Government. The RRA was amended in 2000 (came into force 01/12/2001) and emphasised on retaining, restoring and improving ethnic parity. The government reviewed institutional performance, especially the police and civil service, and this led to a recruitment drive targeting BAME communities within the police service (Small and Solomos, 2006).

### **2.4.3 The experience of BAME groups: A case study**

In spite of the significance of the previous waves of immigrants (Irish and Jews), Commonwealth immigrants are a more significant subject given they produced the largest immigrant group since WWII, and their presence has contributed to the development of wide lines in current immigration policy.

This section will follow the structure of the case studies above. It will start generally by describing the characteristics of this group of newcomers, before then exploring the issues associated with them including their relationship with criminality.

#### **2.4.3.1 The characteristic of BAME groups**

Questioning minority ethnic groups has been introduced for the first time by the 1991 census to make sure of providing equal opportunities, aid anti-discrimination policies and to plan for the future through resource allocation and provision of services. However, Lupton and Power (2004), found that BAME population has grown rapidly since the early 1950s. The high point of Black people of Caribbean immigration was the mid-1950s to mid-1960s, Pakistanis and Indians began to arrive in large numbers in the mid-1960s and Bangladeshi arrivals peaked in the early 1980s. The black African population was relatively small until the 1990s, but doubled between 1991 and 2001.

At 2001, the major minority ethnic groups were Indians (1,052,000), Pakistanis (747,000), black Caribbean (566,000), and black Africans (485,000) with smaller Bangladeshi (283,000) and Chinese populations (243,000), in addition to those identifying as mixed race (674,000) (Office for National Statistics, 2004).

Black and West Indians newcomers were seen to be poor, low living, low-skilled, prone to deception, and foreign in terms of their culture, religion, customs and appearance. They were also seen to be insular, just like the Eastern European Jews and Irish in the 19<sup>th</sup> and 20<sup>th</sup> centuries (Solomos, 1991). Like Irish migrants, new Commonwealth immigrant settled in industrial cities. Their presence was therefore much more generally apparent than had

been the case with Jews who had lived predominately in the East End of London. However, the large numbers of new Commonwealth immigrants who came for economic reasons as result of the open door immigration policy faced prejudice similar to anti-Semitism against the Jews, only this time based on colour rather than religion (Solomos, 1991, Solomos, 2003). Refusing to accept the existence of these foreigners and the overall anti-stranger sentiment resulted in negative public attitudes, supported by political mouthpieces (Jones, 2013). These foreign nationals were blamed for taking cheap casual labour, carefree living, and immoral and disorderly actions; there is indeed a striking similarity to the experience of the Irish (who were, after all, still in evidence).

At the time, the first survey of the Policy Studies Institute, conducted in 1966, found that Asians and Caribbean immigrants faced racial segregation due to overt exclusion from access to rent or buy housing, resulting in their bad housing conditions and isolation from white neighbourhoods. In addition, the survey found Asians and Caribbean immigrants were predominantly working in jobs far below their qualifications or skills. These newcomers faced clear discrimination, especially when some of employers refused to hire 'coloured' employees. Many opportunities were only available where there was not competition with white workers to fill the post (Modood, 1997).

#### **2.4.3.2 BAME communities issues**

To keep consistency with the case studies presented already, and to make analysis easier, the same issues that have been covered in the case studies of Irish and Jewish immigrants will be explained here. In addition to these, there are new further issues connected specifically to this group of

immigrants – such as education, transportation and other general public service pressures – and these will be covered below.

#### **2.4.3.2.1 Overpopulated pressures**

The open door policy ended in 1905 with the introduction of the Alien Act 1905; however, post WWII, the door re-opened ‘temporarily’ again (as it has been explored above). Official statistics (Office for National Statistics, 2013) and academic scholars (Spencer, 2003, Knoll, 2009) conclude that the population of foreigners increased significantly since because of the increase of foreign born individuals. Those who are foreign born do not represent the population of foreign nationals. Therefore, it could not be used for the purpose of this research, as many of them are British citizens or British passport holders. Therefore, the research assumes that those foreign nationals who came to the UK post WWII were lower than the presented number.

Arguably, when the door was open there were plenty of jobs available, which would lead to attracting more foreign nationals. The consistent increase in the population of newcomers elevated negative public sentiment, due to the economic crisis and the limitation of the available jobs. Hence, appeals were raised to restrict immigration policy, especially with the large number of jobless, which included many of immigrants of West Indian origin. At that time, the Ministry of Labour made a survey investigating public opinion in relation to the economic situation and the available jobs. The argument was:

*'It is clear that the key issue for the Cabinet throughout was that of numbers; not numbers of immigrants, but numbers of 'coloured' immigrants' (Spencer, 2003, p 43).*

However, not all foreign nationals came to the UK post the WWII voluntarily; some of them have been obliged to migrate to another country because of natural disasters. For example, 100,000 Pakistani Muslims migrated to Britain as around 250 villages in Mirpur were inundated by the dam projects of the 1960s (BBC, 2009 ).

#### **2.4.3.2.2 Health pressures**

There was an assumption that BAME groups have more health problems than the indigenous or white British population (Gill et al., 2007). BAME groups are more likely to be diagnosed with mental health problems, experience poor outcomes from treatment, and disengage from mainstream mental health services (Johns, 2004). Nevertheless, many scholars demonstrated that the health problems of BAME groups are not different from the white British, but that health services provided to them are 'different' from the one that white British receive (Johns, 2004, Iganski and Johns, 1999). Poverty and racism are two main factors that help explain the high representation of BAME groups with mental health problems (Gill et al., 2007, Johns, 2004)

#### **2.4.3.2.3 Labour market pressures**

Due in part to these demographic changes, British public sentiment towards BAME groups fluctuated; in the mid of 1940s, with the need of the labour force and cheap wages there was no recognised negative sentiment. However, by the mid of 1950s, there was an increase in the negative



perception of foreign nationals, largely for economic reasons based on limited jobs and increased unemployment (Jackson et al., 2001, Skillington and Morris, 1996, Spencer, 2003).

The influence of foreign nationals on the British jobs and wages has attracted many scholars due to the widespread anti-immigration sentiment and media calls to cut the inflow of the foreign nationals. Dustmann, Fabbri and Ian (2005) used empirical analyses based on British Labour Force Survey data to examine the effect of foreign nationals on the British labour market, and the resulting consequences on indigenous labourers in terms of jobs and wages. They did not find strong evidence of foreign nationals having a negative influence on native-born employment, and saw little actual effects on those who have intermediate skills. Similarly, no impact was found of foreign nationals on native wages (Wadsworth, 2010, Dustmann et al., 2003 ).

Reed and Latorre (2009 ), found similar results and arrived at a very interesting conclusion through reviewing two literatures (theoretical and empirical) preceding their empirical study. First, by reviewing theoretical literature, the authors found no correlation between the foreign nationals and native jobs or wages overall. Second, the empirical literature revealed a somewhat positive outcome from foreign nationals on the UK labour market; foreign nationals will create more jobs for natives rather than reduce job opportunities. Third, there is a slight consequence of the foreign national labour force on indigenous wages: for every 1 percent increase in foreign national participation in the British jobs market, natives' wages decrease by around 0.3 percent. Finally, O'Rourke and Sinnott (2004) found that the economic impact of foreign labour, especially when competing with low skill

jobs, impacted negatively on the attitudes of the British public, especially those who have a low-income or are in low-skilled professions.

#### **2.4.3.2.4 Housing pressures**

The 1958 Nottingham and Notting Hill riots against BAME communities brought debates about the relationship between race, nationality and crime, housing and employment to the forefront. The Conservative Government response to such riots, as well as the frequent attacks by white gangs on black and West Indians, was the 1962 CIA. This brought with it the intention to restrict and reduce the number of such 'migrants' as they were seen to be causing problems, and the act was therefore aimed at eliminating the social disharmony (Schuster and Solomos, 2004).

The anti-immigration political parties and the media were sending messages to the public that BAME newcomers were putting too much pressure on social housing, something that produced negative public perception and a reduction in community cohesion (Rutter and Latorre, 2009). In an analysis of focus groups, regarding the public perception of the pressure created by non-white foreign nationals on social housing supply and allocation:

*'Dominant views about migrants and social housing were threefold. Firstly, that migrants and ethnic minority communities were being granted housing outside the allocation system by queue jumping, perhaps by bribing local authority housing staff. Secondly, some interviewees thought that migrants were committing tenancy fraud, by presenting false information or borrowing children from compatriots. Thirdly some interviewees believed that the allocation system itself disadvantaged white British'*(Rutter and Latorre, 2009, p 40)

#### **2.4.3.2.5 Crime pressures**

The recognition of ethnic concern started after the Second World War; crime rates elevated, with a concurrent increase in the prison population (Hicks and Allen, 1999), at the same time as many foreign nationals from different ethnicities were coming to the UK to work or live permanently (Small and Solomos, 2006; Panayi, 1999). This part will consider the relationship between BAME groups and the police, including the suspicion methods of policing, prison statistics, and the racial discrimination and institutional racism as a result of negative public sentiment and legitimise racism in immigration policy.

##### **2.4.3.2.5.1 'The method of suspicion'**

According to Layton-Henry (1992), first generation post-WWII foreign nationals tended to be less involved in criminal activities than the indigenous population, and all BAME groups were treated fairly by the CJS at that time. In addition, black foreign nationals had lower offending behaviour than the white population, despite slight indications that the rise in the black and Asian population was correlated with the increase in crime rates.

However, Matza (2010) situation of suspicion represents the historic choice of a main method over conceivable and extant others. Though the tendency to rely on the method of suspicion is perhaps always implicit, that of making in the pronounced routine of ordinary police operation develops with specific context. The method of suspicion that the police used to follow; to suspect, question, stop and search, and stereotype certain people as committing certain crimes, according to Matza, comes into use when police faced with considerable volume of crime are asked to provide an account of their

activeness. At the time the law required that the police suspicions should meet certain criteria like sufficient grounds, which should not be motivated by race, nationality, religion, or hatred sentiments towards any group (Smith, 2009)

In fact, the difference between legislation as written and its application demonstrated how the BAME groups were disadvantaged by the CJS. Theoretically, legislation was not created to target any specific group or people but to criminalise or penalise law-breakers regardless to their ethnicity, nationality or religion. However, the practical implications of some legislation, and its grounded interpretation by the police, resulted in suspicion and related over-policing being placed on certain communities, as a result of associating them with certain types of crimes (Spalek and Davies, 2012).

In the last quarter of the 20<sup>th</sup> century, public anxieties about the imagined danger posed by BAME individuals, and their connections to different illegal activities started to grow. While Asians were seen as more law-abiding and qualified, the black population were over policed, resulting in anti-policing campaigning by black activists groups, and different clashes and confrontations between young black people and the police during Notting Hill Carnivals of 1976-1978 (Smith, 1984, Smith, 1997).

During the 1980s, the relationship between the police and BAME communities (particularly with black communities) deteriorated, and reports of racist attacks were commonplace. Consequently, there began a general assumption that BAME communities were pre-disposed to greater involvement in criminal activity than the white population (Waters, 1990). Black communities have since been suspected, and the culture of black

people has been seen as deviant and incapable of impressing correct values upon its youth. The relationship between black, especially young black, people and the CJS has therefore been influenced by various media and political discourses, which hold black people as a scapegoat to blame for increasing crime trends in the UK (Smith, 2009). Tauber (1997), Wenk et al. (1972), Charles Teddlie and Reynolds (2000), analysed hypotheses being made about certain classes or ethnic backgrounds from the potential consequences of labelling them. For example, the underachievement of a young black male in school could lead to a teacher stereotyping and supposing that any such individual in his or her class would be more prone to deviance. Such a belief may affect their treatment of such children, which in turn would create a 'self-fulfilling prophecy'. If a child is labelled as deviant, they have the potential to behave to fit their label (Madon et al., 2004).

Similarly, young south Asians have the attention of the media and the political discourses. Asian gangs was presented as an serious social problem that needs an immediate reaction from the government, the images of violence and drug dealers has been connected to Asians and pictured them as the new devil (Alexander, 2000). The Asian gangs' social problem was only the beginning of a series of accusation, labelling, and identification of the new deviants, especially Asian Muslims who have been connected to religious fundamentalism (Alexander, 2004).

#### **2.4.3.2.5.2 Making minorities devils: Representation in prison**

Since the 1950s, the prison population of different ethnicities has increased significantly, although the ethnicity of prisoners was not recorded until 1991. Under Section 95 of the Criminal Justice Act 1991 the Government is

required to publish statistical data to evaluate whether people from different ethnic minorities are being treated fairly with the CJS (Office for National Statistics, 2004). The Home Office issued a series of documents in 1992, 1994, 1995, and 1997 providing statistical data on the representation of ethnic minorities (both offenders and victims) in the CJS. From 1998 the Home Office started to individually publish these statistics on an annual basis (Barclay and Tavares, 1998).

Britain has the topmost proportion of imprisonment in the European Union (see Table 2.2 in Appendix 2), and outside of the white prisoners population, black prisoners (African/Caribbean) contribute the highest rate (Spalek, 2008b). The majority of these prisoners are incarcerated for drug offences, in spite of several American empirical studies and some British surveys finding that white people are more prone to taking drugs, whereas the majority of ethnic minority offenders (especially black) are charged for drug offences (Banks, 2011, Heaven and Hudson, 2005).

In Table 2.3 (Appendix 2), the percentage of the population of different ethnic groups in the 2001 and 2011 census is compared to their representation in the prison population. This shows there was an increase in the percentage of BAME prisoners compared to white prisoners, which decreased from 90 percent in 2001 to 74 percent in 2011. Due to the decrease in the total population of white people, which it does account for the significant decrease in the white prisoner population.

Furthermore, the unequal representation of black prisoners compared to the total population is visible in each census. In 2001, the black population was 2 percent, compared to their 12 percent representation in the prison population.

This is even more striking when considering the general population of Asians at 4 percent in 2001 and an Asian prison population of 3 percent (four times less black prisoners' percentage).

Hence, there is an unequal representation in the prison population between BAME and white prisoners. In return, there is a difference among the minority ethnic prisoners themselves; black prisoners have the highest proportion of prisoners compared to their total population in E&W.

The overrepresentation of BAME prisoners might be explained because those individuals are committing more crimes than the white indigenous population. However, this can be interpreted differently by looking in depth at the available statistical data, and accounting for the implications of public attitudes, political discourse, and media representations. For example, Hing (2006), described in his article *'Misusing Immigration Policies in the Name of Homeland Security'* the tough time experienced by Arabs and Muslims post 9/11 terrorist attack, and the 'random' increase of Arabs and Muslims prisons inmates in American prisons because of 'indirect' suspicions.

The criminal activities of BAME groups cannot be assessed separately from the racial segregation, discrimination, and 'an anti-colonial struggle' experienced by these groups. There is a common sense that there is an association between the increase of the population, especially the BAME groups, post-WWII, and the increase of the criminal population (Spalek, 2008b). In addition, the high representation of BAME prisoners has fed the stereotype that more BAME individuals are engaging in criminal activities than white British (Spencer, 2003; Skillington and Morris, 1996). However, the relationship between the BAME groups and crime cannot be understood

without considering the racial discrimination and institutional racism that they face from the CJS.

Some scholars (FitzGerald, 1991, Kasturirangan et al., 2004, Quraishi, 2002 ) have proposed that the difference of cultural background for different BAME groups might explain the overrepresentation of these groups in certain CJS statistics. However, the Home Office has published a study based on young offenders, which concluded that, when some structural and cultural factors are controlled for, such as parenting, school performance, socioeconomic class, drug issues, siblings in trouble with the police, family size and type and gender, ethnicity is not a significant factor in explaining differences in committing crimes (FitzGerald, 1991).

#### **2.4.3.2.5.3 The racism and institutional racism**

Officially the enslavement and discrimination of black people has ended; however, the common considering black people as the lowest class has continued, which has created negative public sentiments and attacks against BAME groups (Skillington and Morris, 1996). The victimisation of those BAME groups has also not been treated sufficiently; victims were blamed of creating disharmony in British society (Small and Solomos, 2006, Hansen, 2003) and such allegations open the door to stereotype and criminalise these people.

Some researchers (Tuck and Southgate, 1981, Williams, 2000) have considered the over-representation of BAME groups in crime statistics from a perspective of racism and anti-colonial struggle. Racial discrimination varies within the different stages of the CJS, and a large volume of research (FitzGerald, 1991, Tonry, 1999, National Research Council, 2004) has



looked at the racial discrimination in the CJS, particularly at the level of policing. The increase in stop and search during the 1990s, as well as the consequences of the murder of Stephen Lawrence, has meant that institutional discrimination and racism has been of primary concern. In his 1999 report into Stephen Lawrence's murder, Sir William Macpherson of Cluney described the reaction of the police as:

*'the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin', which "can be seen or detected in processes, attitudes, and behaviour, which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping, which disadvantages minority ethnic people'(Macpherson, 1999)*

Racial discrimination in the CJS thus started to attract many scholars (FitzGerald, 1991, Tonry, 1999, National Research Council, 2004), who were looking at CJS statistics, especially prison statistics, revealed an overrepresentation of black people in British prisons. Self-report studies (FitzGerald, 1991, FitzGerald, 1997, Wu et al., 2010, Williams, 2000) found that police bias and unfair treatment to minority ethnic group delinquents was the reason behind the disproportionate amount of crime. Police officers are five times more likely to stop, search, and then arrest a person from an ethnic minority group for drug crime compared with a white person. Since 1995, per head of population in England and Wales, recorded stops and searches of Asian people have remained between 1.5 and 2.5 times the rate for white people, and for black people have been between 4 and 8 times the rate for white people (Equality and Human Rights Commission, 2011).

In May 2010, London's Metropolitan Police Service faced a racism case as a senior black officer claimed he was side lined. A top black officer sued the Metropolitan Police for race discrimination amid claims that senior police covered up a damaging report alleging racism in the ranks. The Macpherson Inquiry analysed and assessed claims of racism against the Metropolitan Police. It suggested major changes in the ways the Metropolitan Police handles members of an ethnic minority (Macpherson, 1999).

The previous literature outlined racial discrimination in the police but it is unclear whether discrimination is limited to aspects of policing such as stop, search, and arrest, or whether the over-representation of BAME groups in CJS statistics is also a result of discrimination at other stages of the justice system. Institutional racism and discrimination regarding nationality is not monopolised by police; court procedures are also accused of racism and differential treatment between white and non-white British, as well as harsher sentences handed down to disadvantaged people (foreign and ethnic minorities) (Fekete and Webber, 2010, Williams, 2000).

There is limited literature on whether discriminatory treatment of foreign nationals leads to harsher sentences compared to British nationals. The literature (see for example, Crow, 1987, Killias, 1989, Travers, 1999, Thronson and Sullivan, 2012) concentrates on racism based on colour, focusing on longer and more severe sentences with small chances of discharges and fine. Most are subject to immediate custody outcomes, which send the majority to prison, usually for offences relating to drugs, robbery and fraud (Abbas, 2005). Finally, Bhui (2007), Bhui (2009b), Bhui (2009a), found that there are some factors that explain the disproportionate representation of BAME groups and foreign nationals in the crime statistics: racism, their

economic situation, and culture, as many BAME victims are from the same ethnicity (Home Office, 2006).

## **■ The media role**

There is a historical role played by parts of the media in highlighting, exaggerating, and presenting different foreign nationals from different ethnicities as criminals which can be argued to have increased negative public attitudes (Calavita, 2005). For example, the media has contributed the Irish to be seen by the British locals as part of social residuum whose alien character and unruly disposition habitually exercised police officers and magistrates alike, but that does not mean that the majority of Irish foreign nationals were unruly drunks, engaging in many different types of crime (MacRaild, 1999).

The harshest anti-Irish titles often sounded in local and provincial newspapers rather than illustrated national journals, and few historians have undertaken detailed study into the role of provincial journalism in moulding the Irish stereotype (MacRaild, 1999, Potter, 2004). The reportage has elevated fear and worry regarding Irish immigrants, and the media has perpetuated the perception of Irish as quick to violence. In consequence, Irish society has been perceived as being much more violent in the 19<sup>th</sup> century than the rest of the UK. This despite the fact that Irish criminals in the UK tended to be petty larcenists and small-scale brawlers, though sometimes repeat offenders. However, they did not often commit murder, or the more serious types of physical assault (Potter, 2004).

Less visible, however, is a similar position of the media of the time towards Jews, because as has been mentioned earlier, no one wanted to be accused

of being anti-Semitic or unwelcoming of refugees. Even when the negative public sentiments rose in the beginning of 20<sup>th</sup> century, there was not the expression of the opposition to the presence of Jews at a national level (Jones, 2013).

However, BAME groups have been targeted by the media; crimes committed by black or West Indian youths have been highlighted and aggrandized by newspapers reportage. These actions have likely influenced negative attitudes toward immigration in some sections of the British population (Solomos, 2003). Indeed, the former Metropolitan Police commissioner, Sir Ian Blair, said that the British news media is institutionally racist, a comment that offended journalists, provoking angry responses from the media, despite the police association welcoming Sir Ian's assessment (BBC NEWS, 2006b, BBC NEWS, 2006a).

The media focuses on discourses that highlight the relationship between foreign nationals and crime, blaming foreign nationals for a wide range of issue affecting the country, and interpreting and using statistical data in ways that serve its aims (Unity, 2008). For example, Rumbaut and Ewing (2007) argued that the relationship between illegal foreign nationals and crime have been created by political factors and the media, which represented many poor people looking for better life as criminal.

## **Conclusion**

This chapter tracing the history of immigration, and the relationship between foreign nationals and crime, has raised many key issues: Firstly, the early history shows that the foreign nationals have been attracted to contribute to the British economy and demography, and there were racial attack on those

foreigners when demand has stabilised. Secondly, Britain has a significant role of welcoming persecuted refugees because of their religion and those who have been in a natural disaster. Thirdly, there is a similarity among the three case studies (the Irish, Jews and BAME) in that there was a tendency to blame and accuse those foreign nationals for issues in the country. Fourthly, There is a clear relationship between the demographic and the economic change and the increase of negative public sentiments and debates in regard to the relationship between foreign nationals and crime. Finally, there is an important role of the immigration policy, political discourses, and the media in exaggerating foreign nationals' criminality.

Previous studies have demonstrated that foreign nationals have been stereotyped, suspected, and targeted by police, and there is a mainstream racism and discriminatory treatment within CJS institutions regarding ethnicity and the nationality. The next chapter will continue with the more recent history of foreign nationals in the UK, and answer the research questions of how immigration policy has been changed and how the relationship between foreign nationals and the non-immigration criminal offences was constructed.

### Chapter 3 Immigration and crime policies from 1997-2014

This chapter examines how immigration and crime policies since late 1990s have raised the profile of the foreign national/crime debate by associating foreign nationals with different crimes. The implication of tighter immigration and crime policies, and the establishment of 'cimmigration'<sup>5</sup> crisis in the UK, will be categorised and analysed across two different governments: the Labour Government (1997-2010) followed by the Coalition Government over the years 2010-2014.

This chapter will consider the significant features that the analysis of these two different governments presents. During the Labour party's time in office, the main feature was the emergence of what theorists have described as 'cimmigration' (Stumpf, 2006), including the expansion of immigration control and a political rhetoric that encourages deportation as (a) a tool for fighting a perceived growth of crime amongst foreign nationals communities and (b) managing foreign nationals. In terms of crime policy, Labour implemented different policies related to their guiding slogan 'tough on crime, tough on the causes of crime'. The chapter will therefore explore the most prominent of these: the 'war on terror' and 'war on drugs'.

Following on from the most recent Labour Government, the immigration policy of the Coalition Government can be characterised as using

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<sup>5</sup> For the purpose of this research, 'cimmigration' or 'criminalization of immigration law' means the connection between immigration and criminal law. It refers to the merger of the two areas in both substance and procedure has created parallel systems in which immigration law and the criminal justice system are merely nominally separate. STUMPF, J. (2006). The Cimmigration Crisis: Immigrants, Crime, & Sovereign Power. *bepress Legal Series*, (issue), 1-44.

'blaming' rhetoric to impose tough measures and policies, which control the quantity of non-EU foreign nationals, including deporting foreign nationals and FNPs. In terms of their crime policy, the focus of the Coalition Government has been on tackling offenders of immigration crimes, foreign national ex-offenders and minimising the pressure on the punishment institutions, especially prisons. In exploring the policies of the both governments, a case study of the criminalisation of the asylum seekers will be presented to illustrate the implications of the applied immigration policy. Finally, the role of the media in shaping public attitudes and raising debates that associate foreign nationals with criminality through scapegoating will be explored.

### **Labour Party policies (1997-2010)**

In 1997, the Labour party came to office and stayed in power for 13 years. During their three consecutive general election victories, the Labour Government made significant changes to immigration and crime policy in the UK. As this section will show, different measures were adopted to encourage and discourage immigration, starting with an open door policy at the beginning of their first term, and moving toward more restrictive policy for the remainder of their time in power (Somerville, 2007).

#### **3.1.1 Labour's immigration policy**

When Labour came to power in 1997 their immigration policy could be characterised in terms of being 'less restrictive'. However, at this time Labour policy distinguished between 'wanted immigrants' – those who came to the UK for economic reasons and contributed to the British

economy – and ‘unwanted immigrants’ – including refugees and asylum seekers (Mulvey, 2011, Kostakopoulou, 2006 ). This subsection will discuss three significant features that categorise the Labour period: expanding the criminalisation of foreign nationals, strengthening the British border to tackle criminals and controlling foreign nationals because of their association with crime.

### **3.1.1.1 Expanding the criminalisation of foreign nationals**

The Labour Government introduced fifteen main pieces of legislation, focusing on immigration, asylum, terrorism and border control, along with numerous discussion papers and working parties (Somerville, 2007). This large amount of legislation means that immigration, as a programme, was one of the most important issues that the Labour Government focused on. The tranche of legislation introduced new immigration crimes, more border control, as well as organisational changes to the immigration and border agencies to create the UK Border Agency (UKBA)<sup>6</sup> (superseded in 2014 by the Border Force). A new points system and biometric visas were introduced in 2008 and a number of initiatives for border security and the control of immigration were also brought into place (Hampshire, 2009).

Since 1999, British immigration laws added 84 new types of immigration crimes, compared with only 70 having been introduced between 1905 and 1998 (Aliverti, 2013c). The list of immigration crimes is very long and includes those who registered as asylum seekers or came to the UK without documents or with false documents (Bosworth and Guild, 2008a).

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<sup>6</sup> The term of UKBA has been changed in 2014 to be UK Visas and Immigration (UKVI)



In the early 2000s, there was an expansion of using criminal law to 'manage' immigration (Aliverti, 2013a, p 60), which resulted in a steady increase in the rate of prosecutions and convictions for these offences (Aliverti, 2013b); this aligns with the general increase of FNPs since 1997 (Berman and Dar, 2013).

The blaming and scapegoating that has historically been used against different groups of foreign nationals (see Chapter two) contributed significantly to raise the awareness and negative perception of foreign national criminality, ultimately by connecting them to different illegal activities. For example, the White Paper in 1998 *'Fairer, Faster and Future, A modern approach to immigration and Asylum'*, introduced by the Home Secretary Jack Straw, was a plan to maintain the old bureaucratic system that led to backlogs and prohibited those who were using the system falsely, including taking advantage of taxpayers' money while awaiting their decision (Cwerner, 2004. p 77-78).

This White Paper simplified the procedures to judge asylum applications, but it also stereotyped asylum seekers and made concrete links between asylum seekers and those who were 'bogus', or 'abused the system'.

In addition, this White Paper prepared the ground for the Immigration and Asylum Act (IAA) 1999. The Act targeted asylum seekers in particular, who seen a significant increase in numbers, and enacted 35 different immigration related crimes (Aliverti, 2013a). IAA 1999 expanded the use of civil and criminal sanctions; for example, it extended the criminalisation of entering Britain by fraud (Part 1), the punishment on carriers (particularly lorry drivers) who knowledgeably held illegal immigrants, and

increased the power of immigration officers, enabling them to arrest, search, and fingerprint (Somerville, 2007, p 21). IAA 1999 provided a significant change to Labour immigration policy, and it demonstrated an essential restriction similar to the Conservative's approach in 1905 (Cohen, 2002). Therefore, the consequent political and parliamentary debates (see Chapter 7) concentrated on making a link between foreign nationals and their intention to commit crimes.

Furthermore, the expansion of 'crimmigration' laws expanded the range of alternative strategies that immigration officers might take against suspected foreign nationals. Examples of these strategies included refusal of entry, executive removal, deportation on 'conducive to public good' grounds by the Secretary of State, and criminal prosecution, which may include a recommendation of deportation.

These strategies could work together as, *'the principle of double jeopardy, which proscribes multiple prosecutions for the same act, does not apply in immigration proceedings'* (Aliverti, 2013a, p 60). Moreover, the expanding of 'crimmigration' legislation gave greater power to immigration officers to detain suspects for hours, refuse entry, stop and search passengers. In addition, police officers had the power to investigate the legal status of any person they suspected. In other words, the two officers jobs have 'combined': immigration officers acting as the police and vice versa (Aliverti, 2012a, Aliverti, 2012b). For example, the Borders Act 2007 (Section 2) allowed detention of an individual at a port in E&W, and Northern Ireland (NI) by an immigration officer, if that officer thought the individual may be liable to arrest under sections 24(1)-(3) of

the Police and Criminal Evidence Act (PCEA) 1984<sup>7</sup> or Articles 26(1)-(3) of PCEA Order (NI) 1989<sup>8</sup> or is subject to a warrant of arrest (Home Office, 2007b). Similarly, the Borders, Citizenship and Immigration Act 2009, allowed indictment, unlimited fines or prison for maximum of 2 years (UKBA, 2009).

The expansion of criminalising foreign nationals was not only in relation to immigration crimes; the 'war on terror' campaign policies, which began post 9/11, resulted in the coupling of immigration and security legislation to address the danger of international terrorism. For example, the Anti-Terrorism, Crime and Security Act (ATCSA) 2001 made further provision in terms of terrorism and security. The ATCSA 2001 provided for the freezing of assets, made provision for immigration and asylum, amended and extended criminal law and powers for preventing crime and enforcing law, made provision for the control of pathogens and toxins, provided the retention of communications data, provided implementation of Title VI of the Treaty on European Union, and connected purposes (Home Secretary, 2001 ).

ATCSA 2001 made a connection between foreign nationals (particularly asylum seekers) and terrorism by including measures meant to deny prospective or suspected terrorists access to asylum and allowing applicants' fingerprints to be kept for ten years in order to prevent multiple

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<sup>7</sup> 'Arrest without warrant: constables: (1) A constable may arrest without a warrant— (c)anyone whom he has reasonable grounds for suspecting to be about to commit an offence;(d)anyone whom he has reasonable grounds for suspecting to be committing an offence. 3) If an offence has been committed, a constable may arrest without a warrant— (a)anyone who is guilty of the offence; (b)anyone whom he has reasonable grounds for suspecting to be guilty of it'.(1984). Police and Criminal Evidence Act. 60. UK: Legislation.gov.

<sup>8</sup> Same text above. (1989). The Police and Criminal Evidence (Northern Ireland) Order 1989. 1341. Northern Ireland/ UK Legislation.gov.

claims by such individuals. In addition, political and media discourse became louder to vindicate immigration control for national security, as well as the attendant legislation (Bosworth and Guild, 2008a). In consequence, foreign nationals (particularly Muslims), and even those with the appearance of being 'foreigners' or 'Muslims', were seen as potential terrorists or violent people (Gilmore, 2011).

The subsequent immigration legislation, comprising the Nationality Immigration and Asylum Act 2002, Asylum and Immigration (Treatment of Claimant) Act 2004, Prevention of Terrorism Act 2005, and the Terrorism Act 2006 introduced new immigration crimes. The Acts placed greater restriction on the ability of foreign nationals to enter the UK, and placed an emphasis of suspicion on all asylum seeker cases (Schuster and Solomos, 2004, Kostakopoulou, 2006 , Somerville, 2007, p 22-24, Zedner, 2007, Mulvey, 2011). Even so, criminalising foreign nationals, or labelling them as potentially criminal, is not limited to these legislative changes. The next subsection will highlight changes in the operation of British borders as a means of addressing crime and confronting criminals.

### **3.1.1.2 Controlling and reinforcing British borders**

Borders can be described as being like a filter, which distinguish between desirable and undesirable people, genuine from bogus, legitimate from illegitimate, and allow for only the 'wanted', those who contribute to economic growth, to enter a country (Anderson, 2013, p 2, Hampshire, 2009, p 230). In the academic literature and descriptions of practitioners, borders can also have a wider meaning. This moves beyond a simple territorial demarcation, and also contributes to defining a political space.

Political influence and the practice of law produce precise sorts of social, political and economic relationships that define foreign nationals (Anderson, 2013). Hampshaire (2009) suggests the term 'differentiated borders', which relates to the obstacles and barriers (including difficulties to obtain a British visa) in place for those from countries classified as high-risk (including asylum seekers, incidence of illegal entry, overstaying and terrorism), while at the same time the entry of other categories of travellers is facilitated.

In 2002, the Home Secretary *David Blunkett* presented the White Paper '*Secure Borders, Safe Haven*', which set out the key challenges facing British nationality. It called for new immigration policy to prevent the admission of 'bogus' asylum seekers and those who abuse the system (The Secretary of State, 2002). The White Paper focused on asylum seekers, and every time asylum seekers were mentioned, the terms '*abusing the system*', '*applying new fair and effective policy*', or '*the need for close integration*' appeared in the same line or paragraph. This gave presented a perception of all asylum seekers as abusing the system that immigration policy was not tough enough to control these abuses and that asylum seekers were not integrating into wider society.

In February 2005, a five year plan for asylum and immigration was introduced by Charles Clarke, the Secretary of State for the Home Office, titled '*Controlling our borders: Making migration work for Britain*'. The paper introduced fingerprinting for non-EU visa applicants, pre-boarding electronic checks of all persons entering and leaving the UK by air, screening of visa applicants, expansions of the network of Airline Liaison Officers (who work with carriers overseas to prevent undocumented

foreign nationals reaching the UK), and introduced fixed penalty fines for employers for each illegal worker they employ (The Secretary of State for the Home Department, 2005).

The 2005 White Paper focused on border control, which was enhanced after the London bombings in July 2005. Since then, the issue of border control has been associated with controlling the entry of criminals from outside the UK, as a part of the wider association with the control of crimes committed by foreign nationals. Thus, foreign nationals are mostly presented in a negative way; the positive aspects of foreign nationals and their historically significant role in building the British economy are often overlooked (Hampshire, 2009, p 232).

British borders were expanded during the last Labour term in office in two ways: externally and internally. External enlargement included agreements with some neighbouring countries, such as those made at the Seville summit in June 2002. The UK Prime Minister Tony Blair and Spanish PM Jose Marie Aznar met and proposed a campaign to harden trade policy and suspend foreign aid to developing countries that refuse to take back refugees whose applications for asylum have been rejected. The external expansion of borders also included the requirement from the airline companies to check travel documents and visas before allowing the passengers to come to the UK. If illegitimate passengers were later identified, the airline would be responsible for flying them back to their homeland (Guiraudon, 2006).

Internal expansion occurred through a new set of policies designed to focus control interventions on the inflow of specific foreign nationals,

something that has been termed 'remote border control' (Hampshire, 2009, p 237). For example, under the pre-departure screening and carrier sanction, under Section 40 of IAA1999, the carrier (especially the owners, agents and operators of ships and aircraft) who operate international travel to the UK are liable to a charge (£2000) if they carry undocumented passengers (UK Border Agency (UKBA)). Therefore, UK authorities established the Risk and Liaison Overseas Network (previously known as Airline Liaison Officers and Risk Assessment Managers) to provide help for carriers in detecting inadequately documented passengers, thus reducing potential charges against them. The UK has a network of Immigration Liaison Managers overseas, a number of whom are in locations that have been identified as major sources or transit points for inadequately documented passengers arriving in the UK (sometimes known as IDAs) (UKBA).

The association of foreign nationals with crime was used to restrict and expand British borders. The fear of crime, particularly that based in the direct relationship between foreign nationals (Muslims in particular) and terrorism, led to swift action by the British Government, especially after 9/11 (Hampshire, 2009, Aliverti, 2013b). In consequence, the UK border became less permeable even for legal foreign nationals, goods, and services. The policy of risk management and control in relation to potential illegal foreigners and products resulted in a slowdown in the passage of foreign passengers and trade, which eventually impacted on British economic growth (Hampshire, 2009, p. 230). Managing foreign national offenders and tackling illegal immigrants have gone too far in British immigration policy; tackling 'illegal immigrants' has been applied

as a means to scrutinise the legal. For example, if the non-EEA students do not renew their student card every month with the international office of their university, enrolment with the university will be suspended or withdrawn, the student's visa will be cancelled and they will be required to leave the UK.

Having summarised the major developments in legislation and border control during this period, the next section will look more closely at the implications of criminalising foreign nationals by exploring how the quantity of foreign nationals has changed as a result.

### **3.1.1.3 Managing 'risky' foreign nationals**

In the early 2000s, the number of failed asylum seekers removed from Britain increased. In 2003, Tony Blair announced that he would be taking 'personal control' of asylum policy, and one of his main priorities would be swifter and more efficient removals (Gibney, 2008).

Due to the focus of the Labour Government's immigration policy on the deportation of asylum seekers, it was soon overwhelmed by a deportation crisis of a different nature. In 2006, controversy emerged over the failure of Home Office officials to consider many non-citizens convicted of serious crimes for deportation. This eventually led to the resignation of the then Home Secretary, Charles Clarke (Bosworth, 2011). In the wake of this event, new legislation was passed by Labour allowing for the mandatory deportation of individuals convicted of certain listed crimes or sentenced to a term of imprisonment of a year or more (Anderson et al., 2011, Bosworth, 2011).



For some time now, non-EU citizens sentenced to more than 12 months custody in E&W, and EU nationals sentenced to more than 24 months, have been deportable at the end of their sentences. Yet, until recently, the immigration and prison systems operated largely independently from one another. Since 2006, however, the Home Office has prioritised the deportation of time-served FNPs and removal of failed asylum seekers (Bosworth, 2011).

The terms risk and risk management have been used to describe an approach taken by government that does not 'gamble' with national security and the safety of citizens. A risk approach was used during Labour's second term in office, and increased during the Coalition Government. Foreign nationals have therefore been classified according to different categories of either high risk (those who are targeted for particular attention) or low risk (those who are subjected to lighter-touch controls) (Hampshire, 2009, p. 231).

The real question here is whether such risk management and related immigration control has been based upon accurate data, or whether this data has been of an estimated nature, or even exaggerated in order to serve certain policy objectives. Whichever is correct, the fact is that risk management plays an essential role in determining which groups to target for more inflexible checks and which to target for facilitated entry and exit (Hampshire, 2009).

To conclude, Labour immigration policy indicates how the criminality of foreign nationals was used to distinguish between 'desirable' and 'non desirable' persons to enter, live and work in the UK. This general

background becomes clearer when considered in reference to crime policy of the Labour Government. This will be explored in the next part to which will explore and explain the representation of foreign nationals in CJS statistics.

### **3.1.2 The Labour's crime policy**

Labour crime policy can be generally described as being focused on apparently tough and more restrictive measures to tackle the crime and criminals. Implementation of their policies produced an increase in the numbers of people coming into contact with the CJS, a particularly relevant example being the increase in the stop and search, and the prison population, especially FNPs (Criminal Justice Alliance, 2011).

#### **3.1.2.1 'Tough on crime, tough on the causes of crime'**

This slogan is one of the most memorable of New Labour's time in government, but its sincerity has since been criticised. The Criminal Justice Alliance (2011) argue that in reality the true focus of the Labour Government was on crime rather than its causes. As a result, between 1997 and 2010 there was a significant increase in recorded crime and the number of people stopped, searched, trailed, and imprisoned (see Chapter 6). A study by the Ministry of Justice (2013b) found that between 1999 and 2011 there was an increase in the population of prisons due to the two main reasons: an increase of those with Immediate Custodial Sentences between 2000 and 2005; a decline in the parole release rate from 2006/07, which meant that offenders served longer before being released.

The second largest increase was within the recall population. This reflected a higher recall rate caused by changes to the law making it easier to recall prisoners, and changes introduced in the Criminal Justice Act 2003, which lengthened the licence period for most offenders. Recall prisoners also stayed in custody for longer because, prior to the introduction of Fixed Term Recalls (FTRs), under which some offenders are recalled for a fixed 28 days period, the Parole Board were required to review all recall cases. Since 2008, use of FTRs has increased and the recall population stabilised (Ministry of Justice, 2013b).

It is not just that the population of prisoners has increased, but that sentences for certain crimes became longer. For example, the Forgery and Counterfeiting Act 1981 allows imprisonment for 6 months, a fine, or both for forgery, copying a false instrument, using a false instrument and using a copy of a false instrument. The Identity Cards Act in 2006 introduced indictment for possession of false identity documents to a maximum of 10 years imprisonment, a fine, or both.

The Sexual Offences Act 2003 allowed one or both of imprisonment and fines for trafficking for the purpose of sexual exploitation (UKBA, 2009). Furthermore, by introducing indeterminate sentences for the purpose of public protection in certain cases, this means that certain sentences were no longer than they had been before. In addition, the likelihood of offenders being imprisoned for breach of non-custodial sentences or recalled to custody for failure to comply with licence conditions was also increased (Ministry of Justice, 2013b).

Foreign nationals were most affected by these more punitive crime policies, despite the theoretical perception that the legislation did not target foreign nationals, however; its implications made foreign nationals the most disadvantaged group, as compared to their general population or to their British counterparts (see Chapter 6). The next part will provide some more detail on two instances where this has been the case: the war on terror and the war on drugs.

### **3.1.2.2 The 'war on drugs'**

In the decade between 1992 and 2001, the number of prisoners in E&W grew by 45 percent, as a consequence of the tough sentencing policies introduced through the declaring of 'war on drugs'. Buchanan and Young (2000), argue that the war on drugs really meant a war on drug users, and instead of developing rehabilitative models it concentrated on prevention, prohibition and punishment. Due to the 'war on users of drugs', the numbers of FNPs for drug crimes gradually started to decline from the late 1990s, at a time when the number of British prisoners for drug crimes (using drugs rather than trafficking them) was increasing..

Under the rubric of a generally tougher crime policy, intending to make punishment harsher and longer, drugs crimes were of concern in parallel to crimes of Violence Against The Person (VATP) and sexual offences, and the offenders convicted of these crimes produced a fundamental elevation in the prison population (Ministry of Justice, 2013b). Over a quarter of women prisoners in 2002 were foreign BAME prisoners, and had been given long 'deterrent' sentences for smuggling drugs (Counsell and Olagundoye, 2003). In addition to the long sentences, in August

2008 the Home Office introduced a new category of foreign offender liable to deportation. Non-EU nationals who are convicted in the UK and receive a custodial sentence of any length for an offence relating to the supply of class A, B or C drugs would now be considered for deportation (Home Office, 2009).

### 3.1.2.3 The 'war on terror'

A couple of months after the 2001 riots in Bradford, Harehills, and Oldham, the 9/11 terrorist attacks negatively affected British race relations (Gilmore, 2011), with a particular impact on those in the Muslim community. Muslim individuals were increasingly suspected, stopped, searched and detained without charge (see figures 3.1A, B, C).

Figure 3.1A: Arrested persons for terrorism-related offences<sup>9, 10</sup>

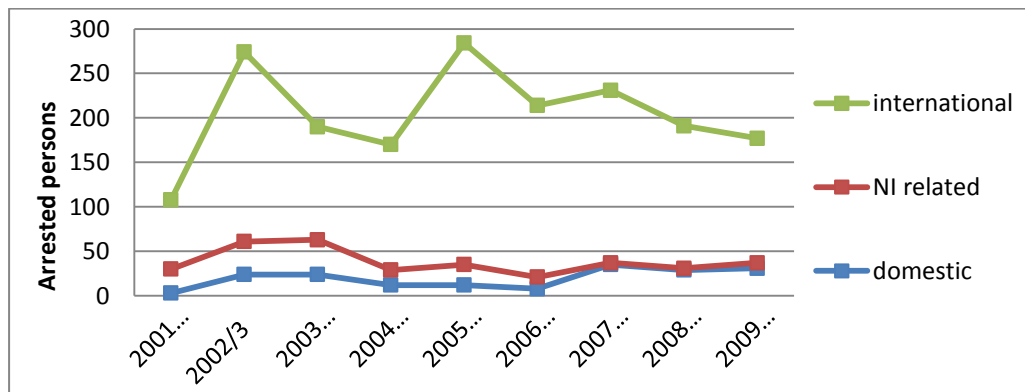


Figure: 3.1B Charged persons for terrorism-related offences

<sup>9</sup> Domestic: refers to terrorist activity where there are no links to either Northern Ireland related or international terrorism.

<sup>10</sup> International: refers to activity by an individual or a group of individuals (regardless of nationality) linked to or motivated by any terrorist group that is based outside the UK which operates in and from third countries.

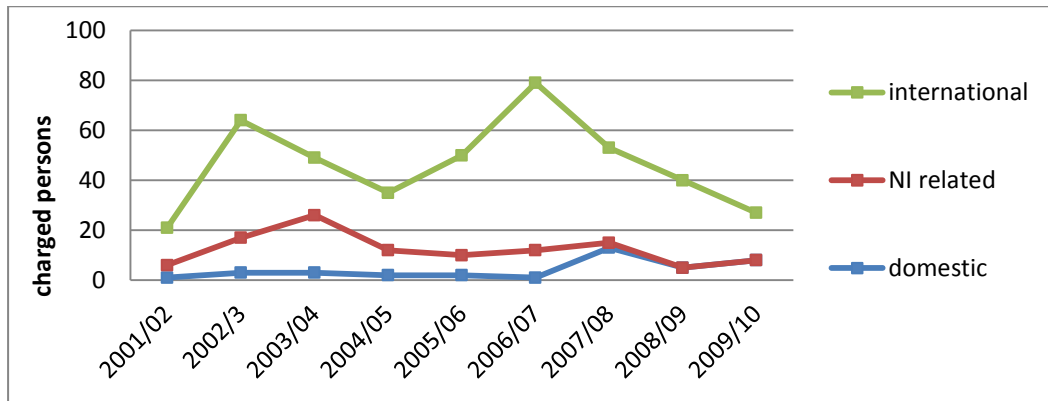
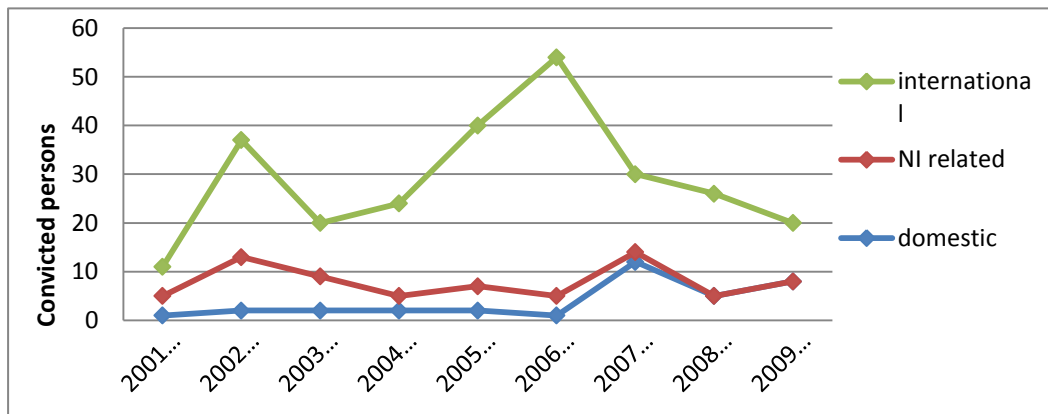


Figure 3.1C Convicted persons for terrorism-related offences



Source: Table A.13 Categorisation of persons arrested, charged and convicted after a charge for terrorism-related offences. Home Office

The above figures show high numbers of arrests, charges and convictions, especially for those (BAME groups) who have link to or are motivated by any terrorist group that is based outside the UK, which operates in and from third countries. In addition, the peak increase was after the two main terrorist attacks (in the UK-USA context) since the turn of the century: 9/11 in the USA and the 7/7 in London. The results of these figures concur with previous studies that found arrests of Muslims and foreign nationals increased after 9/11 (Hing, 2006, Mythen et al., 2009, Spalek and Davies, 2012).

The large amount of immigration and security legislation, which expanded the immigration crimes and the crimes relating to terrorism, has further

implications. These legislative changes increased the chances of stereotyping toward foreign nationals and brought them into direct contact with the police, who now shared powers with immigration officers to be able to check the legal status of people in the street (Aliverti, 2013b, Aliverti, 2012b). The war on drugs during the last decade of 20<sup>th</sup> century, and the war on terror during the first decade of 21<sup>st</sup> century can therefore be considered to have elevated levels of suspicion, conviction and imprisonment significantly (Buchanan and Young, 2000, Amoore and de Goede, 2008). By considering the policies of the Coalition Government, the next section will explore the most recent developments in the UK context to have impacted on the association being made between foreign nationals and criminality.

## **■ The Coalition Government policy since 2010**

### **3.2.1 The Coalition's immigration policy**

From the very beginning, the immigration policies of the Coalition Government were focused on minimising immigration into the UK, and doing so in such a way that shares many features with the historical antecedents that have been outlined in the previous chapter:

*The Government believes that immigration has enriched our culture and strengthened our economy, but that it must be controlled so that people have confidence in the system. We also recognise that to ensure cohesion and protect our public services, we need to introduce a cap on immigration and reduce the number of non - EU immigrants' (Cameron and Clegg, 2010, p 21).*

### **3.2.1.1 The toughest measures and policies to control immigration**

When the Coalition Government came to power in 2010, their priority was to reduce the foreign national population and increase restrictions on immigration. The results came fast: the number of people who migrated to the UK in the year ending June 2013 decreased by 14,000, and the number of foreign nationals arriving from non-EU countries saw a significant decrease from 282,000 in June 2012 to 242,000 in June 2013.

The formation of the Coalition Government in 2010 changed the political context of the immigration debate. The immigration policy set out in the Coalition Agreement states that it will *'introduce an annual limit on the number of non-EU economic migrants admitted into the UK to live and work'*. The target was to reduce net migration from its then current level of about 250,000 a year to 'tens of thousands' by 2015 (Parliament UK, 2012).

One of essential duties that the Coalition Government undertook was in controlling the number of non-EEA legal immigrants. Kershaw (2012), has denounced the immigration policy forthcoming in 2016 that intends to force non-European nurses who entered the UK after the 1<sup>st</sup> April 2011 to leave if they earn less than £35,000. This policy is similar to the Labour policy of 2008, whereby the Home Office announced that non-European residents' doctors would not be able to apply for postgraduate training posts in the UK. The new policy followed continued criticism from doctors' bodies that UK graduates were unable to find work due to the competition, making it very difficult for the junior British doctor to find a job as a GP or consultant (BBC NEWS, 2008).



Furthermore, the political focus on controlling immigration has more recently even turned towards some EU citizens, in response to concern over the high levels of immigration by Polish, Romanian and Bulgarians. Ministers wish to demonstrate to critics, such as the anti-EU party UKIP, that Britain is not a 'soft touch' or beholden to Brussels. At the same time, they do not want to deter skilled foreign nationals who can help the economy. David Cameron wants to make sure people come to the UK 'for the right reasons', not just to claim benefits. The government says it is particularly concerned about the pressure created by foreign nationals on local services, housing, and the health service. To tackle this, Cameron wants foreign nationals to have to prove they are 'genuinely seeking employment' to be able claim jobless benefits. This would be a tougher test than the current one and would include a requirement for jobseekers to speak English. Foreign nationals may also be kept off council house waiting lists in England for at least two years, under plans for councils to introduce a residency test. The Coalition Government wants the UK to get better at charging foreign governments for NHS treatment provided to non-working foreign nationals. Ministers are also examining the possibility of linking some benefits to contributions, which could exclude new arrivals from eligibility (BBC News, 2013a, BBC NEWS, 2013c, Riley-Smith, 2013).

EU foreign nationals found begging or sleeping on the streets can already be deported, and from 1<sup>st</sup> January 2014 have been barred from re-entering the UK for a year - unless they get a job (De Peyer, 2013). In addition, EU foreign nationals are to have their benefits cut after six months unless they can confirm they are genuinely seeking work. The

government says the UK will not pay 'out-of-work benefits' to EU foreigners in the first three months of their stay, claiming that some foreign nationals clear the habitual residence test within a month of arriving. Employers paying less than the minimum wage will face a £20,000 fine per underpaid worker. There is also a proposal to impose a minimum earnings threshold below which EU migrants would not be entitled to benefits like income support. In the longer term, Cameron says he wants to impose restrictions on the freedom of movement in the EU, with new member states having to reach a certain income per head before they are allowed full access to other member states' labour markets (BBC News, 2013a, De Peyer, 2013).

### **3.2.1.2 The 'deportation turn'**

It is no exaggeration to talk of a 'deportation turn' in the practices of Western states in their dealings with unwanted foreign nationals (Gibney, 2008). There has been a remarkable raise in the use of deportation by Western since the beginning of 1990s, along with a newfound public and official interest for removal, and thus we have seen an increase of the number of foreign nationals who leave these states by force (Anderson et al., 2011). As a result, 'David Cameron is to insist that illegal immigrants are deported to the European country where they first arrived, and rejected EU proposals to stop countries deporting asylum seekers to the European country in which they first arrived, which places a disproportionate burden on countries like Greece (Philo et al., 2013, Briant, 2013). Deportation is a significant aspect of the Coalition Government's 'tough' immigration policy. This measure has been used as a way to control unwanted foreign nationals, and can include those who

have become naturalised and have British citizenship if they have committed a serious crimes that threatens British society, such as terrorism or terrorism related offences (2014b). Deportation has also been used to reassure the public that there is a 'tough' policy towards illegal immigrants, with the ultimate goal of gaining their support in the forthcoming general election in 2015 (see Chapter 8).

For example, in July 2013 the Home Office launched an infamous pilot project to encourage illegal immigrants to leave the country. The project used vans, which had colourful billboard posters on their sides, in six multicultural areas of London. The posters included a picture of handcuffs and carried the slogan: *'In the UK illegally? Go home or face arrest'* (Barrett, 2013). The project was criticised, especially by members of the Liberal Democrats. Additionally, a large number of Britons saw the message as racist, and more than 200 complaints were received from immigrant rights groups and legal academics. In addition, a member of the House of Lords said that the signs were humiliating and a reminder of the racism campaigns of the past. Consequently, on October 9<sup>th</sup> 2013, the Advertising Standards Authority prevented the advertising from appearing again in its current form, but did confirmed it as a racist label (Saul, 2013).

Shadow Home Secretary Yvette Cooper commented that one person returned to their home after the 'ill-judged ad vans', and called on Theresa May to take responsibility for the 'complete failure' of the campaign (Cooper, 2013). By the end of October 2013, the Home Office declared that only eleven people had contacted them were deported from the UK as a result of seeing the vans,, despite vans claiming in the style

of an official stamp of: *'106 arrests last week in your area'* (Saul, 2013). Other political parties condemned the van project. The Liberal Democrat Business Secretary Vince Cable described the campaign as 'stupid' and mentioned that his party were not consulted about the idea, and would have opposed it had they known; Party president Tim Farron suggested they should take credit for not allowing it to go any further. UKIP commented that the scheme was 'disturbing', and reminiscent of a fascist dictatorship. The Home Secretary Theresa May told Parliament at the end of October it would cancel the scheme after the negative response from politicians and the public (BBC NEWS, 2013c).

After the huge failure of this scheme, on October 10<sup>th</sup> 2013 Theresa May announced new government policies to create a 'hostile environment' for undocumented foreign nationals, with the launch of the Immigration Bill, which gained Royal Assent in April 2014. The new Immigration Act 2014 introduced charges for non-EU foreign nationals to use the NHS and sweeping document checks across society for landlords, at banks, for those wishing to take their driving test, as well as at universities that had already begun this practice some years earlier (Crawford, 2013).

Universities have been asked by the Home Office to do the job of immigration officers by monitoring the status of foreign national students and consistently checking their movements and attendance. In addition to taking a copy from student passports and visas, non-European students with Tier 4 General Student Visas are obliged to present their student card for scanning at least twice a year (HomeOffice.). This is a striking parallel to the responsibility of prisoners on conditional release, required to register or check in with a parole officer.

The most important thing the Act facilitated is the deportation of foreign national criminals, who are now forced to stage their appeals from overseas, partly to stop offenders avoiding deportation on human rights grounds (Article 8 of The Human Rights Act 1998). In addition, any planned marriage between a British citizen and a person from outside European countries will be scrutinised in order to reduce 'false' marriage for immigration purposes, which seems in line with the previous Conservative policy of Primary Purpose Rule (PPR)<sup>11</sup> in 1983 (Home Office, 2013).

### **3.2.2 The Coalition's crime policy**

Under the Coalition programme of government, crime policy has been purported to focus on the causes of the crime, more freedom for the police and rehabilitation programmes:

*'The Government believes that we need radical action to reform our criminal justice system. We need police forces that have greater freedom from Ministerial control and are better able to deal with the crime and anti-social behaviour that blights people's lives, but which are much more accountable to the public they serve' (Cameron and Clegg, 2010, p 13).*

#### **3.2.2.1 Cut the crime rate**

It seems that the Coalition Government have learned from the criticism of Labour failing to enact the second half of their slogan. The focus of the Coalition Government in 2010 was on expanding the power of the police and reducing bureaucracy (Home Office). Much attention has been given

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<sup>11</sup> PPR, required the applicant to prove 'that the marriage was not entered into primarily to obtain admission to the United Kingdom' WATCH UK. (2009). How did immigration get out of control? . *Newspaper*, [Online] Pages. Available at <http://www.migrationwatchuk.co.uk/BriefingPaper/document/116> [Accessed 11/10/2013 2013]. p,9.

to the role of alcohol and drugs as criminogenic agents, as well as the holding of knives and firearms (Cameron and Clegg, 2010, Home Office).

Under the policies of the Coalition Government, much attention have been given to foreign nationals and their involvement with crime, especially drug, weapon, trafficking and other serious crimes, not least terrorism. Foreign nationals are often considered as a negative risk importer; therefore, many precautions have been taken under the guise of 'defending' the nation from the risks that foreign nationals are seen to bring, including terrorism, crime, social disorder, cultural issues, public health issues and strain on the economy (Hampshire, 2009, p 229-230).

The trend in the most recent police statistics is an overall decrease in the recorded crime in the UK (Home Office, 2011a), but the extent to which information generated by the police can be trusted has been questioned by many, including Her Majesty's Inspectorate of Constabulary (Inspection of Cheshire Constabulary, 2014). Their report found no policies or strategies to direct and inform crime recording, relying instead on officers complying with the National Crime Recording Standard (NCRS) and Home Office Counting Rules (HOCR). Similarly, the ONS found:

*'in accordance with the Statistics and Registration Service Act 2007, statistics based on police recorded crime data have been assessed against the Code of Practice for Official Statistics and found not to meet the required standard for designation as National Statistics' (Flatley, 2014, p 3).*

Davies and Francis (2011 ) explain how the police have the authority to decide whether the reported/discovered crime is a notifiable (-recorded) offence, and therefore whether or not to record it as a crime. The 'blurred'

policy of recording crime, and the discretionary power of the police to do so, raise the question of whether the approaches in meeting the NCRS and HOCR are effective or even ethical (Inspection of City of London Police, 2014).

### **3.2.2.2 Minimising the pressure on prisons**

After the big increase in the prison population, especially from FNPs, during Labour's time in office, and the economic crisis affecting most of the Western world since 2008, Coalition Government crime policy tried limit the building of new prisons or increasing prison capacity. Instead, their policies focused on restructuring the penal system to allow for closer engagement with local authorities, voluntary organisations, and police and probation services. This was intended to deter society from engaging in crime, and to increase public confidence in the CJS (Lyon, 2010).

The recorded rate of stop and search has reduced significantly since 2012, which has 'positively' affected recorded crimes. As Theresa May stated:

*In London, thanks to the leadership of Sir Bernard Hogan-Howe, changes to stop-and-search show that it is possible to reduce the number of stops, improve the stop-to-arrest ratio, and still cut crime. Since February 2012, the Metropolitan police have reduced their overall use of stop-and-search by 20%, and they have reduced no-suspicion stop-and-search by 90%. In the same period, stabbings have fallen by a third and shootings by 40%. Complaints against the police have gone down and the arrest ratio has improved' (Hansard, 2014e, col 831).*

One implication of the decline in stop and search was a decrease in the number of new offenders sent to the court; instead the courts have been

urged to reduce the population of those on remand in prison, resulting in a fall in their number in 2012 (Ministry of Justice, 2013b).

Furthermore, the focus on rehabilitating offenders was due to the 50 percent increase of located budget for prisons since 2000, the high cost of housing prisoners, and the high rate of reoffending. The then Justice Secretary Ken Clarke introduced a Green Paper *'Breaking the Cycle: Effective Punishment, Rehabilitation and Sentencing of Offenders'* in 2010 in order to focus on *'punishing offenders, protecting the public and reducing reoffending'* (Lord Chancellor and Secretary of State for Justice, 2010).

However, the Coalition crime policy was also focused on addressing the issue that the increase in prison population was in part due to the growth in the FNP population. Therefore, it has developed a different policy, as the Justice Statistics Analytical wrote in his response to the FOI request made for this research to the Ministry of Justice (Ministry of Justice, 2014b):

*'Reducing the FNO population is a top priority for this Government and we are working hard to reduce the flow of FNOs into our prison system and increase the number of FNOs removed from the UK through Prisoner Transfer Agreements (PTAs)'*

Deporting FNPs and ex-offenders has been touched on often in political and parliamentary debates, with the intention to remove pressure from the prisons and allow for the success of prison rehabilitation programmes. Some Tories have blamed FNPs for putting more pressure on the CJS; Peter Bone (Con MP) had this to say on the effects of foreign nationals on prisons:



*'Wellingborough prison is in my constituency, and it is overcrowded all the time. Its prison officers, who do a wonderful job, tell me that they never have enough time to work with prisoners and get them educated, so that when they go back on the streets, they reoffend instead of being model citizens. That is partly due to the overcrowding, which is caused by there being so many foreign national prisoners' (Hansard, 2010a, col 55WH).*

As a result of the new Coalition crime policy, the population of FNPs declined post 2010; however, the British prisoners population has increased at the same time (see table 6.8A). This has led some to reprise Martinson's famous 1974 claim that when it comes to prisons reducing reoffending, 'nothing works' (Goodman, 2011).

In May 2014, the Justice Secretary Chris Grayling sought to impose an automatic six-month jail term for any adult convicted of a second offence involving a knife. However, the Deputy Prime Minister objected to the proposal, partly because it includes minimum sentencing, which carries 'a serious risk it could undermine the role of the judges' (Hansard, 2014b, col 966). It is no surprise to find the population of prisoners has declined, as the different crime policies have played a significant role in confirming the slogan: 'the CJS is fit for the purpose'.

### **■ The experience of asylum seekers: A case study**

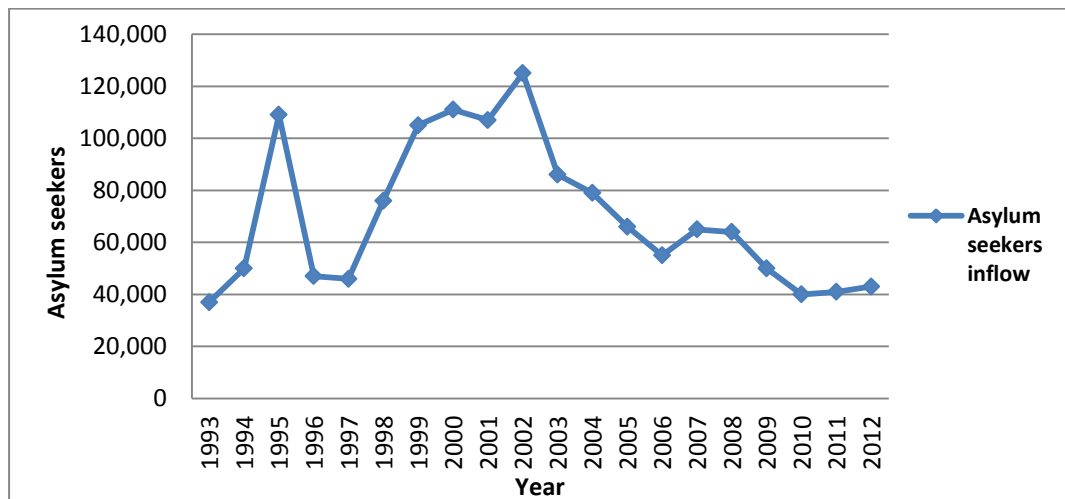
In the past, the UK has demonstrated itself as a place that welcomes vulnerable and persecuted people seeking asylum (see Section 2.1.2). However, the expansion of arriving asylum seekers since the 1990s created a problem, more specifically a so-called European asylum problem (Phillimore and Goodson, 2006). As with previous cases studies presented above, what follows will demonstrate the general

characteristics of this group and the issues that are associated with asylum seekers, especially those relating to crime and criminality.

### 3.3.1 The characteristics of asylum seekers

There was a considerable increase of the inflow of asylum seekers during the 1990s when immigration policy was less restricted. This increase peaked during the first years of the Labour Government, but started to decrease following implementation of the Nationality, Immigration and Asylum Act (NIAA) 2002, when the asylum system became tougher.

Figure 3.2: Asylum seekers inflow in England and Wales 1993-2012



Source: Table 2.04 Long-Term International Migration time series 1991 to 2012; The Main Reason for Migration, E&W, ONS. The MoJ and MPS (FOI)

The majority of those asylum seekers came from South Asia (Pakistan, India, Bangladesh, Afghanistan and Sri Lanka) (Refugee Council information, 2013). Most asylum seekers in these cases are poor economically and some cannot speak English (Popleton et al., 2013); however, some are highly educated and left much behind in order to seek safety (Doyle and O'Toole, 2013)

### **3.3.2 Asylum seekers issues and negative public sentiment**

Many societal issues have been linked to asylum seekers; however, this section will focus only on a limited number of key themes that are similar to the previous case studies issues in order to keep the research aims relating to the case studies aims manageable and deliverable.

#### **3.3.2.1 Population pressure**

The media and a number of political parties have criticised the considerable increase in the inflow of asylum seekers to the UK since the 1990s (Kent, 2001, UKIP, 2010). Therefore, subsequent immigration policy, especially that of the Coalition Government administration, has promised on different occasions to significantly reduce the number of foreign national arrivals to the UK in response to the issues such as the economic crisis and perceived threats to national security. Thus, as a result of recent unrest in Syria, the UK accepted just 500 Syrian refugees compared to the 10,000 taken in by Germany (Wintour, 2014).

#### **3.3.2.2 Public health pressures**

In a similar fashion to BAME populations, asylum seekers have been connected to various health problems and blamed for delays faced by the general population in receiving NHS treatment (Cherfas, 2006, Poppleton et al., 2013). There has been a heated mainstream discourse regarding the accessibility of the health care system to foreign nationals in general and asylum seekers in particular (Cherfas, 2006). However, research studies (Migration Advisory Committee, 2012, Cherfas, 2006) have not found foreign nationals to be placing any significant pressure on the National Health Service (NHS) (see in contrast Poppleton et al., 2013)

and for the benefit of the society these foreigners need to have a free access to the health services.

Therefore, the Immigration Act 2014 continued to give free health access to asylum seekers and placed charges on other types of foreign nationals (except those who have indefinite leave to remain, and EU citizens).

### **3.3.2.3 Economic pressure**

In order to make the immigration and asylum system tough for those claiming false asylum (without a well-founded fear of persecution), immigration and social policies aimed to ensure that foreign workers can enter only when there is a shortage in their specialist field so they can offer value to the UK economy (Policy and Strategy Group, 2010). Those who are homeless or do not have funds to buy food (so-called 'destitutes') may receive benefit (UK Visas and Immigration (UKVI), 2014). Initially, asylum seekers are expected to rely on their own resources, but if they are destitute they can apply for support from the National Asylum Support Service (NASS) (this facility was introduced following the passage of the IAA1999) (Bell and Machin, 2013a). In any case, asylum seekers are not allowed to claim mainstream welfare benefits and NASS provisions are very basic regarding the level of financial support they provide (see Table 3.1 in Appendix 2).

In addition, while asylum seekers wait for a decision on their application for asylum, they have no automatic right to work (paid or unpaid) or to seek permission to work. Asylum seekers do not have the same entitlements as refugees and those with other forms of protection to government funded training and for work programs (Carter, 2008).

The Asylum and Immigration Act 1996 discouraged employers from using asylum seekers by making it an offence to employ those who have false documents and those who have no right to work in the UK. NIAA 2002 made further controls on asylum seekers and abolished their right to apply for permission to work, on the ground that all application processes would then be sped up, and the majority of application would be finalised in three months (Phillimore and Goodson, 2006). In 2004, new guidance was issued that dictated employers have to check the documents of their employees to see if they are entitled to work. In 2005, The Immigration, Asylum and Nationality Act enforced a civil penalty of £5000 (quadruple in 2014) on those employers who employed a person subject to immigration-control restriction (McKay, 2009, p 61- 62).

Legislation such as these have effectively barred employers from employing particular communities, such as those from ethnic minorities, for fear of prosecution and fine (Phillimore and Goodson, 2006). The 2008 Prevention of Illegal Working guidelines are rooted in the Immigration, Asylum and Nationality Act 2006. They promote migration compliance and penalize those who break the rules.

Biometric overseas border controls are introduced within prescribed categories, as well as tougher enforcement for non-compliance, including fines of up to £10,000 in 2008 (doubled in 2014) for employers who employ illegal migrant workers (Carter, 2008 , Home Office, 2009).

From September 9<sup>th</sup> 2010, qualified asylum seekers and failed asylum seekers have been given the right to apply for a permission to get a paid job under the following conditions (Policy and Strategy Group, 2010):

1. The claim has been outstanding for at least twelve months
2. The delay cannot be attributed to the applicant
3. Not applying for permission to become self-employed
4. The applicant will only be allowed to take up a job, which is included on the list of shortage occupations published by UKVI

Once legally entitled to work, refugees face a range of barriers to employment. A significant barrier is that they will have been unemployed for several months, or even years. These issues are exacerbated by the government offering only small grants to the main refugee agencies to help support settlement (Sales, 2002). The limited financial support available to asylum seekers received much attention in parliamentary debates, with some MPs criticising the amount and the method of delivery (vouchers) that are in place to help the asylum seekers cover living expenses in the UK while they await their case decision (Hansard, 2001a). In a question by Anne Campbell (Lab MP) to the Secretary of State (David Blunkett):

*'... Does he (the Secretary of State) understand that asylum seekers find the process of making purchases with vouchers humiliating? In addition, they are unable to get full value for money because of shops' inability to give change on the vouchers. Will my right hon. Friend therefore make sure that any future system addresses both those problems and will he try to ensure a speedy conclusion to the review?'* (Hansard, 2001a, col 1-2)

The language around asylum and refugees has changed and since become linked to issues around benefit and welfare, as a study in the Glasgow University conducted how the media covered asylum in the press and television news in 2006 and 2011 (Briant, 2013):

*'...the language itself, the difference between refugee and asylum seeker, you do not hear the word refugee anymore, its asylum seeker all the time'*

Asylum seeker has been reconfigured as somebody seeking benefits. Perhaps unsurprisingly, given the spending cuts that were being pushed through during the period, a sample of 2011 press reports revealed an increase in the representation of asylum seekers as a 'burden' on the taxpayer (Briant, 2013).

#### **3.3.2.4 Housing pressures**

The 1993 Asylum and immigration Appeal Act had reduced the right to accommodation for homeless asylum seekers, and the Asylum and Immigration Act 1996 eliminated the right of being offered housing for all asylum seekers (Humphries, 2004, UKBA, 1997). The most important change was in 2000, when the Immigration and Asylum Act 1999 came into force, removing existing rights to housing and all types of benefits. A new setup housing and subsistence scheme for asylum-seekers, administered by the UK Border Agency has been introduced. Since 2000, homeless asylum-seekers have been housed in specially commissioned emergency accommodation on first arriving in the UK. After this they have the option to apply for a 'subsistence only' package or for subsistence and accommodation (Rutter and Latorre, 2009).

#### **3.3.2.5 Crime pressures**

There are three types of crimes that have been connected to asylum seekers: bogus claims (abuse the immigration system), engaging in illegal working and potential engagement in property crimes.

Sales (2002), Bloch and Schuster (2002) argued that the tightened immigration policy on non-EU economic migrants made them look for other legitimate ways, such as seeking asylum, to gain access to Europe. The motivation of seeking asylum to the UK has been suspected by many to be motivated by economic factors (Kent, 2001). Since the 1990s, politicians and the media have repeatedly circulated the word 'bogus' and connected asylum seekers, which has placed a burden of suspicion on all applications until proven genuine.

The British Government's tough response to new applications can be seen as in line with the general trend across Europe of more restrictive policies towards asylum seekers (Zetter and Pearl, 2000).

The Asylum and Immigration Appeals Act 1993 aimed to deter those arriving in the UK for economic and not political reasons as they claimed (Schuster, 2003, p 62). The Asylum and Immigration Act 1996, formalized the discussion of 'deserving' and 'undeserving' asylum seekers, and made reference to those whose claimed fear was deemed unfounded (Sales, 2002, Phillimore and Goodson, 2006).

The term 'bogus asylum seekers' has been used without clarity and precision, and in practice those who failed to prove their cases or had their cases considered as unsuccessful are usually suspected to be bogus or at least the considered by the public as such (Neumayer, 2005, UNHCR, 2013). This is in spite of the UN stating that the term 'bogus' or 'illegal' asylum seeker does not exist, and if an asylum seeker has not received refugee status and been deported that does not mean s/he is bogus. As Kofi Annan (UNHCR, 2013) said:



*'Let us remember that a bogus asylum-seeker is not equivalent to a criminal; and that an unsuccessful asylum application is not equivalent to a bogus one'*

Political rhetoric and government documents (Home Office, 2007a) reveal a lack of clarity and the random use of undefined terms like 'bogus' and 'failed asylum seekers'. At first it might seem that those who cannot present their case well, or whose cases are ended because of unfounded fear are considered as 'bogus' (Wainwright and Ward, 2006). Even so, the few 'bogus' asylum seekers have dominated the general discourse around those vulnerable people who seek refuge in the UK, fleeing from torture and persecution.

Furthermore, controlling immigration policy has been stated as a necessity for preventing the nation from being subject to crime and terrorism (Hansard, 2001g, col 629, 652) There are numerous occasions when asylum seekers have been suspected of being potential terrorists or less law-abiding than the indigenous population (Hansard, 2001d, col 154). The statement of Lord John Cope (Con) named immigrants and asylum seekers as a problem that needs to be confronted strictly, through forcing them to appreciate British values and thus avoiding the horror and destruction that America has experienced; this presents a clear means of criminalising foreign nationals and connecting them to violence and terrorism.

Different MPs have placed pressure on the government to control immigration policy, especially through the asylum system and by introducing tougher measures in general, because of the perceived relationship between foreign nationals and different sorts of crimes (Hansard, 2001g, col 657, Hansard, 2001e, col 675, 681). However,

restrictive immigration policy and tough measures to control some nationalities mean British immigration policy can be considered essentially racist. Rejecting asylum for people with convictions for crime, or suspecting and deporting them to a country in which the deportee would be likely to suffer torture, cruel or inhuman treatment has been criticised by Lord William Goodhart (Lib. Dem). He found it as a breaching Article 3 of The European Convention on Human Rights (Hansard, 2001d, col 268).

Moreover, it is argued by some that individuals rationally choose between criminal and legal activity by comparing the expected net benefit from each activity (Becker, 1968), Ehrlich (1973) found that there is a positive relationship between income inequality and crimes against property. In their qualitative report Burnett and Whyte (2010) indicated the occupational risks faced by undocumented workers in the UK, describing the immigration and social policies asylum seekers are subject to (including those who are in the process, failed asylum seekers, and those who could not go back to their home country for various reasons). The report found there are hundreds of thousands of 'refused' asylum seekers in the UK who will not voluntarily return home through fear of torture, regardless of whether their claim has been accepted or not. Forced into destitution, working is the only way through which they can obtain the means through which to exist on the margins of society. Yet, unable to work 'legally', they are forced into the 'black market' as undocumented workers. Banned from working for the first twelve months after arrival, and subject to very restricted conditions under which they have the right

to apply for a permission to work, this forces many asylum seekers to engage in illegal activities, including working illegally (Sales, 2002).

The consequences of abolishing the right to work for asylum seekers has been questioned in Parliament, and the immigration policy abolishing the right to work for asylum seekers does no favours to either them or the British public, as it will drag some asylum seekers to engage in illegal working. As Tony Banks (Lab MP) (Hansard, 2001d, col 743) stated:

*'...I am also looking forward to proposals to allow refugees and economic migrants to work. It is scandalous how we treat these people. They want to work but are told that they cannot. We are forcing them into areas of uncertain employment and we are inflicting poverty on them. It is unacceptable. I look forward to a proper immigration policy...'*

However, the Secretary of State has not replied properly on the raised issues (Hansard, 2001a, col 3), as he said:

*'I am aware of the strong feelings—how could I not be?—about the operation of the system generally and the perception of vouchers in particular. That is precisely why my right hon. Friend the Foreign Secretary initiated the voucher review, why we have taken our time to take the suggested changes on board and why I want to make any change part of a much broader package of measures'*

There was concern that continuing the immigration policy would lead asylum seekers to commit crimes and engage in illegal economic activities, shown when Tony Banks asked of the junior minister for the Home Office (Angela Eagle) in the House of Commons:

*'There are many thousands of asylum seekers in my constituency. I do not sneer at economic migrants, who have come to this country to try to make*

*a contribution. Thousands of them have nothing to do. If that position is allowed to persist, they will enter the unofficial economy, as they undoubtedly already do. It is demeaning to individuals who want to work not to be able to do so. I therefore ask my hon. Friend to think about the policy again'*(Hansard, 2001a, col 7).

Nevertheless, the minister's reply seemed to misunderstand the point of helping asylum seekers, with many of them having fled dangerous situations in order to found a better life in a new country. The reply of the minister was (Hansard, 2001a, col 7-8):

*'If those people have applied for asylum, they have come to this country because they are fleeing torture. For those who are economic migrants, my right hon. Friend the Home Secretary will have something to say about organising the way in which we will deal with them in a more coherent way in the future. My hon. Friend should not mix up the two'*

it is hard to determine the exact population of asylum seekers who are working illegally in the UK, due to the secretive nature of this phenomenon and the lack of recorded data. However, researchers have used data in accordance with Public Service Agreement 3 Indicator 4 (Increase the proportion of 'higher harm' enforced removals and voluntary departures) by the UKVI. The harm of those working illegally in the UK, or making dishonest claims for asylum support and identity fraud is assessed as 'medium' (see table 3.2 in Appendix 2).

It needs to be taken into consideration that the numbers in the table do not show the precise number of illegal workers, and even where the illegal worker population is included it does not refer to how many asylum seekers are working illegally because of the limited (or complete lack of)

financial support for failed asylum seekers. However, the numbers are used to provide an illustration of the large number of 'known' illegal workers, and it is predicted that the number of those not found exceeds that published in table 3.2.

In addition to the accusation of being bogus, asylum seekers have been connected to property crimes. The relationship between asylum seekers and property crime has been widely covered in the studies by Bell, Machin and Fasani. They developed an economic model to explain motivations to commit crimes, and they recognized that the economic situation of British and EU workers is better than foreign nationals. The authors found a one percent increase in the asylum seekers share of the local population is associated with a 1.1 percent rise in property crime, but no change in violent crime (Bell et al., 2010, Bell and Machin, 2013a).

Bell and Machin (2013a), found that property crime rates are significantly higher in areas in which asylum seekers are located, but there is no significant relationship between foreign nationals (asylum seekers in particular) and violent crime. They reached this conclusion after controlling for the location choice and crime trends within the Police Force Area. The same picture emerges when the time-series evolution of incarceration rates are explored, which suggest a rise in the rate of incarceration of foreigners from asylum seeking countries as the asylum wave arrived in the UK.

The strong economic opportunities that foreign national groups have, and their intention to work in the UK, explained their significant negative impact on property crime and their lack of effect on violent crimes. Those

who do not have labour market access after coming to the UK and face restriction on their engagement with the labour market are more prone to involvement in criminal activities than other foreign nationals and the indigenous population. In other words, the motivation of asylum seekers was different, they are not allowed to work in the UK upon arrival, and they also have reduced access to welfare benefits. Given the lengthy process involved in deciding asylum applications, this restriction is likely to have increased the relative returns to crime (Bell et al., 2010, Bell and Machin, 2011).

Similarly, Ochsen (2010) has looked at European immigration policy and the limited labour market opportunities for asylum seekers. She confirmed the 'indirect relationship' between immigration and social policies via unemployment and asylum seekers engaging in crime. However, an increase in the share of foreigners decreases assault and drug offenses significantly, which is incompatible with the social disorganization theory.

Many asylum applicants have been waiting for more than a year for their decision, and the appeal process can often elongate this wait. The outcome of such legislation reflects an immigration policy that leans towards exempting asylum seekers from the labour market, and as a result exacerbates socioeconomic problems for asylum seekers. This therefore increases the likelihood of their involvement in crimes, property crimes in particular (Phillimore and Goodson, 2006, McKay, 2009, P 61).

Although they provide some useful insight, the application of economic theories does not account for other factors. For example, the awareness

of the consequences of committing crime in a foreign country and the implications on their residency or legal status in that country may be a deterrent from engaging in criminal activity. The awareness of the cost of crime and being caught differ between British nationals and foreign nationals (Bell et al., 2010). For asylum seekers, being caught for committing a crime means a high likelihood of being deported (in many cases) from the country, this is exactly the situation most asylum seekers would not want to be in. Moreover the methodology of (Bell et al., 2010, Bell and Machin, 2013a) identifies the asylum wave effect using nationality, even though the majority of such nationals were unlikely to be asylum seekers. Their study is thus prone to criticism in terms of its ability to control the data and allow firm conclusions to be drawn from such researches.

A report published by the Association of Chief Police Officers (ACPO) confirmed that there is no evidence for a higher rate of criminality among refugees and asylum seekers. In fact, according to ACPO, asylum seekers are more likely to become victims of crime. There have been countless attacks on asylum seekers around Britain, including the murders of an asylum seeker in Glasgow in 2001 and in Sunderland in 2002. The murder in Glasgow prompted the UN High Commissioner for Refugees to condemn the British media for provoking racial hatred (Salford City Council, 2012).

Despite the unfortunate absence of data describing the level and the type of crimes that asylum seekers are engaging in (HM Prison Service, 2008), research still shows sympathy for the argument that proposed links to the black market and engagement in property crimes. This

perspective leaves vulnerable foreigners with little choice and a probability to engage in illegal activities to meet their daily needs.

Due to the poor economic situation of most asylum seekers caused by their lack of working rights, and the limited resources they can access in the UK (which cease after their cases are rejected), it is easy to see why they can be *'Invariably and inevitably... sucked into the black economy'*, as Tony Baldry said (Hansard, 2006b, col 14). The Conservative MP criticised the Labour Government and their management of the asylum system, which essentially encourages asylum seekers to commit immigration crimes – either through being in the UK illegally or working illegally (Hansard, 2011a, col 1014).

### **■ The media role in criminalising foreign nationals**

Some sections of the media produce misleading reports and use inaccurate data; sensationalised reporting with the intention of selling newspapers and the common by-product of increasing public fear and distrust (Wainwright and Ward, 2006). Wainwright and Ward found that many reports present misleading allegations against foreign nationals and asylum seekers, and link foreign nationals inappropriately and repeatedly to Islamic fundamentalists' terrorists and organised crime. This has negatively affected public attitude, particularly against those who are seeking asylum from Islamic countries as can sometimes be represented as potential terrorists. There is no doubt that the media has a significant role in elevating negative sentiments against foreign nationals, often using inaccurate or unreliable data to link them to crime and imply



that foreign nationals are more prone to commit crime than natives (Unity, 2008).

Hansen (2003) and Boswell, Chou and Smith (2005) debated the political and media role in directing public opinion, concluding that European opinions towards immigration could be influenced into becoming broadly negative if they support particular 'racist' parties and access the 'bad media' of the 'gutter press'. For instance, crimes committed by black or West Indian youths have been highlighted and aggrandized by some media and newspapers, such as The Sun. These actions increase negative attitudes toward immigration in some sections of the British population (Solomos, 2003).

Significantly, misleading media reports do not only affect public attitudes, but also impact immigration policy as well. Somerville (2007), argued that in this respect the media have a direct and indirect influence. In direct terms, they influence the attitude of politicians and pressure them to change policy. An example of this is how a big campaign run by The Sun in 2004, in response to Labour's announcement of an open door policy for EU A-8, 'inspired' Conservative leader Michael Howard to oppose the Labour plan. The indirect impact arises when discussion in the media takes account of the 'presentation of policy development (Somerville, 2007, p 136, Spencer, 2003).

The Glasgow University Media Unit conducted a comparative study of how the media covered asylum in the press and television news in 2006 and 2011. They found common usage of the term 'illegal immigrant' across all national UK TV news reports in the 2006 sample in which

asylum seekers were discussed. Only the Scottish regional broadcasts avoided the term altogether. The term 'illegal immigrant' (or variations such as 'illegals') was also common in the press, appearing 90 times in 34 articles in which asylum seekers were discussed, with the highest usage in The Daily Mail (25) and The Times (18). In 2011, the term was used less on TV, but still appeared a concerning amount in the press. Across all 69 articles in the 2011 sample, the term 'illegal immigrant' (or variations such as 'illegals') appeared 48 times. 16 of these were found in The Daily Express and 11 in The Sun (Briant, 2013)

Hostile coverage on the part of the media has a great impact on the representation and subsequent experience of asylum seekers in the UK, leading to verbal and physical abuse by some racist groups. It also legitimises negative public responses in a climate of panic, and demands immediate action from policy makers (Davies and Francis, 2011 ). Now, more than ever, care needs to be taken to ensure that refugees are not caught up in a debate over immigration, or presented in ways that can be exploited by populist groups in the wake of the Woolwich attack<sup>12</sup>.

On the other hand, stereotyping BAME groups and the overrepresentation of black people in particular in CJS, statistics increases fear of these people and strengthen the perception of their involvement in crime. This relationship has been spearheaded and highlighted by the media, exaggerating the criminality of BAME groups

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<sup>12</sup> The soldier Lee Rigby had been hacked to death by Michael Adebolajo and Michael Adebowale, the murderers used holy war as a justification for the murder in Woolwich London May 22/ 2013

and significantly contributing to increasing negative sentiments against them (Solomos, 2003).

Igartua and Cheng (2009), studied the effects of how newspapers frame immigration. The newspaper highlighted the positive (economic contribution frame) versus negative (crime growth frame) consequences and associated certain nationalities with each frame. The crime growth frame stimulated responses that are more negative, increased the salience of immigration as a problem, generated a negative attitude toward immigration, and induced greater disagreement with positive beliefs about the consequences of immigration for the country.

The media can also present and sometimes 'exaggerate' stories anticipating large numbers of future newcomers and their detrimental impact on British jobs, culture, and crimes, particularly after the 2004 EU free movement directive. Foreign nationals in general, and more recently those coming from Poland, Romania, and Lithuania, have topped the immigration and crime headlines. For example, *'Foreigners 'commit fifth of crime in London'* (Harper and Leapman, 2007), *'Immigrant crime soars with foreign prisoners rising'* (Giannangeli, 2013), *'Coalition must come clean on immigration nightmare'* (Express, 2013), and *'Immigrant crime wave' warning: Foreign nationals were accused of a QUARTER of all crimes in London'* (Doyle and Wright, 2012).

In addition, some media reports intended to increase anti-immigration sentiments and the fear of foreigners by relying on the high arrest rate of foreign nationals to imply the criminality of those foreigners. However, the arrest data does not demonstrate criminality among foreign nationals; in

contrast, it supports the studies that confirm discrimination of CJS institutions towards some minorities in the UK (Smith, 1997, Modood, 1997). The high arrest rate of foreign nationals could be looked at from a much broader perspective and link the criminalization and victimization of foreign nationals to the political economy and global social structures (Palidda, 2009, p 313).

In summary, negative media coverage has done much to present hatred headlines and stories about the linkage between asylum seekers and different sorts of crimes, mostly without recourse to a reliable source. As Lord David Davies commented (Hansard, 2001e, col 239):

*'With regard to asylum seekers, I have seen it reported that there could be as many as 200,000 to 300,000 asylum seekers who have been denied entry to this country, but nevertheless have melted into our society and are surviving by way of the black economy. We do not know how many of those have become members of terrorist cells. Another newspaper report suggests that there are as many as 1,200 terrorists living in Britain today. This state of affairs cannot be allowed to continue. In my view, the law should be tightened accordingly'*

## **Chapter 4 Theorising the relationship between foreign nationals and crime**

Many of the related theoretical and empirical studies outlined in Chapters 2 and 3 advocated the necessity to look at immigration policy, legislative expansion, political narratives, and the media as a process of social constructivism, rather than focusing only on external factors (like the economic and social position) to explain the overrepresentation of foreign nationals in the CJS statistical data (Solivetti, 2011, Banks, 2011, Aliverti, 2013a).

Social constructivist traditions understand that knowledge is developed and constructed through human interaction, the influence of social context, and via policies and law (Whiteside et al., 2012, Berger and Luckmann, 1991). This provides the epistemological foundations for this thesis for many reasons. Firstly, it is most closely related to the research questions that examine how foreign nationals have been criminalised within historical, political, and legal contexts. Social constructivism theory allows this research to engage with some important questions, such as how has the criminalisation of foreign nationals been politicised and what is the implication of the foreign criminality discourses, and why there is opacity in the recording and publishing of CJS data by nationality. Secondly, this theory is deployed to provide a more nuanced approach to analysing the statistical data of the CJS and thus aims to fill the gap in theoretical knowledge on the level of crime that foreigner nationals are seen to be involved in the UK. To this end this research intended to

critically examine the over criminalisation and overrepresentation of foreign nationals in the British legal system (Whiteside et al., 2012, Andrews, 2012). Thirdly, while social constructivism examines the subjective meanings, it highlights the intellectual basis of discourse analysis (Chamberlain, 2013) for the political and Parliamentary debates that this research has used to examine how the relationship between foreign nationals and crime were discussed in Westminster which it is argued is central to the imagination of foreigners' criminality. Finally, social constructivism provides the foundations to investigate the further impact of immigration, crime legislation (the crimmigration crisis) and the media in the further propagation of the image of criminality and its application to foreign nationals in order to facilitate changes to law and increase public confidence in immigration policy.

This chapter will thus explain what social constructivism theory is, how it explains criminality and deviance, how the theory interprets the criminality of foreign nationals in the context of politics, and how the CJS has been affected by the cooperation between immigration and crime laws in the UK enhancing the linkage between foreigners and crime.

### **■ Social constructivism theory**

Social constructivism is an interdisciplinary theory that cuts across different disciplines such as sociology, psychology, science, education and philosophy (Henry, 2009). Social constructivism argues that knowledge is developed by jointly constructed understandings of the world, and the coordination among human beings develops the understanding, significance, and meaning of the social world (Miller and

Fox, 1999). Thus, people explain their experience by creating a model of the social world and meanings, and they construct reality through language (Leeds-Hurwitz, 2009) and the media (Potter and Kappeler, 2006).

Social constructivism is fundamentally related to both the epistemological and the ontological assumptions of constructivism in *'describing the bodies of knowledge developed over human history as social constructs that do not reflect an objective external world'* (Constantino, 2008, p 118).

The philosophical view of this theory is that knowledge and truth is created and subjective as a result of our perspective (Schwandt, 1998, Howell, 2013), which offers a radical and critical alternative inquiry, especially in the social science disciplines and the humanities (Burr, 2003). This thus infers that everything an individual comes to know is determined by a variety of factors, such as ideology, language, politics, culture and religion (Bayram, 2010). In other words, knowledge is built from human interactions as is contributed to by many influences such as policies and governance ideologies prevailing in society in addition to religious and moral values held by individuals. Humans, in turn, are subjects to law to maintain their own interests and social status (Guba and Lincoln, 1989).

According to constructivists, humans create social reality through their interactions by identifying some 'important' aspects of social life, separating them from other aspects, acting as though they have a real existence (Henry, 2009, p 1). The extreme group of constructivists though believe that social reality is created inside human minds, who interpret the world and make images in their mind that they believe is

representative of reality. At the time, the moderate accept that there some form of reality fundamental exists, and even social constructions, once created, have a degree of reality in that they recognize that if humans define situations as real, then they are real in their consequences as Henry (2009, p 1), described:

*'If we categorize behaviour, events, and experiences as similar, and name or label them in specific ways, they appear before us as representations of object-like realities with real effects that can be experienced positively or negatively'*

Consequently, crime is seen as one of social realities that are collectively created to shape the social world and impacted by the actions of those who have the power into sustaining them as realities. However, humans have the power to change these realities by recognising their role in its construction and collectively deconstruct and replace it with a less harmful reality (Leeds-Hurwitz, 2009).

Constructivists believe that we create the social world through our words, our actions, and media products. For this reason, social constructivism theory lends itself particularly well to discussions of the connection between the macro and micro. Most often, this implies using analysis at the micro level (specific words, images, actions) to examine a macro process (or structure, or institution). For example, how the politicians and the media use words, images, and legislation describing criminality of foreign nationals and what role statistical data on offending has in enhancing the relationship between foreign nationals and crime thus constructing a particular identity as suspects, offenders, or victims.



## **Social constructivism and crime**

Quinney (2008, p xiv), criticised the definition of crime; crime is not created according to the nature of behaviour rather it is generated and legislated by the political resident as the most powerful members of the society:

*'Crime is a judgment made by some persons about the behaviour and the characteristics of others. Crime is an artificial construct created by a powerful segment of society to benefit their particular interests. In this sense the formulation of all criminal law is a political matter'*

The enforcement and the administration of criminal law are shaped as a public policy by those who have the power in society. Criminal definitions are enacted by those powerful agents and are expanded and exacerbated by the increase in the conflict of interests between segments of a society. The substantive and procedural laws that emerge from this conflict reflect the interest of the powerful in protecting themselves from the competing interests of the powerless. Conduct that is perceived to threaten or conflict with the interests of the dominant groups is designated as criminal (Quinney, 2008, p xiv). The dominant groups see to it that their particular definitions of criminality become enacted as law, ensconced in public policy and protected by the operation of the CJS (Quinney, 2008).

Those who have titled authority and power construct the system of government we have created for ourselves. In creating the structure, they protect their own privilege. Those who are rewarded with titled places in the structure also protect those privileges for they aspire to their share in them. Those who are hired into the agencies and institutions of the

system gain higher authority and title, as well as some form of sharing in the profits, by following the agenda of the system. The owner class may have more than the others, but each is a stakeholder to a small extent. Since the definitions of crime are enacted by those in power, this ever-widening gap in power as well as income puts even more power in the hands of the defining group. Not only that, but the criminal laws and regulations have been in effect now for a long enough time that they seem to just be there as a normative consensus. The original source of the definitions of deviance and crime are long forgotten. We no longer think to look for the unstated assumptions, for the injustices. The laws have come to feel 'right', and the definition of criminal accompanies more accurately our reaction to the behaviour than does the behaviour itself.

The discussion on social and political powers and the way crime is socially constructed are important in order to explore how crime narratives emerge in society, who makes laws and for what purposes. The differences of social norms and values according to the differences in culture, religion, political, and ultimately societies led to differences when social rules are broken and become acts of crime. For example, when chewing khat was criminalised as a class C drug by the UK government in June 2014, foreigners particularly Yemeni and Somali would find this strange especially as it is still considered legal in their own countries.

Crime is constructed by the use of social laws and the decisions of those with power, to make some of these social laws into criminal laws. Crime (as deviant) can be seen as a social construction as what is legal or illegal in one society or culture.

Those with power determine which acts are criminal whether the acts are socially deviant or not, to suit their own purposes and to control certain parts of the society. This argument may explain how and why the criminalisation of foreign nationals has been expanded in the UK. From a foreign nationals' criminality point of view, it is argued that the immigration policy (legislation and parliamentary debates) is mainly focusing on labelling foreign nationals as criminals. For example, focusing on immigration, asylum, terrorism, immigration crime, and border control, along with numerous discussion papers (Somerville, 2007), the focus on linking foreign nationals to different types of crimes either by legislate creates more immigration crimes. This thus connects the border control to controlling foreign criminals. The limited offending data illustrates the relationship between foreigners and crime constructing a tight nexus between foreigners and crime and consequently labelling every newcomer and some ethnic minorities as criminal.

Finally, it is also important to distinguish between the social construction of crime and deviance. Deviance is defined as any non-conformist behaviour, which is disapproved of by society or a social group, whether it is illegal or not, while crime has been defined as the violation of norms that a society formally enacts into criminal law (Browne, 2011). There are different kinds of norms including sexual, religious, and health norms. Not all deviant are criminals, as criminals break legal norms while deviants break social norms in spite of sometimes these two norms are the same. In other words, crimes are generated by sections of the media and government as a physical fact. However, it is evident that crimes are

socially constructed, as society formally chooses which norms to legally obey by passing them into law. If these laws are broken, the act is seen then as a crime.

### **■ Social constructivism and foreign nationals' criminality**

Constructivists believe that the type of the behaviour is not an important element to establish in the crime definition. Rather an authorised and influential member agents introduce the issue as a social problem that affects society in order to gain social credibility (Bourdieu, 1989, Yamamoto, 2010). For example, those who have the authority and the power (like the Home secretary) are more likely to get the social credibility of claiming that a particular sector of the society (like foreign nationals) cause a social problem. However, in liberal democratic societies, authority alone is not enough to achieve social credibility. Presenting the issue in moral terms and creating a moral panic that foreign criminality needs to be acted on by policy and more laws to defend the immediate danger in addition to using an 'objective' data like the CJS statistical data by nationality as a part of the processes of constructing the criminality of foreign nationals (Agozino, 1997, Chapin, 1997, Warner, 2005).

In order to understand how the criminality of foreign nationals is constructed, we need to understand first how the political discourses, CJS agencies, and the media construct identity. This section raises important questions in regards social identity and especially non-traditional identities (nationality), which get its importance from the

successive development within the immigration policy, foreign criminality rhetoric, the CJS agencies, and the media.

#### **4.1.1 Constructing identities by political rhetoric**

Constructing social identity is a growing subject in modern Western societies. It became progressively challenging due to the economic and security changes in Western countries, which turn the focus upon social identities as a source of meaning (Spalek, 2008a). The political rhetoric is an important aspect of processing, persuading and making certain social realities more legitimate or credible than others (Gorman et al., 2006, p 22).

Sociological and criminological work in immigration (Flores, 2003) suggest interconnections between race, ethnicity, nation, faith and immigration in political rhetoric. In crisis, questions of identity seem to rise more than in times of stability. Throughout UK history, political rhetoric has focused on particular ethnicities, races and religions and created cultures of fear and surveillance. Such debates are especially heightened during times of economic and political turmoil. For instance, the war on drugs heightened fears of some ethnicities (like black groups and in particular Caribbean nationals), while national security and terrorism may result in heightened anxieties of some faith groups (like Muslims), and ultimately they all often impact issues of immigration (see Chapter 3).

As Chapter 2 illustrated, political power has the greatest capacity to impose labels upon people by raising a moral panic surfaced about Irish, Jewish, and BAME groups as a source of social problems and picture them as the alien criminals. Angel-Ajani (2003), argued that in Italy and

the rest of Europe (much like the USA), discourses on race, ethnicity, faith and nationality are joined together with the rhetoric of crime and crime prevention in such a way that migrant populations are popularly viewed as being illegal and therefore more prone to criminal behaviour. Not surprisingly then, discourses on crime and on who commits it are saturated with the language of national citizenship, social class, gender and race. In other words, the volume of political rhetoric in using ethnic minority and foreign minority in crime, violence, terrorism contexts has implied a common culture in Europe that *'all Third World people as immigrant and refugees, and all immigrants and refugees as terrorists and drug-runners'* (Angel-Ajani, 2003, p 433).

Ethnic and foreign minorities are considered as an easy target to blame especially when political policy is contributing actively to the fear of their criminal behaviour and keep trying to convince the public that the safety, security and integration is not possible with the continuity of accepting new comers (Sayad, 1996, Palidda, 2009).

Agozino (1997, p 103), explained how the political discourses in the UK, which circulated the criminality of black people and especially black women have constructed the criminality of foreign nationals. Agozino, described a predictable pattern in regards the relationship between foreign nationals and crime in the UK, which suggests that foreigners are criminals, unless otherwise proven.

The racist discourses by some British politicians that manifest itself in text, talk and communication contribute to the reproduction of ethnic and foreign criminality (Panayi, 1999, Panayi, 2010). Presenting the identity of

some races, ethnicities and faith as a social problem, blaming them for social and legal problems, and applying the criminality of some of them to their majority have alienated ethnic minorities from the rest of society and placed them firmly as suspicious (Bolognani, 2006, Beddoes et al., 2010).

However, the construction of identities by politicians changed over time when the focus was directed to faith groups, especially Muslims, rather than other key categories like race and ethnicity, at the beginning of 2000s (Den Boer and Monar, 2002, Fenwick, 2002, Amore, 2006, Fischer et al., 2007). The rhetoric of terrorism, for example, has presented widely across contexts of contention. Where the focus was supposed to be on how to keep the nation safe and protect the country from danger, the forms of rhetoric have concentrated more on presenting some faith groups and foreign nationals as the source of terrorism (Fischer et al., 2007, Hammond, 2011, Huysmans and Buonfino, 2008).

The threat of international terrorism had been of increasing concern for UK governments from the 1980s onwards, however it has accelerated further during the 1990s, before the terrorist events in 9/11/2001 in the USA and the start of the 'war on terror' policy that has been followed by western liberal states. However, the terror of terrorists has produced a conflict in understanding who is the enemy therefore, some particular ethnicities and faith groups have been targeted by the 'new' policy (Jackson, 2007, Spalek and Lambert, 2008).

The political rhetoric pictured the 'new' terrorism has 'new' characteristics in terms of different actors, motivations, aims, tactics and actions. For instance, instead of political and ideological reasons the 'new' terrorists

are motivated by religious extremism and ethnic-separatism and are not prone to political negotiation or military deterrence. In addition, the new technology and weapons increased the threat of the nation and the fear of terror (Pantazis and Pemberton, 2009). The 'War on Terror', which started in 2001 in the USA, might not be directly focused on immigrants but has a significant impact on them. Foreign nationals from specific countries have been stereotyped and many of the human rights of these foreigners have been breached under the guise of security, counter-terrorism or national security (Hansard, 2001f, col 747, 773, 807-808, 924-925).

The political rhetoric that have social and practical implications ultimately affect the criminalisation of foreign nationals; by focusing on the criminality of the few and applying it to the majority and to legislate more acts that connect them to different sorts of crimes under the label of national threat, controlling borders, or reducing the pressure on prisons (Gorman et al., 2006, Every and Augoustinos, 2007, Kundhani, 2002).

#### **4.1.2 Constructing identity by the CJS**

Historically, as explained in Chapter 2, foreign nationals from different ethnicities and faith groups in different eras were attached to particular labels (offenders) because of economic, political, social, health and security problems. Foreign nationals have been put in the spotlight by the CJS agencies and especially the police due to particular events or conceptualisations at particular times, place and in relation to the individuals with whom there is interaction.



Webster (2007a), discussed how public order and race relation became synonymous with negative stereotypes British police have of ethnic minorities. The police denial of the race-relation regression between white and BAME communities in one hand, and then over policing of BAME communities as being suspected of prostitution and gambling and then reinforcing the negative stereotype towards non-whites has explained the real relationship between BAME groups and the police.

Neighbourhoods where non-white and foreign nationals are dominant populations tend to be over-policed, something that makes ethnic and foreign minorities more 'visible' (Papadopoulos, 2010) and under protected (Bowling and Philips, 2002). For example, West Indians, black and Muslims neighbourhoods were over-policed due to their attachment to prostitution, drugs and terrorism respectively (Webster, 2007b).

The over-policing and overrepresentation of some ethnic and faith groups in CJS statistical data, make many researchers' think of the beginning of stereotype offending creation by the police to some BAME groups (Keith, 1993).

Norris, Fielding, Kemp, and Fielding (1992) used quantified observational data to explore the complex link between racial prejudice and discriminatory police action. The data confirm that black people (especially the young) are more likely to be stopped by the police than white groups, although they are, on average, stopped for the same types of offences. It would also appear that black groups are stopped on more speculative grounds than white groups. However, once stopped, the demeanour of black groups towards the police is no different to that

displayed by white groups, except that blacks are less likely to show signs of insobriety.

Ethnic and foreign minorities are disproportionately represented in prison statistical data to an alarming level. England and Wales has the topmost proportion imprisonment in the European Union and Blacks (African/Caribbean) contribute the highest rate for having drugs (Heaven and Hudson, 2005). There is greater disproportionality in the number of black people in prisons in the UK than in the United States; 13.1 percent of prisoners self-identify as black, compared with approximately 2.9 percent of the over 18 population recorded in the 2011 Census. Similarly, Muslim prisoners account for 13.4 percent of the prison population compared with 4.2 percent in the 2011 Census, this figure has risen sharply since 2002 when Muslim prisoners were 7.7 percent of the prison population (Jess Mullen, 2014).

Many studies (Waters, 1990, Smith, 1997, Wu et al., 2010, Hood, 2003) have investigated the representation of BAME groups into the CJS and found that some minorities (particularly black) are over representing at the receiving end of the system. That is as defendants, suspects and prisoners and under represented on the giving end, that is as personal occupying posts as police officers, lawyers, judges, probation and prison officers.

Data on out of court disposals and court proceedings show some differences in the sanctions issued to people of differing ethnicity also in sentence lengths. These differences are likely to relate to a range of factors including variations in the types of offences committed and the

plea entered, and should therefore be treated with caution (Moore et al., 2011). Conviction ratios for indictable offences were higher for White persons in 2012 than for those in the BAME groups, and a higher percentage of those in BAME groups were sentenced to immediate custody for indictable offences than in the White group in 2012 (Ministry of Justice, 2013a, Marques dos Santos et al., 2013). This may in part be due to differences in plea between ethnic groups.

The over-representation of BAME groups in judicial statistics and crime rates is the product of their social weakness and of the process of labelling (Burdett et al., 2003, Burdett et al., 2004). It is within this context that the courts and public broadly define what is 'deviant behaviour' when performed by a foreigner or other disagreeable characters and disregard the same behaviour as an eccentricity when performed by a 'citizen' (Angel-Ajani, 2003).

As an application of the social construction of deviance, stereotyping and labelling some ethnic and foreign minorities as criminals is common in the judicial system (Palidda, 1997). For example, the highest Average Custodial Sentence Length (ACSL) for those given determinate sentences for indictable offences was recorded for BAME groups, at 23.4 months, followed by the Asian, Mixed and Other groups with averages of 22.4, 20.4 and 17.2 months respectively. The lowest ACSL was recorded for the White group at 15.9 months (Marques dos Santos et al., 2013).

Furthermore, recent shifts in migration patterns have demanded a re-conceptualisation of the perception of those who might belong to BAME groups and the question of the difference that has become salient in

contemporary societies. Such conceptual shifts have implications for the relationship between the police and citizens from BAME communities (Bowling and Phillips, 2003).

The over policing of BAME groups and religious communities to tackle illegal immigrants and terrorists led to over representing of BAME and foreigners in CJS statistical data and blaming them for causing legal problems (Chapin, 1997, Papadopoulos, 2010), which eventually has enhanced the construction of foreign criminality and labelled foreigners as offenders.

The political rhetoric, which accompanied with a multitude of legislation, bills, white and green papers in addition to the government publications in the Labour, Conservative and Coalition governments has impacted the criminal justice agencies and those employed with them. The implication of these and other government initiatives have been serious. Organisationally there have been attendant increases in visibility and accountability; a greater preoccupation with public protection, inter-agency partnership and evidence based practice; and in agencies such as, Probation service an important shift of emphasis from the treatment of individual offenders to the classification and management of offending (Gorman et al., 2006). These continuing organisational and ideological changes have impacted on the everyday activities of individual practitioners' especial police and prison and court staff. However, others also working with prison staff implicit in the changes is a 'decline in trust' in the expertise and the decision making of front line practitioners like immigration officers and the UKVI and the institution related to them (Berger and Luckmann, 1991, Jordan, 2006).

#### **4.1.3 Constructing offenders' identity by the media**

Constructivism problematizes what is called facts or reality. It challenges the view that conventional knowledge is based upon unbiased observation and that we can therefore separate subject and object, the perceived and the real, and it warns us to be ever suspicious of our assumptions about how the world appears and the categories that we use to divide and interpret it (Gorman et al., 2006).

Moral panics over foreigners are not new in British society. There is a historical role played by parts of the media in the stereotyping of the Irish, especially those workers who were pictured as lazy and too unreliable for any sort of work in the UK. The media played also an essential role in highlighting, exaggerating, and presenting different foreign nationals from different ethnicities and religions as criminals (Al-Faris, 2015).

Potter and Kappeler (2006), examined how crimes are constructed by analysing what crime means to the public and how do they know about it? Potter and Kappeler highlighted the role of the media in constructing crimes in addition to their personal interaction. Our understanding makes the world that we understand through available information, and it is here where the importance of the stories, images, film, documentaries and programmes that the media produce appear in order to influence and affect the opinions of society about the relationship between foreigners and crime.

Some newspapers and TV programmes produce concerns about the possible criminal behaviour of foreign and ethnic minorities in British society and believe there are consequences of their perceived hostile

behaviour. Newspapers reproduce the idea that these social groups are a real problem and that they pose a threat to society, and that something should be done about it, generating citizens demand for more social control (Gomes and Machado, 2011).

Gomes and Machado (2011), explained how the media constructed moral panics over foreign minority criminality via four factors. First, the media are dependent on official sources of news, so act as secondary definers of such primary definers. Second, the media translate the statements of the powerful into a 'public idiom', familiar to their readers. Third, the media feedback to primary definers their own reactions as if they were public opinion. Fourth, the media overemphasise violence in order to justify the extent of reaction.

The national press present foreigners from different categories especially asylum seekers as groups that threaten the values and interests of British society. There is disproportionality and exaggeration in the reported crime. In fact, journalists tend to emphasise a sort of crime that is often not pervasive in society, promoting fears and anxieties of becoming a potential or real victim. The bulk of the media in host Western countries support and even strengthen this negative perception against foreigners at the time empirical researches often concluded the opposite (Hagan and Palloni, 1998, Tonry, 1999, Mears, 2002, Papadopoulos, 2010).

These reactions are denoted either upstream or downstream of news production. The news tends to emphasize feelings of insecurity, victimization and fear of crime through reporting the reactions and opinions of authorities and common citizens. This trend might denote an

overreaction which has the potential to reproduce stigmatization of foreign nationals and other BAME groups and which might be more visible in periods of political, economic and social tension (Boomgaarden and Vliegthart, 2007, Gomes and Machado, 2011).

#### **4.1.4 Constructing foreign nationals criminality**

Spalek (2008a) explained how the construction of identity is connected to the notion of power; the identity of offenders as constructed by governmental activities, which aim to shape, guide and affect the conduct of some people. This is true of immigration policy that determines the rights of foreign nationals and restricts some of others like the right to work for asylum seekers, leaving them with no choice but to engage with illegal activities, especially in the case of unreturnable failed asylum seekers (Bell and Machin, 2011, Bell et al., 2010). It is also possible to include political rhetoric as a part of the notion of power. Bourdieu (1989), explained how governmental authority in modern society uses the strongest symbolic power regarding social problems and labelling certain offenders due to its structural position. For example, when rhetoric about foreign criminality comes from the Home Secretary or Prime Minister, it would be more likely to be believed that foreigners caused crimes, than if it comes from a person who has no authority or experience (Yamamoto, 2010).

This section will explain how the immigration policy and the political rhetoric reinforced and constructed the relationship between foreign nationals and crime by labelling them as criminals.

#### **4.1.4.1 Culture of panic and emergency: the role of the immigration policy**

The increasing culture of panic and emergency with regard to immigration has created social panic among the public, fed by the mass media and driven by anti-immigrant policies.

Over the past several years, Europe has moved toward more repressive immigration laws and stricter enforcement measures. The intensifying policing of national borders has created state-sanctioned practices of targeting particular immigrant groups, as potential criminals (Angel-Ajani, 2003). Racially coded immigration laws in Western countries have facilitated the constructions of the relationship between foreign nationals and crime in those countries.

Bowling and Sheptychi (2015, p 65), argued how globalisation especially in relation to increase mobility have developed the 'moral panic' to immigration in western countries. The increase in mobility has led to a transformation in the traditional site of policing and established the 'cimmigration control system'; immigration officials, police and customs officers are all now active in the field of crime and immigration enforcement and the borders.

Expanding the borders of the state outside its official territories is a move to criminalise immigration violations like illegal entry and overstaying, which has expanded the enforcement of migration control inward. Combining the immigration with criminal laws and giving the nature of penalty to the immigration legislation in addition to the increase in official and non-official actors that have been into the enforcement process has



made it clear to the public and the CJS institutions and workers that foreigners are potential criminals (Bowling and Sheptychi, 2015).

There are approximately 50 offences in immigration legislation that could result in a custodial sentence. In particular, the Immigration and Asylum Act 1999 significantly increased the chances of those seeking asylum to be prosecuted for immigration offences. For example, under section 2 of the Act, deception exercised in obtaining leave to enter or remain in the UK can be punished by up to two years imprisonment. Deception broadly encompasses entering the UK under false pretences, possessing false documentation, or the destruction of travel documents. The burden of proof is placed upon the asylum seeker who must demonstrate a 'reasonable excuse' in such circumstances (Aliverti, 2013a, Aliverti, 2013c).

Stumpf (2006), Aliverti (2013a), and Bowling and Sheptychi (2015), argued how the government has used criminal laws to control immigration; criminalising the violation of borders like illegal entry, failure to register, attempting to enter with false documents and unlawful employment and changing the label of them from illegal immigrants to foreign offenders mirrors the government attempt to link these people to criminals.

The obsessive of the state in controlling unwanted foreign nationals and protecting nation's security from terrorism and violent attacks have led to a revolution in the managing of borders or as some scholars called 'border militarisation' (Wilson, 2015 p, 144). The establishment of surveillance technologies from reinforced barriers and border patrols to

the technology of border surveillance such as satellites, X-Ray scanners, and heat and motion detection systems have successfully accomplished its mission of immobilising the unwanted foreigners and increasing the stereotyping and linking of foreigners to different sorts of criminal activities.

The UK government has at times opportunistically manipulated fears on crime and security to gain support from citizens made insecure and fearful in part by its economic programmes. It has also tried to gain political capital by fostering hostility to welfare cheats and bogus asylum seekers. Its restrictive policies in the field of income maintenance and immigration have reinforced suspicious and resentments against poor people, BAME groups, and immigrants (Jordan, 2006). For example, section 2 of the Asylum and Immigration Act 2004 has made it illegal for anyone to enter the UK without a valid passport, increasing the difficulty for those seeking asylum to enter the country and further criminalising those individuals who do arrive without the appropriate documentation (Stevens 2004). Within a year of its implementation, 230 asylum seekers had been arrested and 134 convicted for failing to produce a passport upon arrival (Aliverti, 2013b). These measures have come under severe criticism for criminalising foreign nationals who under Article 31 of the 1951 Geneva Convention should not be punished for their illegal entry or presence if they arrive from a country in which their life or freedom is threatened (Banks, 2011).

#### **4.1.4.2 Constructing foreign criminality by the CJS**

The construction of offenders identity is widely implemented by their overrepresentation of different ethnic minorities and religions in the CJS data has widely the construction of offenders' identity. Banks (2011) and Chapin (1997) finds that although foreign nationals are overrepresented in prison statistics and statistics of criminal suspects, a large fraction of their crimes concern violations of immigration law regulation. He shows that if these violations were taken into account, the difference between foreigners and natives' involvement in crime would be considerably lower.

The over involvement of criminal law in immigration law, the cooperation between the CJS and the UKVI agencies, and foreign criminality discourses have required the CJ agencies to consider the appearance, language and skin colour as identities of offenders when applying immigration and crime policies. On the other hand, the connection between immigration and crime has taken a new shape recently regarding the transnational violent attacks and transformed the arguments from identifying the responsible of these crimes to the connection between Islam and terrorism and violence. All the different types of immigrants are a core of the suspicion from the official institution, media and the public attitude (Calavita, 2005). Banks (2011), explained that the growth of FNPs in patterns of offending through the increase in non-criminal prisoner receptions, an increasingly restrictive immigration policy, ineffective deportation provision, and a (perceived) lack of viable alternatives to custody. Bank's research also mentioned the role of the increasingly restrictive immigration policy as a reason for a rising foreign national population in British prisons. This is because tightened immigration policy

has resulted in an increase in both the number of those held without arrest and the number of those charged with immigration offences (Banks, 2011, Bhui, 2009a).

Restrictive immigration policy has played a significant role in the increase of the FNP population. Immigration legislation during the 1990s and 2000s focused either on restricting the right to live and work in the UK (like the Asylum and Immigration Act 1996 & 2004 and UK Border Act 2007), or criminalising foreign nationals by expanding the criminal law. The preoccupation with risk and managing foreign nationals' risk has shaped current responses to crime, FNPs, and foreign national offenders. Garland (2009), pointed out the culture of the fear of crime, which started to become the key concern regardless to the level of crime, and implemented an increase in stereotyping and accordingly a change in the CJ policy its practise.

The practical side of immigration and CJ legislation, and especially anti-radicalisation and anti-terrorism laws, reflects how the CJS and immigration officers target BAME groups in general, and made them a core for suspicious (Pantazis and Pemberton, 2009, Mythen et al., 2009).

#### **4.1.4.3 Foreign criminality discourses**

The volume of foreign criminality discourses and public concerns about the relationship between immigration and crime as immigrants are more dangerous than indigenous and committing more crimes than their counterparts. There is a common sense that the increase in prisons' population means increases in committing crimes, and then the rise of foreign nationals' prisoners' population is correlated with the increase of

immigrants and newcomers. Ultimately all previous allegations used as evidence to confirm the relation, as foreign nationals are more dangerous than indigenous (Banks, 2011, Young, 2003). Issues of immigration, like those of crime and criminals, are viewed as public policy dilemmas in which themes of immigrant criminality are so prevalent, societal imagination already regards immigrants as criminals because, 'spatial mobility is expected to imply anomie' (Agozino, 1997, p 103).

Warner (2005), highlighted the importance of the political debates to construct the relationship between foreign nationals and crimes. Warner argued that the political attack on criminalising illegal immigrants, deportation measures, and the focus on militarising borders in order to protect the nation's security have led to the increase in stereotyping of foreign nationals and their linkage to different immigration and non-immigration criminal offences (Wilson, 2006, Wilson, 2015). The climate of anti-immigrant rhetoric relies on the dual discourses of criminalization and notions of racial and cultural difference, which can negatively affect public knowledge about immigrants, and policing practices additionally fuel the public's imagination and misperceptions. (Angel-Ajani, 2003). The official discourse of foreign criminality presents crimes by foreigners as a clear and immediate danger to British communities (Yamamoto, 2010). Yamamoto (2010, p 38), Yamamoto (2013) explained how the dichotomised picture of 'foreign predator and Japanese prey' in foreign criminality discourses consists the link between foreign nationals and crime in Japan. The author explained how crimes associated with foreignness in Japan and the foreign criminality discourse ties local citizens with innocence and safety, emphasizing the safeness of 'pre-

foreigner' communities. The dramatic increase of FNPs is emphasized and the brutality of some crimes especially those that are dominated by foreign nationals like terrorism and immigration crimes are explained as the result of cultural and religion differences (Kundnani, 2002, Noronha, 2015).

## Chapter 5 Methodology

### Research aim

The main aim of this research is to provide a critically examination of the reasons for the widely held perception that foreign nationals are more involved in crime than UK nationals. In order to do this, the research examines elements such as nativism in immigration policy, foreign criminality discourses, and the statistical offending data to understand how the criminality of foreign nationals has been constructed. It examines how foreign nationals have been stereotyped and criminalised in immigration policy and political rhetoric, and the negative impact of this on public sentiment and CJS practise. At the time when there are limited criminological studies into the perceived association between foreign nationals and non-immigration criminal offences, the objectives of this research are set within a wider theoretical framework that examines the criminalising of foreign nationals and changes to immigration policy intended to address foreign national criminality.

This research examines discrimination in legal treatment that disadvantages foreign nationals, and how the immigration and crime policies will direct the perception of the relationship between foreign nationals and crime, increasing negative public sentiments and the overrepresentation of foreign nationals in the CJS statistical data. This research has important implications in that it intends to help fill gaps in UK criminological and migration studies concerning issues relating to the legal impact of foreign nationals.

This research raises important questions about why there is a limitation in statistical data relating to foreign nationals, and whether this issue alone might provide a reason for the shortage in studies and investigating the nature of foreign national criminal offences (Banks, 2011; Bhui, 2009a; Bhui, 2007).

This chapter starts with a discussion of the methodological design by looking at the methodology approaches to measuring foreign criminality and a description of how this research was designed and implemented. This part contains an analysis of the methods of why a comparative analysis is being carried out in this study. Finally, the chapter will provide details about challenges that affected the research and obliged the researcher to make significant changes to methodology, with corollaries for research methods and data analysis.

## ■ **Methodological approach**

In the literature review in Chapters two and three and in the theory chapter (Chapter four), it has been noted that the criminality of foreign nationals is constructed; it is more enduring depending on various factors and ultimately may or may not have a relationship with behaviour. It is both important and difficult to explore the relationship between foreign nationals and crime; therefore, several methodologies have been developed to measure the relationship between foreign nationals and crime in this research.

First of all, the broad approach of the current research is considered as social constructionist, since it is concerned with identifying the various ways of constructing social reality (Willig, 2001), specifically the various



ways of constructing the relationship between immigration and crime. Social constructivism holds that facts, like for example attitudes towards foreign criminality, are products of human acts of interpretation, judgements and negotiation. As Burr (2003) suggests, by observing certain things and interacting with each other, people socially construct knowledge and what exists is what people perceive to exist. Different groups will have different ideas concerning what counts as their reality, here their perceptions towards crime and criminals related issues.

In general, measures of foreign criminality are either direct (explicit) or indirect (implicit). Direct measures of foreign criminality are frequently statistical data (especially in the USA where the place of born is usually recorded) that mostly published by the CJS and other related agencies (Solivetti, 2011, Stowell, 2007). However, researchers faced several limitations of direct measures, including the restriction and the disorganisation of recording the nationality or the place of born in the CJS data (Solivetti, 2011). In the UK, there is a limitation of recording nationality of the place of born and a largely focus on ethnicity due to different reasons: Firstly, practical barriers of recording nationality at the stop and search stage especially after repealing the Identity Card Act 2006 when the National Identity Register was cancelled (2006). Secondly, in order respond to the Secretary of State's duty of publishing statistical data to evaluate whether people from different ethnic minorities are being treated fairly, CJS and some statistical agencies think of recording race and ethnicity rather as an easier and more practical way than recording nationality, as well as ethnicity would not change unlike nationality (Office for National Statistics, 2004, Office for National

Statistics, 2012b). As a result, such limitations have led to the creation of indirect measures of foreign criminality, by interviewing those who work in the CJS or the UKVI fields and analysing the political discourse, government document and/or analysing some of the media products (Noronha, 2015, Yamamoto, 2013, Yamamoto, 2010).

This research will be using mixed methods and analysed comparatively, for the first time, the CJS statistical data by nationality and the political and parliamentary debates in order to present a wider picture of the level and the type of foreign criminality in the UK and how the political narratives and the immigration and crime legislation constructed their criminality.

## **Research design**

Research strategy must be paid a close attention when developing research especially in complex and difficult issues like constructing foreign criminality. The debate of qualitative versus quantitative is based upon whether researchers should use one approach over the other although the two strategies are discrete in quite a few aspects (Creswell, 2003). Quantitative research has generally been directed more at theory verification and it is based on the researcher's choice to use post-positivist claims to generate knowledge such as variables, hypothesis, and tests of theories, while qualitative research has usually been more concerned with theory generation and the researcher is looking for knowledge based on constructivist perspectives (Creswell, 2003, Punch, 2000). Many scholars engage in words versus numbers debates; qualitative data is collected in the form of words, pictures or objects,

emphasising the meaning of words rather than numbers and statistics, as in quantitative data collection (Bryman, 2006). That separates the two strategies in terms of deductive (the researcher uses theories and puts these forward at the beginning of the study) and inductive (the researcher begins to collect information in turn identifying themes that are associated with theory generation) approaches (Creswell, 2003). David and Sutton (2004) note that the quantitative approach is related to the deductive approach which aims to test a hypothesis, whereas qualitative strategies link with the inductive approach, which is more exploratory. However, both qualitative and quantitative research strategies are constructive and significant, depending on what a researcher is investigating.

Creswell (2003), considers mixed methods as a further approach in itself, one that is able to leverage the advantages of using each method alone. Creswell acknowledged that while many researchers in the past have used both quantitative and qualitative methods, the conscious merging of both forms of data together as a distinct research design or methodology is new. In the field of criminology, the strategy of using mixed methods has increased in popularity in the last couple of decades. Different methodologies have been used towards several aspects of foreign criminality like analysing CJS statistical data, immigration legislation and the immigration policy (Stowell, 2007, Aliverti, 2013a, Anderson, 2013). Despite the use of different approaches to measure the criminality of foreigners, the negative relationship between foreign nationals and crime was the main finding for various studies that used dissimilar methodologies.

There are a number of approaches for acquiring information about foreign criminality that are of importance to this research and a combination of quantitative and qualitative methods has been used in order to the relationship between foreign nationals and crime. Analysing the CJS data by nationality (quantitative) together with discourse analysis of parliamentary debates (qualitative) can help to ensure that there is no ambiguity or misunderstanding, as well as providing data to establish an estimate of the reliability and stability of the method (Punch, 2000).

There has been growing acknowledgement amongst criminological scholars of the need to design research strategies according to the specificity of the research question(s), rather than personal preferences for either quantitative or qualitative methods (Chamberlain, 2013). This research questions are not only focused on the number of foreign national criminals and prisoners, and the types of crimes they commit, but also relate to finding explanations for the reasons behind criminal foreigners' perception, as well as examining immigration policy, political debates and the media coverage of the relationship between immigration and crime. Therefore, in this research, the quantitative method is useful to find the level of foreign national criminality and the sort of crimes foreigners commit in the UK, however; statistical offending data alone is not sufficient to explain and understand the criminality of foreign nationals, especially with the limited relevant criminological literature in the UK context. At that point, a qualitative method is appropriate to answer the research questions, analyse how the criminality of foreign nationals constructed in the UK, and examine specific aspects in more depth such as the nationality as the new racism. In summary, the

qualitative analyses allow the key findings on foreign criminality perceptions obtained through the quantitative deconstruct to be explored in more details.

## **Secondary data**

Secondary data is data collected by an individual or institution other than the researcher (Crow and Semmens, 2008). As such, there are two different analyses of the secondary data. The first of these is secondary data analysis, of data such as crimes, offending, and victimisation, Census, national surveys, and interviews collected and processed in one study. The second area of secondary analysis is through discourses analysis, concerned more with government documents and reports, political discourses, media, and parliamentary debates (Semmens, 2011, Whiteside et al., 2012, Saunders et al., 2007). In criminological studies, secondary data is widely used, especially when the research concerns a large geographical sample; national-level data collected by the government and official national surveys will help researchers constrained by time and expense (Crow and Semmens, 2008).

### **5.3.1 Analysing CJS data by nationality (quantitative data)**

*The data of incarceration may not be the best inductor of criminality, but they are undoubtedly a sound measure of incrimination (Solivetti, 2011, p 125).*

In order to find the level of foreign national criminality and the sort of crimes foreigners commit in the UK, the statistical offending data published by different CJS institutions and available from official national UK websites will be used. Phillips and Bowling (2003), show different

methods that have been used to measure delinquency, such as self-report studies, surveys/questionnaires, or polls in which respondents read questions and select a response by themselves without researcher interference. However, other studies have used the official statistics or national surveys to provide data on the same area.

In this research, statistical offending data was chosen over the other methods outlined above for the following reasons. First, these secondary data also demonstrate the level of knowledge that different CJS institutions and national information offices in the UK have in regard to the foreign nationals and their relationship with criminal behaviour (see Chapter 6). Second, this route of analysis also allowed the research to demonstrate how some politicians and media take advantage of the different methodologies used to collect these data to perpetuate the relationship between foreign nationals and crime in the UK. This will also highlight the limitations of such data, and show why the political and media inferences that are drawn from it are inaccurate or unfounded. Third, using secondary data helped to eliminate the time and expenses limitations in collecting such information directly (Saunders et al., 2007).

#### **5.3.1.1 Quantitative data resources**

There are different resources available for offending data in relation to foreign nationals and their population in the UK that have been used in this research. Secondary data has been drawn from the following:

- 1. Government publications:** Different governmental institution websites have been consulted, such as the MoJ, Home Office, ONS, the NISRA website, and NI Prison Services (NIPS). The latter website has

been used to find some data regarding foreign nationals in NI and their relationship with the CJS there, only as a comparative example for the situation in E&W.

**2. FOI requests:** Due to the limitation of the data published by government institutions, successful replies to requests under the FOI Act 2000 made by the researcher or other people in the UK to the MoJ, MPS and Home Office have been used. The researcher has made 12 requests: nine via the 'What do they know' (WDTK) website, and three through University email (see Table 5.1). Much of this data took a long time to be provided; some have taken months and in some requests only partial information has been supplied regarding foreign nationals and their relationship with the CJS in E&W.

Most of the requests have been sent to the MoJ, as the literature indicated that the prison services hold the most complete data, being the only institution in the CJS interested in recording the nationality of prisoners. Additionally, most of FOI requests to the Home Office have taken longer time than FOI requests to the MoJ and one request (Processing non- recorded nationality prisoner cases (30721)) has been 'ignored', in spite of the efforts that the researcher has made of sending reminders to them of the need to respond within 20 working days. However, when this outstanding request was sent to the Home Office via 'What Do They Know' website, the response was the fastest of all requests.

**3. Official national surveys:** different national surveys like APS, LFS, and IPS and the 2001 and 2011 Census in the UK, mainly to determine

the population of foreign nationals in the UK and the different methodologies of collecting such data.

### **5.3.1.2 The limitations of data related to foreign nationals**

Different countries have varied approaches to recording data; some (such as the USA and most western European countries) include more information than others, particularly in terms of the nationality of those who have been involved in problems with the CJS. Other countries, such as the UK, concentrate on recording some variables more than others, like focusing on ethnicity rather than nationality (Solivetti, 2011).

Hence, CJS data organised by nationality is not so detailed and widely available as those recorded by ethnicity. Despite prison data being the most 'complete' in terms of recording nationality, it still far from perfect. Limitations in recording and publishing such statistical data hence impacts on the related literature and the ability to investigate foreigners' criminality.

In general, the limitations of secondary data are divided into three types. Firstly, recorded unpublished data, meaning data the researcher has acquired through the FOI Act 2000 or using the results of other FOI requests. An example of this data is the characteristics of prisoners by nationality. Secondly, recorded unorganised data; those data that have been recorded but are unpublished for a variety of reasons. Thirdly, unrecorded data, referring to data that has not been recorded and therefore is unavailable from CJS records, such as stop and search data by nationality.



Table 5.2 shows the limitation of the obtainable data; there are numerous occasions when data are limited or unable to be published because of how they have been collected, input, or organised. For example, recording stop and search data by the nationality is not required according to PCEA 1984 (see page 158), and any related information is unavailable according to a FOI request to the Home Office (Robb, 2010). Similarly, the number of annually convicted and sentenced foreign nationals (not necessarily under immediate custodial sentence) in British courts is not identifiable in national data due to the lack of organisation.

In an FOI request by the researcher to the Ministry of Justice regarding how many foreign nationals were convicted and sentenced annually from 1997-2014, the Analytical Services Directorate in the Justice Statistics Analytical Services explained:

*'The Ministry of Justice Court Proceedings Database holds information on defendants proceeded against found guilty and sentenced for criminal offences in England and Wales. This database holds information on offences provided by the statutes under which proceedings are brought but not all the specific circumstances of each case. This centrally held information does not allow us to separately identify a foreign national. This detailed information may be held on individual court files but is not reported to Justice Statistics Analytical Services due to its size and complexity.'*  
(Analytical Services Directorate, 2014).

The restriction of collecting, organising, and publishing foreign national data with the CJS reinforced the intention of this research to examine nationality more closely and how its lack of recording relates to (indeed facilitates) political agendas (Chamberlain, 2013, Crow and Semmens,

2008). The restricted publication of available data breaks rules relating to clarity in the level of foreign national engagement in criminal activities in the UK. For example, when political and parliamentary debates connect foreign nationals to terrorism, with border control raised as a suggested solution, data describing those who are stopped, searched and arrested by nationality is not available and it is not collected by any means.

### **5.3.1.3 Disorganisation in the published data and poor justifications**

It took some time to collect the data, re-categorise, and represent it for this research. The data in this research accounts for the majority of relevant recorded data that includes nationality. There is however an unjustifiable limitation of the data published by the Ministry of Justice and Home Office, in addition to the weak methodologies used by the Ministry of Justice Court Proceedings Database and prison administration.

In addition, there is a conflict in the publishing numbers of different tables that present the same type of data in the same government institution. For example, tables 6.8A and 6.8B showing the population of those who are in prison under the 1971 Immigration Act or immigrant detainees.

The Home Affairs Committee (HAC) 21<sup>st</sup> report (Home Affairs Committee, 2011b) confirmed the limitation and the chaos of finding information in relation to immigration data:

*'On this occasion, even their Chief Executive had difficulty in following the data provided to the Committee. The work of the "Agency" and any discussion on immigration will necessarily involve the use of statistics... It is difficult to see how senior management and ministers can be confident that*

*they know what is going on if the "Agency" cannot be precise in the information it provides to this committee. As The Committee has pointed out on a number of occasions, the "Agency" is an integral part of the Home Office and is not a separate "Agency" with separate systems of accountability'*

There are also examples of these discrepancies with the data obtained under FOI 2000. For example, in a request to the MPS asking for clarification over published data in regards of arresting foreign nationals in London, the researcher asked for explanations of putting countries that do not exist like 'United Arab Republic', or putting different names to the same country with different numbers of arrest like Free Irish State and The Republic of Ireland (Al-Faris, 2014). The reply was as follows:

*'When an individual is arrested they are asked to define their own nationality, this is recorded even if this is not an officially recognised nationality, as this is how the individual has described themselves. Hence the reason for the 'Free Irish State ... The reason that a country called the 'United Arab Republic' is there is because this is the country that an individual has given for their nationality. If they choose not to give their real nationality that is their right'*

Another example, relating to a request sent to NOMS in the MoJ, asked about the prison policy of recording the nationality of prisoners, specifically the 'not recorded nationality' prisoners category. The research asked how HMPS would cooperate with the UK Border Force to deport unrecorded nationality prisoners if their nationality remains undeclared. The reply was:

*'A prisoner's nationality is recorded on the Prison Service IT system (P-NOMIS) on initial reception into prison custody. It is also recorded on the prisoner's core record which is a paper file. Nationality can be indicated by a passport or other accompanying paperwork, or be self-declared. If a prisoner's nationality cannot be established on reception, this will be recorded as 'unknown'. All efforts will be made to establish a prisoner's nationality when it is unknown. The prisoner will be referred to the Home Office who will determine their nationality. Should the Home Office confirm a prisoner's nationality, or establish that it is in fact different to the one recorded by the prison on initial reception into custody, prison records will be updated accordingly. In the majority of cases where the nationality was unknown, the prisoner is proven to be British' (National Offender Management Service, 2014)*

Furthermore, the researcher received no answer to an FOI request to the UKVI in February 2014, investigating further the fate of unrecorded nationality prisoners, their potential for deportation, and what happened if the nationality of the prisoner still unclear. However, when the same request was made via the 'what do they know' website, the following reply was received (Immigration enforcement/ Criminal casework, 2014):

*'The Home Office process is to investigate all cases where the nationality is unrecorded. The Home Office check various databases and sources of information, as well as interviewing the prisoner, to establish their nationality...The Home Office considers for deportation or other immigration enforcement action all non-British/foreign national offenders who are sentenced to a period of imprisonment following a criminal conviction. Once a person's nationality has been established the Home Office will deport the prisoner to their country of origin'*

The implication of such 'mess' in recording the nationality of arrested foreign nationals and prisoners affects the validity of the national-level data, and ultimately the analysis of these data. Weak justifications and excuses for the poor recording of data in addition to the difficulty in getting reliable answers, or answers at all, from institutions involved in the control of people using their services are also problematic. At a time when some foreign national offenders are deported depending on a recommendation from the court (Aliverti, 2012), recording nationality is restricted. In other words, when the deportation of foreign national offenders is such a priority for the Coalition Government, and when foreign national offenders are one of the most heated topics in media and political discourse, it is regrettable that the system for recording foreign national data seems so flawed.

The lack of clarity of information related to FNPs raises concerns regarding around access to rights, representation, access to information and advice and language barriers. As the Northern Ireland Human Rights Commission express in their Response to Northern Ireland Prison Service Draft Foreign national Prisoner Strategy 2008-2010:

*'Drawing comparisons between the representation of nationals within the prison population could exacerbate racial tension, heighten levels of xenophobia and feed racial stereotypes' (Potter, 2011, p 2)*

Moreover, it is not only the prison and arrest data by nationality are chaotic and confusing; the term 'offence not recorded' seems vague too. When a prisoner reaches the final stages of the CJS, at the very least the important related information such as the type of the crime should be

recorded. The Prison and Probation Statistics section (2009, p 165) mentioned in their statistics bulletin:

*'Efforts are made to ensure the completeness and accuracy of the data, as far as is practicable. Establishments are not, however, always in receipt of the necessary details, notably regarding offences. Where the offence data are incomplete we use the category 'offence not recorded'*

The obtainable published data that has been used in this research presented many challenges in addition to the above limitations and reliability issues. For instance, there are varied definitions of immigrants, and as Chapter 1 showed, different meanings such as foreign national, foreign born, or non-British passport holder imply such differences should be publishable in order to clarify the different numbers representing the population of immigrants. However, the different methodologies used to identify and collect data on the number of the foreign nationals in the UK population mean there is a lack of clarity between different cases.

#### **5.3.1.4 The variables and the sample identification**

Every chosen variable within the secondary data distinguishes by nationality. The research questions and the main aim of this research informed the variables that have been chosen as a focus, including ethnicity, the type of offence, the length of the sentence, and the type of the prisoner.

Table 5.3 presents the complete titles of the available data regarding foreign nationals in E&W from different government institutions. The table also includes the areas where the data is Not Applicable (NA), either according to a statement of a worker in the MoJ from one of the FOI

requests, or to the knowledge of the researcher, when finding information about that area is not possible.

In terms of the type of crime, in spite of the focus of this research being on non-immigration criminal offences there are some places where the research will explore other crimes, like immigration crimes and terrorism, to give the reader an idea of political tendency to describe foreign nationals as criminal and the implications of such discrimination on public sentiment.

### **5.3.2 Discourse analysis**

In the traditional sense, discourse analysis is usually described as a theoretical perspective or a methodology that falls into the postmodern tradition rather than as a method (Phillips and Hardy 2002:3, Billing, 1985). Discourse analysis has become a major research area within criminology and an increasing number of scholars use discourse analysis as a method and/or theory in order to analyse language (Van Dijk, 1985, Van Dijk, 1996, Gee, 1999, Fairclough, 1992)

The definition of discourse analysis is overly debated due to the different analytical approaches, schools of thought and the understandings of 'discourse' found both within and across disciplines (Paltridge, 2006). Thus, in order to define discourse analysis we need to understand first what does discourse mean. There is a broader understanding of discourse due to the socio-political changes in western societies since the second half of last century, which put the theoretical discussions of discourse together with concepts like ideology and postmodernism (Foucault, 1981, Derrida, 2001, Foucault, 1972, Gramsci, 1971 ).

Discourses are defined as the core level for the expression of beliefs, such as personal and social knowledge, opinions, attitudes, ideologies, norms and values (Van Dijk, 2000, p 90). Hence, discourse analysis as a method, as well as methodological traditions, is usually used to examine the spoken or written practices or visual representations, which characterize a topic, an era, or a cultural practice (Billig, 1996, Silverman, 1997). Chamberlain (2013, p 137), defined discourse analysis as the examination of the language and how it grounded assumptions and meanings in order to reveal the socio-political functions discourse serves. However, there are other sorts of sign systems in discourse analysis, including visual and behavioural ones (Griffin, 2007). Discourse analysis does not expose the true nature of actions but rather to understand the processes that led to the point where objects are talked into being and therefore it varies to positivism (Willig, 2001). Alternatively, where the structure of discourse analysis is rooted in language and discourse, discourse analysis looks at reality as socially constructed rather than as objective and therefore it reaffirms relativist ontology, where the epistemological foundations are socially constructed (Johnstone, 2002, Burr, 1995, Burr, 2003). Discourse analysts believe that objects brought into existence by language, which is a requirement to develop our thoughts and build a framework as language and discourse construct reality and not represent it (Wetherell et al., 2001, Parker and Burman, 1993, Parker, 1999). In other words, as discourses are set of spoken and written statements, they are analytically constructs the object of which it speaks (Foucault, 1972, Fairclough, 1995), and therefore



reality is dependent upon context and is not an independent fact (Fairclough, 1995, Fairclough, 1999).

There are two approaches to identifying and analysing discourses are; Foucauldian discourse analysis and critical discourse analysis. The strategy of Foucauldian discourse analysis focuses on tracking historically the modifications, changes and challenges of the identified discourses in order to represent a map of the creation and maintenance of power-laden discourses (Diaz-Bone et al., 2007). The historical and political tracking of discourse over time and interpreting the theoretical concept of power are Foucauldian approach.

Alternatively, critical discourse analysis pursues societal structures; how conversational practices secure and maintain power over people. According to critical discourse analysis discourses are shaped by social groupings, culture and constructs, they have the power to limit our knowledge and beliefs. In this thesis, the phenomenon of political discourse of foreign criminality is approached by establishing the various political views co-occurring with foreign criminality related phrases. With the intention of identifying these views, the analytical tool of discourse was chosen, as it is more suitable because it looks at language and context meaning and it is important to make phenomena as well as people meaningful and recognisable, which is greatly relevant to this research interests.

There are different ways of analysing discourses and the range of potential approaches becomes progressively more extensive. For that reason it is necessary to choose potential approaches carefully according

to the (amount and kind of) data and according to the purpose of research. Due to the sheer number of texts that comprise my data, I have to include approaches that are solely qualitative analysis, as the purpose of this research investigation requires identifying discourse and interpreting them in the light of political perspective and socio-historic context.

Furthermore, the emergence of postmodernism, which occurred in the latter part of the last century, and the subsequent social constructivist perspectives regarding the nature of knowledge of social reality and how this is gained, makes the intellectual roots of discourse analysis (Chamberlain, 2013, Billig, 1996, Cheek, 2000). Chamberlain argues that postmodernism rejects theories of the physical and social worlds and the idea that rationality, reason, science and technology lead to progress and knowledge. Unlike Modernists, postmodernists believe that the social world is disordered, unscrutinised and unpredictable, and language is constitutive, which created, manipulated and destroy meanings; language constructs the world instead of representing it. Therefore, postmodernists believe that analysing language and conversations used to construct a meaningful social world and do not create a real and true understanding of it (Cheek, 2000, Chamberlain, 2013). According to postmodern criminologists, discourses need to deconstruct in order to understand the social process, meanings of crime and criminal justice and the relationships of power and control, which can be entrenched within crime and criminal discourses (Arrigo, 2003, Tierney, 2006). Postmodern criminological deconstruction enables this research to expose the inconsistent beliefs about social phenomena in some discourses and how

particular discourses (like foreign criminality discourses) are privileged more than others in the way in which deconstruction analyse the written and spoken language that people use to express their opinions and beliefs (Arrigo, 2003, Chamberlain, 2013). Additionally, postmodern criminological deconstruction approach reveals the role of politicians and the media to highlight nationality surrounding who breaks the law and why, and reject the possibility of alternative explanations for criminal behaviour and crime. Deconstructive process within criminology will allow this research to unmask hidden interferences to connect foreign nationals to crime on ways of talking about foreign criminality as a social problem and imaged foreigners as bad people who are involved in illegal activities. In this sense, postmodernist criminology fits well with the theoretical framework of this research (social construction of identities). It examines how social institution, policymakers, politicians and the media affected by the power and inequality and construct certain people as deviants and bad by connecting them in different ways to crime and deviance for different purposes (Henry and Milovanovic, 1999, Yamamoto, 2010, Yamamoto, 2013). Power is a key aspect of discourse, technologies of power include: sovereign power (monarchy), disciplinary power (legal system) maintained through 'normalisation' of discourses, surveillance and monitoring, and enforced by the law, police, warders and the courts. As Chapter 4 explained, there is an important role of power and authority to get social credibility and value particular discourses over others not because they are accurate or presenting facts but because they presented by someone who has the power in a dominant way of talking about crimes and the cause of crime (see section 4.3.4). Therefore,

analysing foreign criminality discourses will give the chance to explain what kind of social identities were constructed and explain the overrepresentation of foreign nationals in CJS statistical data. Using the concept of criminological post-modernism involve in issues related to the steadiness of meaning and social structures and the inconsistency of political viewpoints which are relevant and important to my data analysis that aim to investigate the identity work involved in constructing people in different ways especially how different form of foreign criminality discourses valued more than others and categorises these political debates and discourses in terms of which crimes are committed, how to stop it and what the implications are of targeting certain type of people.

#### **5.3.2.1 Discourse analysis strengths and weaknesses**

The importance of conducting discourse analysis as a method and /or methodology comes from the acknowledgment that language is a constitutive of reality; the language enable us to construct our attitude and the way that we think about the world around us (Chamberlain, 2013).

Discourse analysis strength lies in emphasising of the origins and functioning of commonly accepted discourses with the capability to follow them historically and to illuminate marginalised ideas, discourse analysis (as a social constructivist methodology) considers the role of historical socio-political, and moral factors of the research agenda (Parker and Burman, 1993, Parker, 1999). In addition, it is able to set itself along the varied fields of epistemological positions, be it realist or relativist (Wetherell et al., 2001, Morgan, 2010), it inspires researchers to define and explain research in immaculate, objective, detached and ignoring

subjective aspects by analysing the language as it is constructive and functional (Willig, 2001, Parker and Burman, 1993). Discourse analysis also highlights the voice given to those being studied, analysing discourses presents a dialogue rather than the researcher imposing a greater impact upon the object in question, thus giving equal status to both researchers and the respondents (Burr, 2003). In addition, discourse analysis gives us the chance to understand critically things that are familiar in our world and to ask those questions that will enable a critical understanding of context (Jane Ritchie and O'Connor, 2003, Burr, 2003).

Despite the above strength points of discourse analysis, Burr (1995) criticised the structure of discourse analysts, the later blamed for repeating similar structures, which they are trying to challenge in the first place when identifying a discourse. The identification of discourses was criticised as it has a propensity to become little more than the labelling of everyday rational categories. The lack of instruction and the potential to use discourse analysis method as a value-free technology was criticised (Burman and Parker, 1993, Parker and Burman, 1993), as there is a possibility of losing its critical and political position by becoming one of the numerous scientific research tools (Bucholtz, 2001). Howsoever, this criticism could be avoid as discourse analysis like another method/ methodology it needs a cognizance to be presented and more critical stance, which requires a significant role of the researcher should be taken in any discourse analysis study in order to avoid such criticism and ensure that the assumptions put forward are transparent (Willig, 2001). Discourse analysts were blamed also for providing different unclear interpretations and creating a whole new ideology (Fairclough, 1999),

their strategic/political choice on which texts to analyse were criticised as they have some form of underlying assumption that encourages a set of interpretations of the chosen texts to analyse (Cheek, 2000). However, not all scholars agree with such criticisms, Mather (2000) think that discourse analysis provides reliable and regular ways of battling social problems and presenting solutions for political change.

Another common critique of discourse analysis is found with its incapacity to be more than an academic exercise as it is only interpret texts and language, unlike action research, it could only record the dominance of powerful discourses and unable to reinstitute other ideas (Morgan, 2010, Raskin, 2001). However, it could be argued that analysing language is still important method for some epistemological positions. Interpreting discourses does not make this method less valid than others especially for the aim in this research, which is to find a way of analysing discourses in which the research will be able to base the results upon quantitative data and not to present two separate analyses. Another criticism for discourse analysis assumption that the world can be different if we write about it differently, which leads it to reject an existence of a world without language. The relativist position of discourse analysis makes it difficult to maintain (Wetherell et al., 2001, Willig, 2001), and limited to be used as framework for practical purposes (Morgan, 2010, Van Dijk, 1996). According to Parker (1999), discourse analysis's relativism is not a problem as it only rises when labels that posse an epistemological position, obtain an ontological status which then can be used to justify an unjust status-quo (Burman and Parker, 1993).

Discourse analysis method is accused of being subjective especially when considering its political dimensions; while discourse analysts investigate, categorise, identify and help unauthorised social groups, they are risking their accounts as becoming the subjective truth (Parker and Burman, 1993, Burr, 2003). Even though there are a number of limitations to as what discourse analysis is able to offer but discourse analysis is still considered as a very useful tool for reflective analysis, by its nature of providing a deep analysis of the current discourses present in our lives.

#### **5.3.2.2 Analysing foreign criminality discourses (parliamentary debates)**

First of all, discourse analysis has been used in this research as a secondary/supportive method to illustrate how foreign nationals have been connected to different illegal activities (Huysmans and Buonfino, 2008). It has also been used to show how the criminality of FNPs and ex-offenders has been exaggerated in order to facilitate changes in immigration policy, and resulted in an increase in negative public attitudes toward foreigners. Parliamentary debates have been examined in order to understand the attitude to immigration and how immigrants have been connected to different types of crimes in different instances. Initially, the research is aware of the limitation of using the parliamentary debates alone as a method to analyse and determine the foundation of the relation between immigration and crime in E&W from a political perspective (Huysmans and Buonfino, 2008).

Therefore, political discourses and the relevant immigration legislation, in addition to a proper literature review, have been used to provide a comprehensive account of debates throughout the UK political arena.

This research aims to determine how politics influences the perception of a relationship between foreign nationals and crime in E&W, to show how these debates affected public opinion, and to demonstrate how foreign national criminality is politicised for other purposes. These purposes include providing a rationale for the control of foreign nationals, gain support from the electorate or rush through terrorism and crime control legislation. The oft-repeated discourses regarding the criminality of foreign nationals are used to support a stricter and somewhat racist immigration policy.

There are further advantages to using data drawn from parliamentary debates. It presents a clear indication of how the impact of immigration on the UK has been discussed, and how immigration legislation has been passed so quickly. Parliamentary debates provide a rich account of the political perspectives regarding the presence of foreign nationals on British territory, and how foreigners are distinguished between being 'desirable' (EU citizens) and 'non-desirable' (non-EU citizens, apart from other first world countries).

Qualitative data produced by debates in both Houses provided this research with a valuable resource. There are further



advantages to using parliamentary debates, because some MPs or Lords do not only present their perspective on issues, but also represent the perspectives of those in their constituency. Although the public might respond to surveys, whose questions have been designed from the perspective of a particular individual or organisation, these people already have dialogue with their relevant MP or Lord. In such instances, data drawn from parliamentary debates provides the research with valuable insight into public attitudes, although it is acknowledged that these will not always represent the views of all constituents.

Parliamentary debate data was selected for analysis by searching for every clause containing one or more of the following words: immigration, immigrant, migrant, asylum seekers, refugees, borders, terrorism, EU enlargement, EU migrants, Muslim, foreign national, foreign national prisoner or offender, deportation, crime, immigration crimes. These words have been identified and analysed in paragraphs considered to be of relevance to the general aim of the research, and some of the more specific research questions. The selected words found via the search field of the UK Parliament website (Hansard) and through checking the contents of many themes of 'Debates and Oral Answers' option daily from the 14th September 2001 to the 14th May 2014.

The start and end dates were chosen according to the specific events have connected the foreign nationals to crime. For example, debates post 9/11 have been chosen as the starting

date, and the gaining of Royal Assent for the most recent Immigration Act on May 14th 2014 was chosen for the end date. This is because of the importance of this Act in strengthening the perception of the relationship between foreign nationals and crime, and engaging the public in stereotyping foreigners as criminals.

Some specific criteria were used to analyse and evaluate the general trends of the political and parliamentary debates (Van Dijk, 2000). These included the word order, sentence meaning, global topics, metaphors, global topics connected to the time of the speech and finally the interactional strategies among different MPs. Some quotes from MPs and Lords have been used with little emphasis on the political parties that those MPs or Lords belong to. Apart from far-right parties, the differences in immigration policy and the political attitude to immigration are very limited among the three biggest political parties (Conservative, Labour and Liberal Democrat) in the UK (van Spanje, 2010).

However, direct comparison was made between the rhetoric of the House of Commons and House of Lords members, in order to assess whether there are any differences in the attitudes of linking foreign nationals to crime, and to give an impression of the general attitudes and actions in Parliament. Nevertheless, the general themes of parliamentary debates have been compared with that of politicians outside of Parliament (especially political party leaders and those who have occupied

jobs in the Home Office, Ministry of Justice, and Ministry of immigration). This was done in order to identify conflict, opposition, or support for notions of considering foreign nationals as scapegoats and linking them to illegal activities. In addition, reports from Home Affairs Committee discussing the issue of FNPs and their deportation, and the release of foreign national offenders into the society, have been closely scrutinised to cover the period following the 2006 scandal of the over 1000 FNPs being released from prison.

Finally, the categories (sections) for analysis were derived from either the literature review or the topics in daily parliamentary debates that the research considers most relevant to questions covered in specific chapters and the overall research aim. The chosen topics focused on when immigration and crime have been connected in political and parliamentary debates, how MPs think (inferred through their opinions or transmission of their constituent attitudes) regarding foreign national criminality, what sorts of crimes have been connected and if they think that foreign nationals are more of a threat than indigenous nationals.

### **Methodological and practical barriers to the research**

This research was begun with the intention of analysing the structural and cultural factors affecting foreign nationals in E&W, as well as those that affect their criminal behaviour. The overrepresentation of foreign nationals in prison statistics and the limitation of the criminological specialist studies in the UK in that field inspired this research to

contribute to the academic field, and in doing so start to develop a grounded theory of the relationship between immigration and crime.

The initial research focus aimed to look at the overrepresentation of FNP in CJS statistics, with the intention of explaining the reasons behind such increase. This would be done by examining the cases of FNPs, as well as investigating the surrounding circumstances and reasons behind their imprisonment. In order to investigate the structural and cultural causes behind the overrepresentation of foreign nationals in prison, and evaluate the relationship between foreign nationals and the CJS, it was originally envisaged that qualitative methodology would be used which would allow for interviewing some prisoners and exploring their experience with the CJS. Furthermore, the research also intended to interview some prison staff with experience of dealing with FNPs, to provide a different perspective on the issue. The qualitative data was to be collected via semi-structured interviews (face to face) with prison staff and prisoners. Firstly, a pilot study was conducted with five prison officers in Devon prisons, to test the reliability of the instrument. Then, interviews were intended to take place in ten other prisons across England, selected according to the population of FNPs in these prisons.

The prison interviewees were to be divided into two groups. First, four senior prison officers would be identified by the prison administration according to their experiences with FNPs. Secondly, Asian FNPs would be chosen randomly by the prison administration, which would also arrange the interview's location and date (four from each prison). The analysis of data gained through these methods was to be completed through open coding, axial, selective, theoretical sampling, theoretical

emergence and the process of abstraction. This is an analytical process of reducing the raw data into concepts that are designated to stand for categories. These categories are continually compared through sampling until the theoretical emergence develops.

Some nominated prisons (like Wandsworth, Wormwood Scrubs, Pentonville, Highpoint South & North, Holloway and Bronzefield Prisons) were sent a letter explaining the purpose of the research, which concentrated on understanding the relation between immigrants and crime in E&W. Moreover, the interview questions were attached with the letter to prisons. The essence of the draft questions was to alert participants to the nature and scope of the interview to follow.

However, when the researcher applied to the National Research Committee for NOMS research applications, the request was rejected, even after appeal, for three reasons. 1) The potential benefit for NOMS was not clear, 2) the link between the methodology and the request to make interviews inside the prisons was not clear, 3) there were some leading questions (see Appendix 1). This rejection was made despite the fact that the application made clear that previous research was limited, the importance of the topic, as well as the intention to find the reasons (structural, cultural and legal factors meant to be) behind the criminal behaviour of foreign nationals in E&W.

Interviewing FNPs inside prisons was important to this research for two important reasons: Firstly, all previous studies which has been done with FNPs in the UK focused on these prisoners' life inside the prison, discrimination from prison staff or their inmates (see for example,

Richards et al., 1995; Bhui, 2009a; Bhui, 2009b; Bhui et al., 2010). Secondly, locating FNPs in their communities and interviewing them after finishing their sentence would not be easy or even possible. Most of the FNPs included in a research sample would be subject to deportation if they had committed a crime and been imprisoned for 12 months and above. Accordingly, on release, FNPs would disappear into the community, or they would be detained in detention centres or the prison itself.

In addition to this research concentrating on criminal offences committed by foreigners in E&W, interviewing police officers to ask about their recording practices during stop and search would not be sufficient. Furthermore, interviewing Borders and immigration officers would mean necessarily lead the research to concentrate more on immigration crime, which was obviously not the main area of interest in this research.

Having been presented with these significant challenges, the only way to recover and maintain the pathway of this research was to change the focus, and accordingly the methodology, in such a way that would allow completion in the specified time period. The decision was therefore to retain a focus on criminal offences committed by foreigners in E&W, as well as the requirement to examine the relationship between immigration and crime. However, a new position was adopted which focused on the role of policy, and how the perception of a relationship between immigrants and crime has been espoused and perpetuated through political discourse and immigration policy. In other words, the research would now be focused on the roots of the relationship between immigration and crime in E&W, by looking at the role of immigration

policy, political and parliamentary debates through recourse to secondary data, and discourse analysis, as outlined above.

Having presented an overview of the development of the methodological approach taken in this research, including providing details on the methods of data collection and analysis, as well as some significant barriers to the research, the next chapter will provide detail on the analysis of secondary data into the overrepresentation of FNPs in the CJS.

## **Chapter 6 The overrepresentation of foreign nationals in the CJS statistics: Secondary analysis**

This chapter aims to look at the overrepresentation of foreign nationals in CJS statistics, in order to examine the type of criminality that FNPs demonstrate and evaluate policies that anticipate dangers of releasing foreign nationals into the British community. This chapter is divided into two parts: firstly, it presents the police and prison data by nationality and analyses them in the second part.

### **Police and prison data**

This part outlines the arrest data to explore the sort of the relationship between the police and foreign nationals, the reception and sentencing data to figure out the court and foreign nationals' relationship, and the prison data to present a picture of how the criminality of foreign nationals was constructed by the CJS practice.

#### **6.1.1 Arrest data**

Due to the absence of recording stop and search data by nationality This subsection will show the findings of the arrest data to describe the relationship between foreign nationals and police.

Freedom of Information (FOI) requests were made to NIPS and MPS are the resource that will be used here to demonstrate the relationship between foreign nationals and the police. This subsection will explore this relationship across three categories: foreign nationals in NI; foreign nationals in London; and British in London. In addition, arrested foreign



nationals are presented in terms of their proportion of the overall general population.

#### **6.1.1.1 Arresting foreign national in Northern Ireland**

A FOI request was sent to the NIPS (table 6.1A & B) regarding the number of arrested foreign nationals per offence from 2006-2010. This part will describe first the representation of foreign nationals in the arrest data and second will explore why foreign nationals are highly arrested.

##### **6.1.1.1.1 The representation of foreigners in the arrested data**

Table 6.1A (in Appendix 2) shows a trend for the total arrest rate to fluctuate; for the first two years (2006-2008), there was a 49 percent growth in the total annual arrest rate of foreign nationals between 2006 (4,883) and 2008 (7,281). While in the last two years, the number of arrested foreign nationals dropped slightly by 9 percent from a peak in 2008.

Despite the fact that the arrest rate for foreign nationals started to decline from 2009, the overall annual growth in the arrest rate for four years (2006-2010) recorded an 8 percent increase. On the other hand, by comparing the estimated population of foreign nationals in NI it has been found that overall 12 percent of foreign nationals (7 percent of foreign born) are arrested every year. The percentage of arrest is considered to be particularly high, especially if compared to the total prison population (from all nationalities), which was not exceeding, 1000 prisoners at that time (Statistics and Research Branch, 2013). It should be noted that there is a lack of knowledge about CJS statistics like prison routines and prison population in NI. As a result, there are very limited

resources to indicate the precise number of FNPs in NI. This research depends mainly on FOI requests in regards to FNPs in NI to the Department of Justice in Northern Ireland (DOJNI); in spite of they are not covering the same period detailed in the arrest table.

In January 2011, there were 131 FNPs in custody in NI prisons, comprising 9 percent of the total prison population. In a FOI request to DOJNI regarding the population of FNPs in NIPS in 2012, the reply indicated that as of December 31st 2012 there were 113 FNPs in NIPS, comprising around 7 percent of the total prison population in NI (Northern Ireland Prison Service, 2013). Arguably if it has been predicted that the FNPs population in NI between 2006 and 2010 is (130), at the time, the arrested number of foreign nationals was between 5000 and 6000 per year, meaning there is an overrepresentation of foreign nationals in the NI arrest data. This overrepresentation will be examined further in the next section, when the type of crimes foreign nationals are more likely to be arrested for will be described.

#### **6.1.1.1.2 Arrests of foreign nationals by crime type**

Figure 6.1B shows that foreign nationals were highly suspected and arrested for 'other crimes'<sup>13</sup>; 83 percent were arrested for non-serious minor crimes in 2006, and 76 percent in 2010. In parallel, in 2006, 12 percent were arrested for violent crimes<sup>14</sup>, 4 and 2 percent for burglary

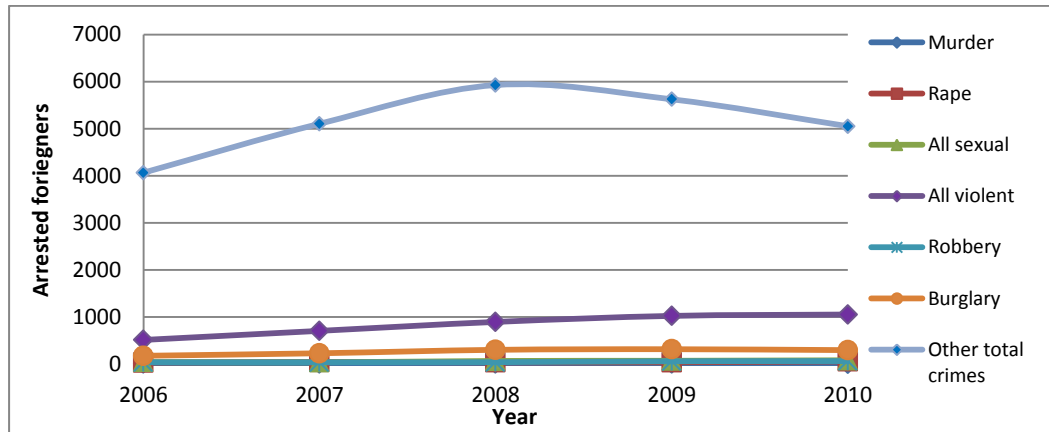
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<sup>13</sup> Other total crimes: those 'other total crimes' figures are arrests for any offence not included in any of the other arrest categories it includes arrests for offences that are not crime like motoring offences NORTHERN IRELAND POLICE SERVICE (2011). Foreign Nationals Arrested in the Last Five Years/ Northern Ireland. FOI. NI: NIPS.

<sup>14</sup> include all violent, murder and robbery

and sexual crimes<sup>15</sup> respectively. In 2010, the arrest for violent crimes only increased to 17 percent.

Figure 6.1: Foreign nationals arrested in NI per crime from 2006-2010



Source: Adapted for Table 6.1B In Appendix 2.

In consequence, foreign nationals in NI are more likely to be suspected and arrested for minor crimes rather than serious crimes. There is also a considerable increase in arrests for all sorts of crimes apart from murder.

### 6.1.1.2 Arrests of foreign nationals in London

A FOI request to MPS (table 6.2A and figure 6.2) shows the number of foreign nationals who have been arrested on suspicion of committing different sorts of crimes in London. This part will be presented in two parts; the representation of foreign nationals in the arrest data compared to their total population in London, and the types of crimes they were arrested for from 2008-2012.

#### 6.1.1.2.1 The representation of foreign nationals

Table 6.2A (Appendix 2) shows a considerable increase in the first two years (2009 and 2010) in the arrest data by 117 percent, while in the last

<sup>15</sup> include rape and all sexual crimes

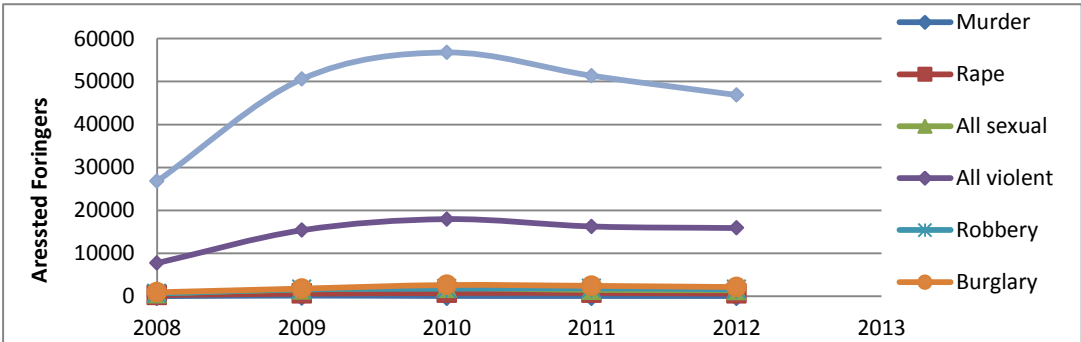
two years (2011 and 2012) there was a decline by 16 percent, this decline does not affect the overall annual growth of arrested foreign nationals, which recorded as a 16 percent increase from 2008 to 2012 in London.

When the population of arrested foreign nationals is compared to their general population in London, the result shows a considerable increase in the percentage from 2008 (2 percent) to 2009 (4 percent), and increased to 5 percent in 2010 and then declined slightly in the last two years to be 4 percent

**6.1.1.2.2 Arrests of foreign nationals by crime type**

There is a similarity between Figures 6.1 and 6.2 (below). Foreign nationals in both NI and London were arrested in high numbers and mostly for miscellaneous non-serious crimes, which include different categories of offences like possession of firearm, immigration offences, bigamy, absconding from lawful custody, Customs and Revenue offences, and disclosure, obstruction, false or misleading statements etc.) (Home Office, 2011, p 60-61).

Figure 6.2: Foreign nationals arrested in London per crime, April 2008-31<sup>st</sup> Dec 2012



Source: Adapted from Table 6.2B In Appendix 2.

<sup>16</sup> The arrest data before 31<sup>st</sup> April 2008 is not available.

In 2008, 26,794 (71 percent; 68 percent in 2012) foreign nationals arrested in London are arrested for 'other crimes' like those in NI. Furthermore, 21 percent (8439) of foreign nationals were arrested in 2008 for violent crimes (all violent, murder, and robbery), which increased to 23 percent (17,595) in 2012. Moreover, only 3 percent of foreign nationals were arrested for sexual offences (rape and all sexual offences), and 3 percent for burglary.

There are many similarities indicated by the arrest data in London and NI; foreign nationals are overrepresented and arrested mostly for minor crimes/non-serious crimes. In the next section, the outcomes of arresting foreign nationals will be compared to the arrest rate of British nationals in London as the only other available arrest data that accounts for nationality to illustrate the relationship between foreign nationals and police.

### **6.1.1.3 Arrests of British nationals in London**

This section is based upon the results of an FOI sent to the MPS, requiring information regarding the arrest data of British nationals in London (Metropolitan Police Services, 2014), and variance data gathered from ONS. This section will be divided into two parts. Firstly, it will look at the proportion of British nationals in the arrest data compared to the general population. Secondly, it will look at the type of crimes they were arrested for between 2008 and 2013.

#### **6.1.1.3.1 The representation of British national in arrest data**

In 2008, 196,951 British nationals were arrested in London and increasing by 16 percent the next year. However, in 2010, the arrest rate

decreased by 6 percent and continued to decrease, which resulted in an overall decrease of 3 percent for every year from 2008-2013 (see Table 6.3A)

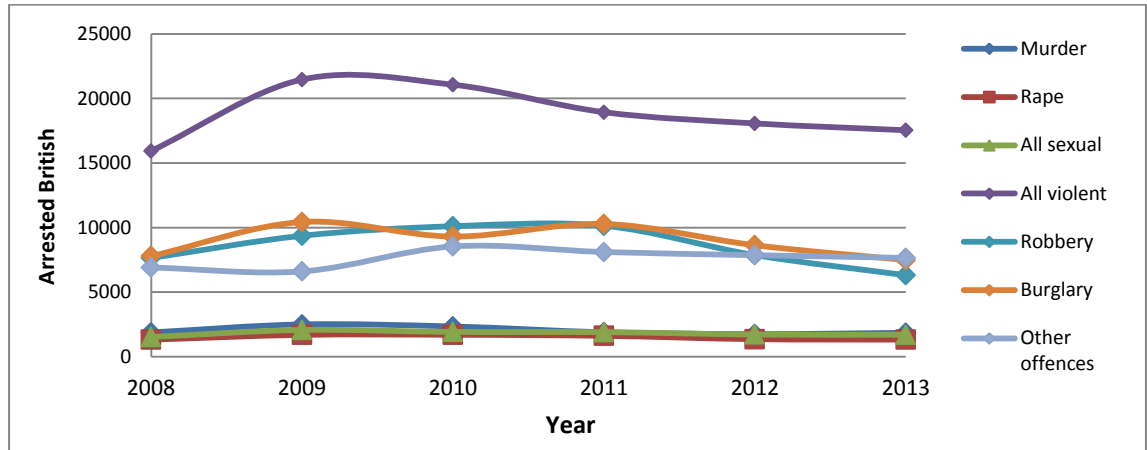
Moreover, when the population of British arrests was compared to their presence in the general population of London, the table shows a 4 percent representation in the first three years, decreasing to 3 percent in the last two years because the decrease in the general arrest rate of British in London.

If the results of this table are compared to the results of Table 6.2A, it is obvious to note the overall representation of foreign nationals in the arrest data is higher than that of British nationals. While the number of arrested British nationals decreased considerably since 2010, the foreign national arrest population was increasing. Even when it started decreasing from 2011, overall it showed a 16 percent increase in the period studied, while the proportion of British nationals arrested decreased by 3 percent.

#### **6.1.1.3.2 Arrests of British nationals in London by crime type**

Figure 6.3 shows the different crimes that British nationals are arrested for. All violent crimes (includes common assault and common assault racial) were the crimes with the highest arrest rate for British between 2008 and 2013. These crimes increased significantly in the years 2009 and 2010, before declining from 2011. Robbery and burglary were competing to be the second highest crime, followed by other crimes. Rape is recorded as having the lowest arrest rate for British nationals, followed by all sexual offences and murder.

Figure 6.3: British arrested in London per crime 1<sup>st</sup> April 2008-31<sup>st</sup> December 2013



Source: Adapted from Table 6.3B1 in Appendix 2 FOI (Metropolitan Police Services, 2014)

If the data in Figure 6.3 are compared to the results of Figures 6.1 and 6.2, it demonstrates different experiences of arresting British nationals compared to foreign nationals in NI and London respectively. For example, whilst foreign nationals in both NI and London had a high arrest rate for non-serious crimes (other crimes), British nationals demonstrated the highest arrest rate for violent crimes, and considerably higher figures in other serious crimes like robbery and burglary.

#### 6.1.1.4 Nationality type and arrest rates

Previously, this chapter showed that the overrepresentation of foreign nationals in the arrest data in both NI and London mainly relates to non-serious crimes. The majority of foreign nationals are arrested for minor crimes, meaning those other than violent or property crimes; British nationals are mostly arrested for violent, burglary and robbery crimes (serious crimes). However, there are still serious questions lurking behind the overrepresentation of foreign nationals in the arrest data: do all foreign nationals groups have a high arrest rate, or do they differ according to their nationality.

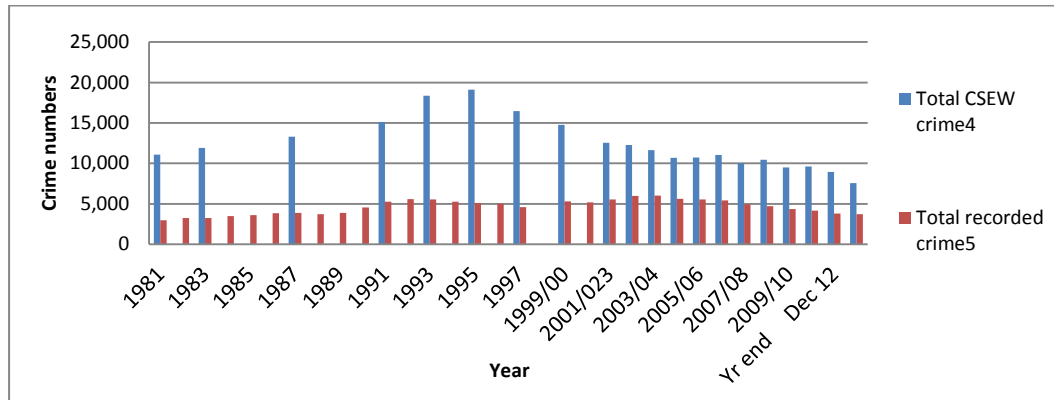
Tables 6.4 A1 & A2, illustrate the top ten nationalities most likely to be arrested from 2008 to 2012. The arrest rate of these nationalities has been compared firstly to their general population in London. This has been done to find their representation in the arrest data in London, whether there is a relationship with demographic changes, the change of the crime level, and the police attitude. The outcome of this was as follows:

1. There is a cumulative increase of the arrest rate for EU nationalities like Poland, Romania, and Lithuania, which made the top three of foreign nationals arrested in London from 2008 to 2012 (see table 6.4B). The increase in the arrest number of these countries is in parallel with the increase of their general population in the UK due to the 2004 free movement.
2. There is a decline in the number of arrests for those from traditional immigration countries like Nigeria, Jamaica, and Somalia, concurrently with the decrease or the slight increase in their general population in London particularly compared to the percentage increase of the population of new wave of EU migrants (see table 6.4A1& 2).
3. However, the map of the top ten arrested nationalities has changed considerably when the general population in London of those top ten nationalities listed in the Table 6.4A1 compared to their arrest data (see table 6.4A2). The top three nationalities were Romanian, Jamaican, Lithuanian, while Irish, Indian, and Portuguese stayed in the bottom of the table from 2008-2012. The data illustrates a positive relationship between the general population trends and the parallel increase or decrease in their representation in the CJS statistics. It is suggested that the increase in the population of foreign nationals in London led to increase in the crime level there, in which Figure 6.4 opposes such a conclusion, or they have been targeted



by the police through an immigration policy intended to decrease the population of certain nationalities who population has increased significantly.

Figure 6.4: Trends in police recorded crime and Crime Survey E&W 1981- Dec 2013



Source: Figure 1, trends in police recorded crime and CSEW 1981 to year ending December 2013 (Flatley, 2014, p 6-7).

Although the arrest data is important to show the type of the relationship between foreign nationals and police and illustrate why foreign nationals engage in problems at the first place with the CJS, and if they have been targeted by the police, but it is not able to measure the criminality, as people are innocent until proven guilty in court.

### 6.1.2 The population of prison reception and by prisoner type

There are four main categories of receptions: untried (those awaiting commencement or continuation of trial prior to verdict), convicted un sentenced, sentenced, and non-criminal (The Research Development and Statistics Directorate, 2006). Through assessing foreign nationals who have been arrested, this part will examine the first three categories

of receptions<sup>17</sup>, in order to understand how the population of prison reception affect the change in prison population.

#### **6.1.2.1 Untried receptions and the untried prisoner population**

Changes in the size of the prison population are affected by changes in the number and type of receptions and of those who are discharged (Ministry of Justice, 2011).

Table 6.5A shows an opposite growth between British national and foreign national untried receptions. When the reception of untried British nationals decreased, especially in the years 2000, 2003, and 2009, the reception of foreign nationals into prison was increasing, especially between 2001 and 2007. The consistent increase in receiving FNPs resulted in a 243 percent increase in their population into prison receptions between 1993 and 2009 and making 8 percent an annual growth for 16 years, whereas the decrease in receiving untried British nationals into prisons resulted in a 15 percent decrease between 1993-2009 and 1 percent decrease in their annual growth for the 16 years. Finally, the table highlights the high number of unrecorded nationality prisoners received into prison, the population of which has increased by 140 percent since 2004.

The next part will examine the population of untried prisoner in prison, and compares this to the result of the above table in order to draw full conclusions for the reasons behind the increase of prisoners received, especially foreign nationals.

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<sup>17</sup> There is no reception data for the category of those convicted un-sentenced

Table 6.5B (Appendix 2) shows a considerable increase from 1999 - 2012 in the population of untried foreign nationals by 105 percent and annual 6 percent increase for 13 years. At the same time, there was a 27 percent decrease of the untried British national population in prisons and 2 percent annual decrease for the 13 years. The consistent general increase in the population of untried foreign nationals, especially post 2006, has contributed toward the higher percentage of foreign nationals being received into prison compared to their British counterparts.

Finally, Table 6.5C (Appendix 2) compares the representation of the untried reception and untried prisoner population by nationality. The result shows the representation of untried FNPs compared to their untried receptions is higher than the British national group. The 136 percent growth in untried foreign national receptions and 125 percent growth in their untried prisoners resulted in an 8 percent annual growth from 1999 to 2009. In contrast, the 28 percent decrease in British nationals' untried reception, and 9 percent decrease in their untried prisoners resulted in a 1 percent decrease of their annual growth from 1999 to 2009.

The overrepresentation of foreign nationals' reception affect directly their general population in prison, and raising questions if those foreigners are more likely to commit crimes or they have been targeted by the CJS.

#### **6.1.2.2 Convicted un-sentenced prisoners**

Table 6.6 (Appendix 2) shows a higher rate of foreign national convicted un-sentenced prisoners, and shows a 90 percent growth of this category between 1999 and 2012 and 5 percent annual growth for the 13 years.

On the other hand, British nationals convicted un-sentenced decreased by 24 percent for the same period and made 3 percent annual decrease.

In 2005, there was an opposite growth between the two nationalities; foreign nationals convicted un-sentenced population increased from 575 (6 percent) in 2004 to 775 (8 percent) in 2005. The British national group decreased from 4163 to 3948 in 2005, and continued with a fluctuating decrease. The above table shows another difference between the two main groups of prisoners being discussed here. Foreign nationals show higher percentage of being convicted, but not sentenced, which agrees with the results of the previous table showing untried foreign nationals are higher than British.

### **6.1.2.3 Immediate custodial sentenced receptions**

Table 6.7A (Appendix 2) shows an initial 85 percent increase in the total of the Immediate Custodial Sentenced Receptions (ICSR); the 456 percent increase in the total foreign nationals ICSR is a large component of this increase, especially compared to the 83 percent increase in the population of ICSR British nationals from 1993 to 2009. Moreover, the table shows that the number of foreign national ICSR has increased since 2001; the percentage of total population of foreign national receptions has been doubled since then.

However, when the percentage of sentenced reception prisoners is compared to their total prison reception, the picture changed. The British ICSR group shows a higher percentage compared to foreign nationals despite the latter having a higher annual growth of 11 percent, compared to 4 percent for British nationals. Nevertheless, the most significant

increase was in the unrecorded nationality ICSR (1280 percent), which together with the increase of foreign national receptions contributed to increase the total ICSR.

Table 6.7B (Appendix 2) shows the population of sentenced prisoners by nationality. Sentenced British prisoners are still higher than sentenced FNPs, despite there being fewer differences in the percentages between these two groups. Sentenced FNPs show a higher annual growth of 5 percent from 1999 to 2012, comparing to 2 percent of British prisoners.

There were specific times when the population of sentenced foreign nationals increased. In 2002, the sentenced foreign nationals grew to over 1000 prisoners (73 percent). In addition, between 2006 and 2008 there was another increase, which has affected the overall population of FNPs. While, British sentenced prisoners increased post 2001, then 2004-2009.

Table 6.7C (Appendix 2) summarises the results of Tables 6.7A and B. There is an opposite trend between the British nationals and FNPs regarding the percentage increase, and the percentage of sentenced FNPs started higher than British. It started to decline from 2004; in contrast, British sentenced prisoners started to increase from 2004. Alternatively, the consistent increase (152 percent from 1999-2009) of receiving sentenced foreign nationals has affected the population of sentenced FNPs, who increased by 94 percent from 1999-2009, at the time when the 6 decrease of receiving British sentenced resulted in a 28 percent increase only in their sentenced population. The result of sentenced tables showed an opposite outcomes to the remand and

convicted un-sentenced tables; foreign nationals contributed highly in remained and convicted un-sentenced however they showed lower percentage than British national sentenced and ICSR.

### **6.1.3 Foreign national prisoners**

The prison administration is the only CJS institution that is concerned with and records prisoner nationality. Therefore, prison data will be relied on to assess the level of criminality that foreign nationals demonstrate, and the types of crimes committed by these FNPs. Eventually, the results of prison tables will be compared to the arrest and prison reception data to figure out if those foreign nationals are treated fairly by the different stages in the CJS or they have been targeted for different motivations.

#### **6.1.3.1 Calculating foreign national prisoners**

Table 6.8A (Appendix 2) shows the overall prison population broken down by nationality and the type of prisoner (criminal and non-criminal prisoners). There is overall an 89 percent increase in the total prison population from 1993-2013; the considerable increase of the FNP population by 171 percent since 1993 is a significant feature of the prison population that merits academic interest, and it is important to recognise in order to explain the general increase in the prison population compared to the British national prisoners increase of 79 percent. Simultaneously, immigrant detainees (which are calculated as a part of the FNP population) increased by 60 percent from 1996, and those with an unrecorded nationality increased 126 percent from 1995. The table

shows a considerable increase in the total prison population, especially for FNPs in comparison to the decline in crime in the UK (see figure 6.4).

There was a consistent increase in the FNP population, between 2001 and 2009, before this started to gradually decline. However, if the definition of FNP was taken into account, along with the number of foreign nationals who have been convicted and sentenced for a non-immigration criminal offence, the result would be different.

Table 6.8B (Appendix 2) shows the population of non-criminals and fine defaulters broken down by nationality. The population of those two categories, which do not represent prison offenders, is added to the total prison population, and when distinguished by nationality, it appears to affect the population of FNPs more than British prisoners. The Table shows a higher population of both foreign national non-criminals and fine defaulters than those who are British. For example, there is a 123 and 650 percent increase of foreign national non-criminals and fine defaulters respectively, compared to a decrease of 53 and 86 percent of British nationals. If these two categories were removed from the calculation of FNPs, or even distinguished more clearly, the population of FNPs who have been imprisoned for committing non-immigration crime would be lower (see column 8 in the above table). Accordingly, the percentage of FNPs in the total prison population would be less than it appears from government and academic publications.

Table 6.8C shows over 1000 FNPs throughout all years covered within it. Different quarters show prisons are still detained even after finishing their time, and the consequence of this is that 'ex-prisoners' are still counted

toward the total population of FNPs. This will ultimately affect the perception of the relationship between foreign nationals and crime.

### **6.1.3.2 The demographics of foreign national prisoners**

There is an obviously differentiated representation of ethnicities in the prison population, which different publications and statistics have indicated and explained. However, this section will classify the ethnicities of the prisoner population by nationality in order to examine if there is any relationship between overrepresented ethnicities for example black and foreign nationals. In other words, this section will look at the differences between different ethnicities by nationality, to see if the overrepresentation of some ethnicities remains when nationality has been considered, along with differences between those of a shared ethnicity but differentiated nationality (see Table 6.9 Appendix 2).

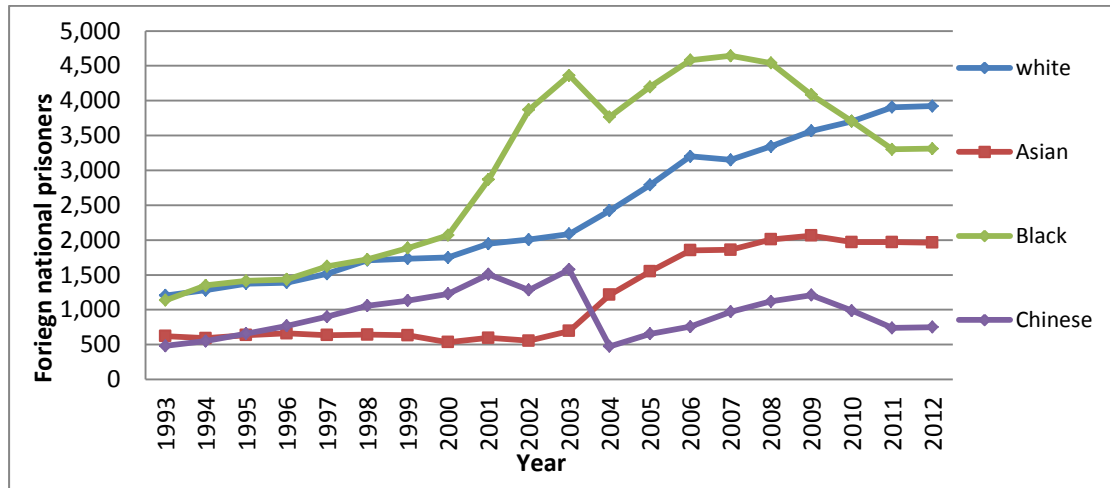
#### **6.1.3.2.1 Foreign national prisoners by ethnicity**

Figure 6.5 shows some changes in the trends of FNPs from different ethnicities. Black FNPs had the highest population amongst other ethnic groups between 1994-2010, especially between 2001 and 2008; however, since 2010 white foreign nationals became most prominent. In contrast, white FNPs had a very slight increase in proportion before 2004, but after this started to show a sharp increase in the prison population, before taking the lead in 2010. Meanwhile, Asians FNPs have showed some changes in the figure's timeline. This group started higher than Chinese FNPs, but dropped from 16 percent in 1996 to 8 percent in 2003, and has since jumped up again. Alternatively, the Chinese FNP



population peak was between 1997 and 2003, after which it started to drop and more than halved by 2012.

Figure 6.5: FNP by ethnic minorities 1993-2012

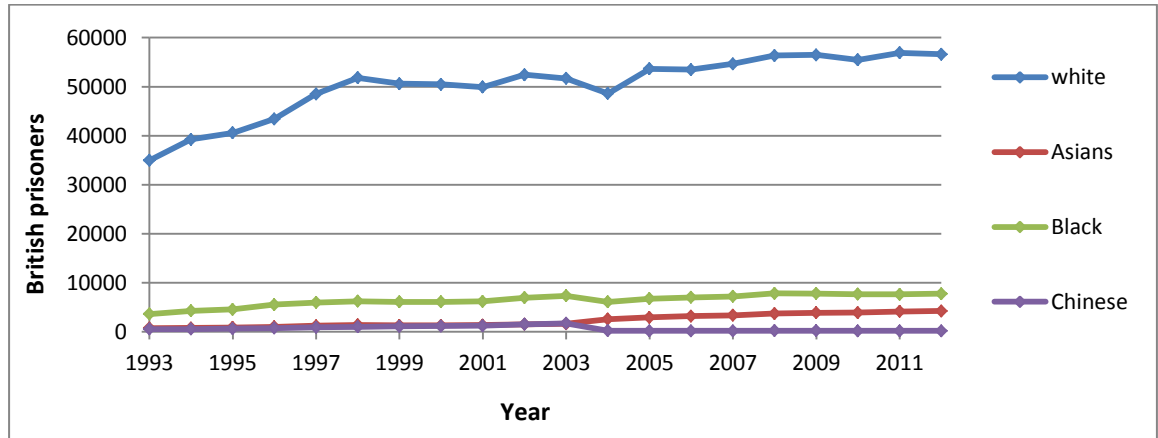


Source: Adapted from Table 6.9 in Appendix 2

#### 6.1.3.2.2 British national prisoners by ethnicity

The British picture is different from the foreign one; white British prisoners constitute the majority of British prisoners. Their proportion of the total prison population stood at 88 percent in 1993, and decreased slightly from 2009 to stand at 79 percent in 2012. Black British prisoners became a distant second place; British black prisoners made up 9 percent of the total population in 1993, and have slightly increased to 11 percent in 2012. However, the most significant increase was among British Asian prisoners, whose proportion of the total has tripled from 1993 (2 percent) to 2012 (6 percent of the total of British prisoners); still a small percentage in comparison to white prisoners. Finally, British Chinese prisoners showed very low representation compared to the other minority ethnic groups (see Figure 6.6).

Figure 6.6: British prisoners by ethnicity 30<sup>th</sup> June 1993-2012



Source: Adapted from Table 6.9 (Appendix 2)

Table 6.9 (Appendix 2) shows the population growth of different ethnic groups of prisoners from both nationality groups. Foreign nationals white prisoners had the highest growth of 225 percent, followed by Asians, black and Chinese with 216, 191, and 56 percent respectively. Nevertheless, British white prisoners are the predominant prisoner ethnicity, although their growth (62 percent) is incomparable to British Asians prisoners who increased by 479 percent, followed by black prisoners at 119 percent and finally the 190 percent decrease of British Chinese prisoners.

### 6.1.3.3 Foreign national prisoners by the type of nationality

Table 6.10 shows the nationality of FNPs. As has been explained in the arrest section (see Table 6.4 A1), there is a considerable representation of EU migrants in British prisons, which is a more recent trend. The rank of FNPs has changed significantly from 2006, when Poland entered the top ten in, and steadily started to climb. In 2013, Polish prisoners became the highest FNPs in British prisons. Similarly, Romanian and Lithuanian prisoners entered the top ten FNPs in 2009 and 2010, and then climbed

to 4<sup>th</sup> and 8<sup>th</sup> place respectively in 2013. At the same time, Irish and Nigerian prisoners shared the top three foreign nationalities in British prisons. Furthermore, South Asian prisoners made a large contribution to the FNP population, particularly Pakistani prisoners who stayed in the top five FNP rank until 2008, when the new wave of the EU migration pushed them, and the remainder of the South Asian prisoners, back in the rankings.

Table 6.11 (Appendix 2) shows a comparison between the arrest data and prison population of top ten prison nationalities in E&W, in order to find if they have been highly represented in the arrest data as well, and then to see if there is a potential discrimination in the police attitude to these foreigners. The table shows an interconnection between the cumulative increase in the prison because of the high arrest number of the new migration waves and the increase in their prison rank. For example, the implication of arresting more Polish, Romanian, and Lithuanian foreign nationals has raised their prison population and their nationality representation in the British prisons.

That representation increase meant a parallel decrease of other nationalities in prison such as Somalian and Nigerian. If the result of this table has linked to the arrest data results, it will appear that the increase in the general population of certain nationalities leads to an increase in their arrest data and prison population.

In summary, there is an obvious overrepresentation of new waves of migration from the EU, especially Polish, Romanian, and Lithuanian. This is evident not only in the arrest data, but also in the prison population, it

also mirrors a decline in the 'traditional' migration cohorts from countries like Nigeria, Jamaica and Somalia.

#### **6.1.3.4 Foreign national prisoners by crime type**

The final part of this section will provide evidence to enable examination of the legitimacy of political discourses and media reports linking foreign nationals to 'serious crimes' and presenting them as being 'dangerous criminals'. As such, it is important to examine which crimes foreign nationals are imprisoned for when compared to British prisoners, and this can be done by looking at data for each crime category (see Table 6.12).

##### **6.1.3.4.1 Violent crimes (VATP and robbery)**

Violent crime contains a wide range of offences, from minor assaults such as pushing and shoving that result in no physical harm through to serious incidents of wounding and murder (Home Office, 2011b). British prisoners show an increase of 42 percent in VATP from 1999 to 2012, compared to a 186 percent increase for FNPs. This sort of crime seems to be an important route of imprisonment for both nationality groups, despite it being higher among British prisoners. In 1999, the VATP offences group accounted for the largest proportion of British prisoners at 22 percent, and the second largest proportion of FNPs at 16 percent. British prisoners imprisoned for this crime increased to over 4000 (5 percent more) from 2003-2005, but this figure has decreased in 2012. The highest increase in the FNP population for this crime category was nearly 200 between 2003 and 2004, and since then there was a consistent increase by 8 percent growth from 1999 to 2012.

In terms of robbery, in 1999 13 percent of British prisoners (decreased to 12 percent in 2012) were in prison because of committing robbery, compared to 7 percent in 1999 (increased to 10 percent in 2012) of FNPs. However, there are certain times when the number of prisoners for robbery has increased considerably for both nationality groups like in 2002 and 2007. The figure has decreased in 2012 for British prisoners, which has affected their total percentage growth from 1999 to 2012 (0.2 percent), while at the same time FNPs recorded a significant increase of 165 percent.

If these two crimes groups are combined for the years 1999 to 2012 to find the percentage of prisoners by nationality who has committed violent crimes, the figure stands at 35 in 1999 to 41 percent in 2012 of the total British prisoners, and 23 percent in 1999 to 34 percent in 2012 of all FNPs. Nevertheless, the data does not provide a precise level of how 'dangerous' of each nationality is due to the wide-ranging definition and broad classification of violent crimes.

#### **6.1.3.4.2 Property crimes (burglary, and theft and handling)**

Burglary is one of the crimes that FNPs are least imprisoned for at 5 percent of the total FNP population. On the other hand, burglary is one of the top three highest crimes committed by British national prisoners (18 percent – second highest in 1999, and 12 percent - third highest in 2012).

The population of British burglar prisoners started to decline sporadically from 2005, leading to an overall decrease (-31 percent) of their percentage from 1999 to 2012, whereas foreign national burglar prisoners grew by 96 percent.

Alternatively, the representation of both prisoners' nationalities of theft and handling offences is not high like burglary. In 1999, 9 percent of British prisoners and 5 percent of FNPs were imprisoned for this crime. However, these percentages started to decrease following 2001 for both nationality groups, and then recorded a slight increase in 2012: 7 percent for both. Due to the overall decrease of British theft and handling prisoners, the population of those prisoners for this crime decreased by 21 percent from 1999 to 2012, whereas foreign national theft and handling prisoners increased by 203 percent for these 13 years.

If these two types of crime were combined to represent the level of economic/ property crimes committed by nationality groups in prison, the data shows that in 1999, 27 percent (19 percent in 2012) of British prisoners comparing to 10 percent (12 percent in 2012) of FNPs are imprisoned for property crimes. Similar to the result of violent crimes above, British national prisoners are more likely to be imprisoned for economic crimes.

#### **6.1.3.4.3 Sexual offences**

There are many similarities in the general trends of this offence between the two nationality groups. Both of them had a 10 percent share in 1999, increasing to 16 percent of the total British national prisoners and 14 percent of total FNPs in 2012. The recognisable increase of both nationality groups started in 2007 (with different percentages).

#### **6.1.3.4.4 Drugs and fraud**

The drug offence group accounted for the largest proportion of the FNP population in 1999 (42 percent). This proportion started to fluctuate,

decreasing post 2005 to be 34 percent in 2007, and ending up at 22 percent in 2012. Although the percentages are different, this category of crime also shows that for British nationals' prisoners, 14 percent were imprisoned for over the 10 years of table data. However, a significant decline (almost 4000) in the British national prisoner population for drugs occurred in 2012. Despite the gradual decline year-on-year of the FNP population for drugs, overall there is a growth from 1999 to 2012 of 7 percent (1 percent annual growth). The overall growth of the population of British prisoners for drugs shows a decrease of 11 percent in the same period.

Similarly, foreign nationals have a higher representation than British nationals have in prison for fraud and forgery crimes, especially post 2005 when the percentage increased from 9 percent to 12 percent the year after. However, this figure started to decline following 2010. On the other hand, British nationals show a very low representation percentage in prison for this crime. Hence, the overall growth from 1999 to 2012 was 6 percent for foreign nationals, and a 2 percent decrease for British nationals.

#### **6.1.3.4.5 Other crimes motoring, and not recorded crimes**

Other offences (includes non-violent offences, such as possession of firearms, public order offences, immigration, and public health offences) (Home Office, 2011) are the fastest growing crime in prison for FNPs. In 1999, 7 percent of foreign nationals were imprisoned for these minor crimes, and this figure started to rise consistently from 2003 to reach to 11 percent in 2012. This is a crime category many British prisoners are

imprisoned under too, with 11 percent in 1999 - a figure that has fluctuated slightly in the meantime before settling at 10 percent in 2012. Motoring and not recorded crimes present smaller percentages for each nationality group.

#### **6.1.3.4.6 Crime Type of prisoner by nationality groups**

There are some crimes with a faster growth than others in the prison data. For example, for FNPs the 'other crimes' category has grown the most (206 percent), followed by theft and handling (203 percent) and sexual offences (189 percent). In return, drugs offences recorded the lowest growth of committed crimes by FNPs (7 percent), followed by motoring (23 percent), and burglary (96 percent). In parallel, sexual offences by British national prisoners increased the most (77 percent), followed by VATP (42 percent) and other offences (4 percent). Alternatively, the general picture for crimes committed by British national prisoners was of a decrease across different crime categories. For example, motoring offences decreased by 77 percent, followed by burglary (31 percent decrease) and theft and handling (21 percent decrease).

Tables 6.12C1 & 2 (Appendix 2) summarise the results of the previous two tables and shows the type of crimes that both nationality groups tend to be imprisoned for. The picture for British national prisoners (see Table 6.12C1 in Appendix 2) shows VATP as the most prominent reason for imprisonment among British citizens, followed by drugs (although this has declined recently), and for 2012 sexual crimes is the second largest group. Burglary was the second largest crime category for these



prisoners for the years represented in first half of the table, but this has usurped by the increase of drugs, sexual and to some extent robbery crimes.

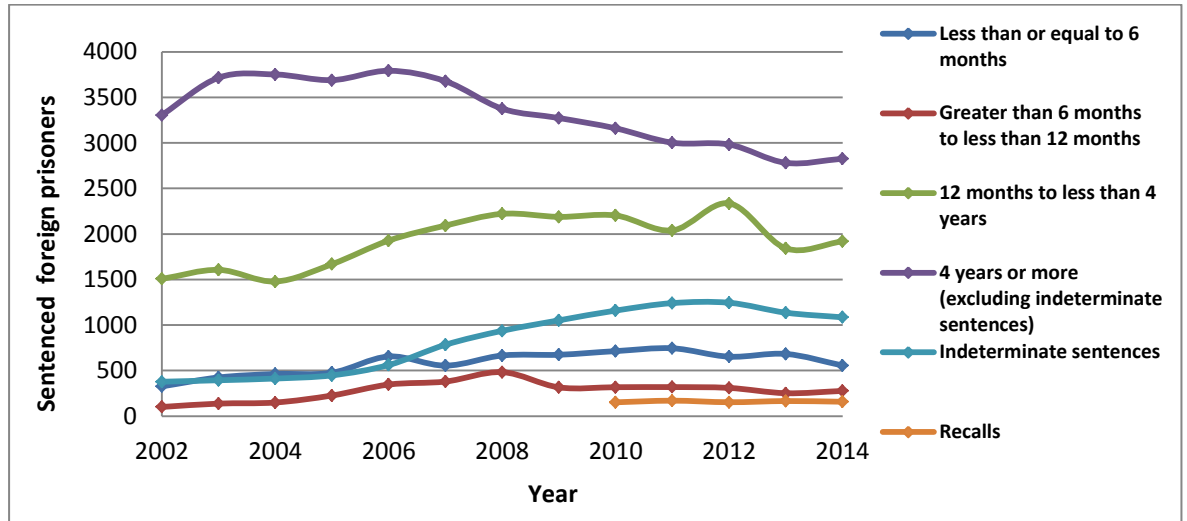
On the other hand, minor crimes (like those included in 'other crimes') have dropped off, with motoring and not recorded crimes remaining at the bottom of the ranking.

Table 6.12C2 (Appendix 2) gives a similar summary of the reasons for FNP imprisonment. Drugs offences are the largest category for FNP imprisonment, followed by VATP, sexual and for a period fraud and forgery. 'Other crimes' are also a prominent reason for the incarceration of FNPs, but economic crimes remain the least prominent category.

#### **6.1.3.5 Foreign national prisoners by sentence length**

There is a large variation in the distribution of the sentenced population by sentence length for different offence groups. Figure 6.5 shows the different length of sentences for FNPs. Those who were sentenced for 4 years and greater were the highest proportion of sentenced FNPs: 59 percent in 2002, although this declined from 2005 to 40 percent in 2013. The second highest group is those who were sentenced for between 12 months and 4 years, with an average of 27 percent of all prisoners, followed by those sentenced for indeterminate sentences, which had more than doubled in 2013. Finally, those who have sentenced for 12 months or less have roughly doubled, but this group do not make up a considerable proportion of the total compared to other longer sentences.

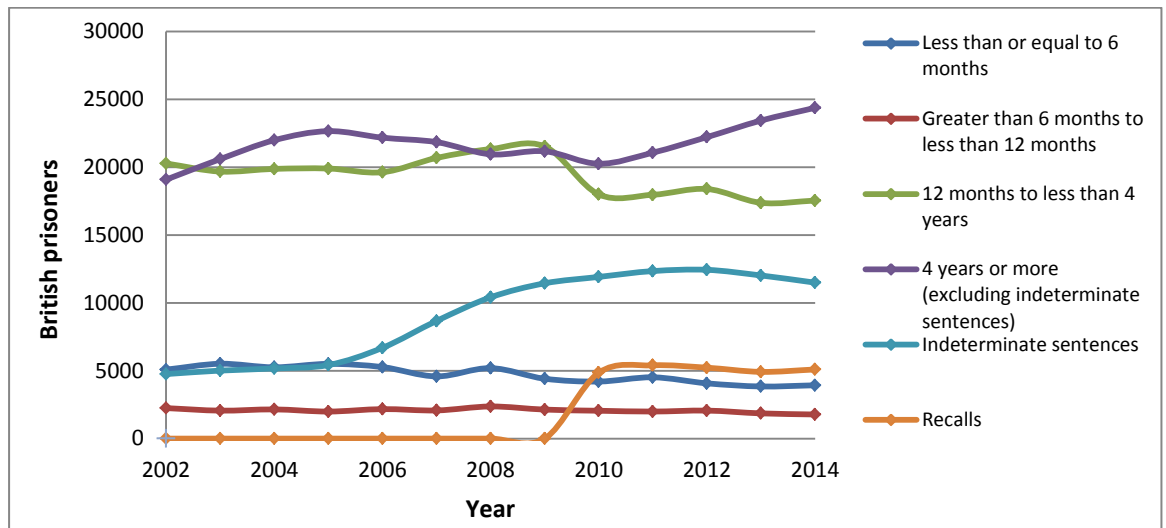
Figure 6.7 FNPs by sentence length, 2002 to 2014



Adapted from Table 6.13A (Appendix 2)

Overall, FNPs are more likely to be sentenced to longer sentences than those for a year or less. In addition, the increase of short sentences is not significant enough to be considered, as with the percentages of other long sentences with the lowest 2 percent for recall from 2010 to 2013.

Figure 6.8: British prisoners by the type of custody 30 June 2002-2014



Adapted from Table 6.13 B (Appendix 2)

Although with different figures, British prisoner sentence length presented a similar picture to that of FNPs. Most prisoners were sentenced for 4 years or more, with those sentenced between 12 months and 4 years

being the second largest group. As with FNPs, there has been a significant increase in the use of indeterminate sentences for British national prisoners since 2007. Alternatively, the lowest representation for the British national prisoners group was for those sentenced for between 6 and 12 months, followed by those sentenced for 6 months or less. However, the main difference between FNPs and British national prisoners is the level of presentation for long sentences. Nearly two third of FNPs are sentenced for 4 years and more, and just above 25 per cent were sentenced to between 12 months and 4 years. This suggests that foreign nationals receive longer sentences than British offenders.

### **■ The statistical picture: Analysis**

The final section of this chapter will offer an analysis of the data outlined above. This will provide an explanation of foreign nationals' overrepresentation (by nationality and types of crime) in different stages of the CJS.

#### **6.2.1 The 'ideal suspect': The relationship between foreign nationals and the police**

According to PCEA 1984, a police officer is required to record ethnicity to classify a person who has been stopped and searched. The Act also exhorts police officers to use their powers fairly. In parallel, RRA (Amendment) 2000 makes it unlawful for police officers to discriminate on the grounds of race, colour, ethnic origin, nationality or national origin when applying their powers. However, if the recording of nationality is not required in stop and search protocol, it is difficult to ensure this police

power is not abused on grounds of nationality. This also means that PCEA data on stop and search by nationality is not available.

In a FOI request to the Home Office asking for statistics relating to the level of crimes committed or suspected to be committed by foreign nationals, the Home Office reply did not include any information, but instead it explained that police data focuses solely on the numbers of offences recorded and detected by the police. In other words, recorded crime offences are counted on an aggregate basis and the nationality of the offender cannot be specified (Home Office/Direct Communications Unit, 2010). Nevertheless, the high rate of stop and search foreign nationals can be inferred by looking at the high rate of BAME individuals' stop and search for purposes of illegal immigration or suspicion of terrorism (Wheatle, 2013). Following the 7/7 bombings in London, the political and parliamentary debates focused on foreign nationals' relationship with terrorism threat and how they provoke British citizens to engage in terrorist activities. The debates resulted in a general urgency for the government and CJS to introduce stricter precautions in order to manage the terrorist risk (Hansard, 2005c, col 1255). These policies might not only mean an increase in the population of BAME groups and foreign nationals in the CJS statistics, but at its extremes could have consequences that are far more serious. The case of Jean Charles de Menezes provides an example of where such policies can lead when feelings are tensions are running high. Menezes was a Brazilian man who shot dead by London MPS at Stockwell tube station on London Underground after he was misidentified as one of the escapees from the previous day's failed bombing attempts (Vaughan-Williams, 2007).

The absence/ limitation of recording nationality in police data, might lead to couple of results: Firstly, it made a gap in police studies and their relationship with foreign nationals. The relationship between police and foreign nationals in the UK is an under-researched area, due to a combination of an inability by authorities to record identity, nationality and deficiencies in how the data has been collected and organised.

Secondly, the absence/limitation in police data has helped to enhance the construction of foreign criminality. The politicians and the media have misused the aggregate number of arresting foreign nationals or taken an advantage of the absence data to articulate the picture of foreign criminality. For example, a report published in the Daily Mail includes a speech by the Police Minister Damian Green (Doyle, 2014):

*'The number of crimes committed by foreign criminals is 'sizeable and increasing...'In 2011/12 the Metropolitan Police arrested over 74,000 foreign national offenders...the scale of the challenge is less well understood outside London... this is not about picking on people because they are not from the UK... foreign national offenders are first and foremost criminals. The fact that they are not UK nationals provides us with other options for dealing with them'.*

Although the arrest data is important to illustrate why foreign nationals engage in problems at the policing stage but it is not able to measure the criminality, as people are innocent until proven guilty in court. In addition, without looking further in those data (as this research did), it will not be possible to present a real picture of how foreign nationals were targeted and socially identifies as criminals.

The arrest data in NI and London by nationality is the only data that represents the nature of foreign nationals' contact with the police, as stop and search data by nationality is unobtainable. The arrest data by nationality showed similarity of foreign nationals experience in both NI and London, perhaps due to the similar application of immigration policy. There is an overrepresentation of foreign nationals in the arrest data, which raises concern regarding their social and legal justice. The high arrest rate illustrates how foreign nationals come to have such high representation in prison. This high representation in arrest data also gives an indication that stop and search of foreign nationals is logically higher than the arrest rate, and should reveal higher percentages compared to their presence in the general population.

This thesis argues that the discriminatory practices of the CJS towards foreign nationals that shows foreign nationals have been over policed, targeted in the streets, and have had longer sentences than British, mirror another application of applying social constructivism theory in this research. Immigration policy and counters terrorism legislation, which expanded and added new duties for CJS workers to monitor foreign national communities in order to keep the public safety, national security, and assure of no violation for immigration rules (Banks, 2011, Bell and Machin, 2011), is the driving force behind disproportionality. The police have been given wider powers due to applying stricter immigration policy and the pressure from foreign criminality discourses and the media. The police required to apply different policies arising from the war on terror, drugs, and trafficking, in addition to the violation of immigration legislation, which might explain the overrepresentation of foreign nationals in arrest

data, and the inferences drawn about stop and search. Considering the findings of previous studies into the overrepresentation of BAME groups in police crime statistics, the experience of foreign nationals could well be as the 'suitable enemy' (Wacquant, 1999, Fekete, 2009) and 'ideal suspects' (Wilson, 2006). Moreover, over-policing in target areas where ethnic minorities are concentrated, makes immigrants more 'visible' (Papadopoulos, 2010).

The overrepresentation of arresting foreign nationals disagree with the findings of Stowell and Martinez Jr (2007), Stowell (2007) and Bell and Machin (2013b) found that in neighbourhoods where foreign nationals (and EU citizens) predominate there are lower crime levels than in neighbourhoods where the majority are indigenous. Along with this, the presence of foreign nationals tends to lead to a decline in the crime level. However, this is contrary to the high representation of EU citizens in the data presented above.

Moreover, there was a fluctuating decrease in the arrest rate; in the first three years of the arrest tables, there were a high representation of foreign nationals then it started to decline at the end of the 2000s when immigration and penal policies changed, as did the ruling political party. The literature in Chapter 3 showed that during their three terms in office the Labour party introduced much immigration legislation that criminalised foreigners, an outcome of which was an increase in the arrest rate, mainly for less serious crimes of which immigration crimes are many (Aliverti, 2013b). The 'cimmigration' crisis in the UK has further serious implications, such as using different UK institutions to monitor and scrutinise foreign nationals. This is done to ensure they are not

breaking immigration legislation, threatening public safety or national security (Stumpf, 2006). At the time, the Coalition Government penal and immigration policy to reduce crime and imprisonment comes in parallel with an increase in foreign national offenders being deported and a decrease in their prison population. This has resulted in a greater decline in the arrest data of foreign nationals compared to that of British nationals (compare Tables 6.2A and 6.3A).

After all, foreign national overrepresentation in CJS statistics (especially the police data) mirrors the proposals that constructing the criminality of foreign nationals and imaging them as the devils influence the practice of CJS workers and enhance the idea of targeting 'unwanted foreigners' as a new version of racism, criminalising them and restrict their mobility through and to the country (Lee, 2007b).

## **6.2.2 The story of prison reception**

Again, the population of those received into prison are not necessarily convicted offenders, as some them are awaiting trial. Instead, this number can be considered to be all those persons who come into significant contact with the CJS (Solivetti, 2011). Reception into prison data provides a good picture of prison population trends though and influences on the prison reception population. This data highlights significant differences between the foreign national and British national prison population growth.

### **6.2.2.1 Untried prison receptions and untried prisoners**

Untried foreign nationals received into prison showed a higher percentage compared to British nationals; foreign nationals are more



likely to be kept in prison without trial than indigenous. Moreover, the terrorist attacks since 2001, British riots in 2011, large number of immigration and criminal justice legislation (see Chapter 3), the general decrease of sentenced offenders post 2002 and the rapid increase of suspended sentences after 2005 (Ministry of Justice, 2013c) have all had an immediate impact of the increase in untried foreign national receptions since 2001. As a result of the above outcomes and policies, foreign nationals are more likely to wait longer for their trials than British prisoners, which mean that FNPs are more likely to be counted twice in the total prison population. Thus, an inaccurate number of total FNPs could potentially skew public opinion and the general perception of the relationship between foreign nationals and crime. In addition, the data on untried foreign nationals suggests that untried British nationals received into prison are more likely to be released, discharged, given parole or community service, something which agrees with Ministry of Justice (2013b) outcomes. FNPs are less likely to be released, given a parole or a community sentence due to restrictive immigration policy, stating that even when a foreign prisoner has served their sentence, they are to be detained in prison or transferred to the IRC to facilitate their deportation (Hansard, 2006d, col WA203, Bosworth, 2011).

On the other hand, the story of un-sentenced foreign nationals convicted is similar to those high numbers in the remand. Foreign nationals convicted but un-sentenced show a significant growth during periods of both Labour and Coalition Government, compared to British nationals whose population in this category showed a decrease from 2005 on. The 2005 was of course when the terrorist attacks occurred in London,

leading to anti-terrorism legislation that increased police powers, and along with it the criminalisation and stereotyping of foreign nationals (Muslims in particular) as a potential criminals and terrorists (Spalek, 2013, Spalek and Davies, 2012, Spalek and Lambert, 2008).

#### **6.2.2.2 Immediate custodial sentenced reception and prisoners**

The second group of those received into prison are those who have been sentenced. The data showed that the representation of FNPs in this category is logically lower than the first one. British nationals are more likely to be sentenced immediately than foreign nationals. Hood (2003) argued that there is discrimination in the courts regarding race, especially against black groups. This thesis agrees with the perception that the experiences of foreign nationals in the CJS could be described as a form of direct discrimination since criminal justice practices, legislation and immigration policies set foreign nationals at disadvantage and labelled them as criminals.

There are methodological problems of ascribing different nationalities due to limitations in the data produced by the Home Office and the Ministry of Justice. However, there are many similarities between the experiences of black people and foreign nationals in the CJS. The majority of black people (which is similar to foreign nationals) were put into prison under remand awaiting trial, while white defendants (corresponding with British nationals) show higher percentages in the ICS category (Hood, 2003, p 11).

Moreover, the data showed there are two periods when the proportion of sentenced foreign nationals was at its highest in the prison population:

post 2001 and post 2005. There are two different explanations for these spikes. First, they correspond with 'war on terror' policies resulting from the terrorist attacks on the USA (2001) and the UK (2005). The governmental response to the public and political 'fear' of terrorism, partly fuelled by the media and political discourses, along with immigration policy, has meant foreign national offenders have been impacted upon by crime policy (Ministry of Justice, 2013b) and been subject to more restrictive immigration policy (Somerville, 2007, Aliverti, 2013b). The second explanation for these figures relates to the 2006 scandal, when the political, public and media focus was placed on FNPs, and the Home Office performance in this regard. From 2006-2009 there was a crime policy to increase the ICS prisoners and hand down sentences of a greater length (Ministry of Justice, 2013b).

To conclude, the results indicate that court decisions differ according to the nationality of the defendant. Foreign nationals are more likely to stay in prison for longer before being sentenced. Canton and Hammond (2012), pointed out how the probation staff and sentences view differ, as the courts are more prone to sentence foreign nationals with prison rather than give them a community sentence, and that they also differ in terms of whether or not they use pre-sentence reports<sup>18</sup>.

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<sup>18</sup> Pre-sentence reports: are normally prepared where a court is considering a custodial or a community sentence CANTON, R. & HAMMOND, N. (2012). Foreigners to Justice? Irregular migrants and foreign national offenders in England and Wales *European Journal of Probation*, 4 (issue), 4-20.

## 6.2.3 The different representation of prisoners by nationality

### 6.2.3.1 Recording and counting foreign prisoners

Using records of foreign nationals in the CJS is actually one of the biggest challenges to understanding the levels of criminality that they show. Prison records, widely recognised as the only stage of the CJS when nationality is recorded, the chaotic and disorganised nature of recording nationality affects the validity of the presented data, and thus the population of FNPs.

It should be noted that this limitation of recording is a historical one. For example, in a question to the Home Secretary (Winston Churchill) in 1911 about how the 'alien' criminal population relative to the general population of aliens is calculated, the Home Secretary replied:

*'So far as the Home Office is concerned, no attempt has been made to calculate the percentage which alien criminals bear to the alien population; and I do not think we have at present any trustworthy materials on which such a calculation could be made' (Hansard, 1911, col 1520)*

Principally and by law, the recording of nationality is not obligatory at the stages of stop and search and arrest. Prisoners' nationality is recorded on the Prison Service IT system (P-NOMIS) and on the prisoner's core record, which is a paper file on initial reception into prison custody. The nationality of the prisoner is indicated by a passport or other accompanying paperwork, or through self-declaration (National Offender Management Service, 2014). However, what if the prisoner comes with no official papers or the accompanying official papers cannot indicate the nationality of the prisoner, and the prisoner refused to declare his

nationality? In a request sent to National Offender Management Service, the researcher asked about prison's policy in relation to recording the nationality, specifically those 'not recorded nationality' prisoners' category. The researcher asked how Her Majesty Prison Services would cooperate with the UK Border Force to deport unrecorded nationality prisoners if their nationality remains undeclared. The reply was (National Offender Management Service, 2014):

*'If a prisoner's nationality cannot be established on reception, this will be recorded as 'unknown'. All efforts will be made to establish a prisoner's nationality when it is unknown. The prisoner will be referred to the Home Office who will determine their nationality. Should the Home Office confirm a prisoner's nationality, or establish that it is in fact different to the one recorded by the prison on initial reception into custody, prison records will be updated accordingly. In the majority of cases where the nationality was unknown, the prisoner is proven to be British'*

The researcher received no answer for a FOI to the UKVI via her university email FOI act 2000 in February 2014, investigating further the fate of unrecorded nationality prisoners, their potential for deportation, and what happened if the nationality of the prisoner still unclear. However, when the same request was made via the 'what do they know' website, the following reply was received (Immigration enforcement/ Criminal casework, 2014):

*'The Home Office process is to investigate all cases where the nationality is unrecorded. The Home Office check various databases and sources of information, as well as interviewing the prisoner, to establish their nationality...The Home Office considers for deportation or other*

*immigration enforcement action all non-British/foreign national offenders who are sentenced to a period of imprisonment following a criminal conviction. Once a person's nationality has been established the Home Office will deport the prisoner to their country of origin'*

Although the Home Office has provided an answer, this is not wholly satisfactory, as current policy does not seem to solve the overall issue. If the prisoner is in the country illegally, has no identity papers, and/or refuse to voluntarily declare her/ his nationality (especially when the nationality cannot be self-classified as with ethnicity), then in these cases the prisoner will be held for an undetermined period. In a written answer by the former Minister of Justice Mark Harper to a question by Priti Patel (Con MP) about the number of foreign nationals living in the UK subject to deportation orders, Mr Harper wrote:

*'...at end of Q3 there are 3,980 foreign nationals in the UK subject to deportation action living in the community. We continue to pursue removal in all these cases. The principal barriers to removal are non-compliance on the part of individuals which means we have insufficient evidence of nationality and identity to obtain a travel document, ongoing legal challenges and the situations in countries of return' (Hansard, 2012b, col 778W)*

The above quote refers to unrecorded nationality prisoners, and the difficulties of dealing with their cases and if they subject to deportation from the UK. The above quote, in some ways, answers the questions above that the Home Office did not. Given these difficulties, it is not out of the question to suggest that the nationality of some FNPs might not be accurate.

The voluntary declaration of nationality of those entering prison, the vague methods to record the nationality of prisoners, and the increase in 'unrecorded nationality' category prisoners all demonstrate a weakness of prison records in this respect. Self-reported nationalities are not checked by the prisons before being entered onto the Inmate Information System (Justice Statistics Analytical Services, 2011, p 2). Depending on prisoners' self-reporting further reduces clarity in the prison records, giving the chance for some prisoners (those who share similar demographic characteristics like the similar ethnicity, for example, African, South Asians, Europeans, and Arabs) to choose the nationality that fits with whichever motivations are guiding them (Unity, 2008).

#### **6.2.3.2 Who are foreign national prisoners?**

Politicians and the media use prison population numbers frequently to claim that foreign nationals present a real danger, and this can heighten public concern while creating a widespread acceptance of the association between foreign nationals and crime (Corporate Watch, 2013; Prison Reform Trust, 2013). However, data in this research shows not all FNPs are offenders or serious criminals, as some politicians (Canton and Hammond, 2012; (Hansard, 2010a) and media (BBC News, 2014, McFadyean, 2013, Shipman and Doyle, 2013) describe them. Indeed, it is useful at this juncture to clarify the categories into which FNPs can be placed:

1. Foreign national 'detainees' in Immigration Removal Centres (IRCs), controlled by the prison service
2. Remand prisoners (untried and convicted unsentenced)
3. Fine defaulters

4. Prisoners sentenced for committing non-immigration criminal offences
5. FNPs detained after serving their time in prison

The population of foreign nationals 'detainees'<sup>19</sup> in IRCs controlled by the prison service are usually added to the total population of FNPs in HMPS; foreign nationals' detainees in Dover, Haslar, Lindholme, and Morton Hall IRCs are usually added to the FNP population (see Table 6.8A & B). The IRCs hold different types of foreign nationals for different reasons, but all detainees regardless are labelled as FNPs. For example, Morton Hall holds males subject to deportation without any reference to the reason of deportation, whether for immigration crimes or non-immigration criminal offences (Her Majesty's Prison Service, 2013c). Dover (IRC) holds 'appellant and failed asylum seekers'. Haslar (IRC) holds those detained by the Home Office while their eligibility to remain in the UK is considered, and whilst removal or deportation processes are carried out. Lindholme (IRC) holds males prisoners (Category C over the age of 21 and a small number of Category D) (Her Majesty's Prison Service, 2012; 2013a; 2013b). In addition, fine defaulters who are considered along with detainees in the IRCs to be non-criminal prisoners are added to the population of FNPs, and in most cases without making a clear distinction between FNPs and non-criminal foreign nationals (Bhui, 2009a; Hales and Gelsthorpe, 2012; Ministry of Justice, 2014a). The data in this research has clarified the meaning of FNP by distinguishing between foreign national offenders, foreign national non-criminals, and foreign national ex-prisoners detained in the prison waiting for their deportation.

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<sup>19</sup> Immigration detainees are connected directly to the policy towards asylum seekers, particularly those who enter the country illegally or with fraudulent documents, or those who be caught working illegally.



### **6.2.3.3 Why foreign prisoners population has increased**

As a result to presenting foreigners existence as a social problem, which impacted a moral panic and the consequent policies that connected foreign nationals directly to different sorts of crimes like wars on drugs and terrorism, the population of FNPs has risen, especially as foreigners have been stereotyped as being involved with drug offences and terrorism (see 3.1.2). The change in foreign prisoners' rate could be explained by changes in the crime policy, as those detained or imprisoned under immigration legislation affects the total population. As well as the expansion in 'cimmigration', an immigration policy tightened by reducing free services for foreigners, along with removing the right to work for asylum seekers in 2002, has resulted in a high proportion of non-criminal FNPs. For example, the peak of the increase of detaining immigrants started from 2005, along with The Asylum and Immigration Act 2004 (Treatment of Claimants, etc.). This removed benefits payable to refugees once they received a positive decision, in recognition of their retrospective entitlement to full levels of income support whilst claims were determined (Section 12). The increase in the population of FNPs thus came from different sources: foreign nationals in the IRC detained for illegal entry or overstaying; prisoners detained after completing their sentences and awaiting deportation; even asylum seekers and refugees detained on arrival in the UK (Clarke and Newman, 2007, Silverman and Hajela, 2013).

In a report by HM chief inspector of prisons Nick Hardwick in August 2012 examining conditions in the Category B jail, two FNPs were found to have been held for long periods beyond the end of their sentence; one of

these FNPS was held for an extra nine years (Hardwick, 2012). These two men had each been awarded and served long sentences as both of them had committed serious offences. As such, in normal circumstances they would be returned to their home country after serving their sentence. However, it seems that for reasons out of their control, such a return is extremely difficult if not impossible. It was recognised that they could not continue to be detained for so long without the authority of a court (HM Chief Inspector of Prisons, 2012). The report also criticised the UKVI and the lack of an independent immigration advisory service that mean the detention of FNPs for years without court authority is possible (Hardwick, 2012). The Chief Executive Officer of the NOMS Michael Spurr (Ministry of Justice, 2012) responded:

*'I acknowledge that the performance at Lincoln has declined. This is not acceptable and we have taken urgent action to address the Chief Inspector's concerns.'*

The UKVI spokesperson also justified the long detention of the two FNPs without a court authorisation, as the 'extended' period of detention was necessary for the two individuals who had been described as 'extremely dangerous'; one of them had absconded before and the other had previously failed to comply with his bail conditions (BBC NEWS, 2012).

In the response of the Chief Executive (Rob Whiteman) to the HAC question regarding the deportation process delay, Whiteman (Home Affairs Committee, 2011b) said:

*'UKBA's position is that we believe people should remain in detention until the removal takes place. As the Minister made clear yesterday in an urgent question, in 90% of cases where people are not detained pending removal,*

*it is because of the decision of the courts. Our position remains that we think people should remain in detention until the removal takes place'*

Juliet Lyon, director of the Prison Reform Trust, has been very critical of this way of doing things:

*'For a foreign national man to be found in the depths of this jail nine years after the expiry of his sentence tariff is a matter not only for prison staff but also for the Justice Minister' (Lincolnshire Echo, 2012).*

The rapid increase in criminalisation and imprisonment is unparalleled in volume and scope. A consequence has enhanced the construction of foreign criminality and negatively affected BAME communities' relationship with the CJS. The literature that looked at the criminalisation of 'race' investigates the impact of labelling young black people as criminals (Dovidio et al., 1997). BAME groups are overrepresented in the CJS statistical data due to the influence of the media and political discourses, which pictured them as evils and influence new waves of modern racism (Rowe, 2012). The old scenario of targeting BAME groups and labelling them as criminals has back with slight difference, othering foreign nationals and presenting them as the biggest threat in this country would lead to one result; over representing them in the CJS data. The data showed how the pattern of prisoner rankings has changed since 2004 when the door was open further for EU migrants. In terms of ethnicity, there are differences according to nationality, especially for black prisoners. Foreign national black prisoners had the highest representation among other ethnic minorities, and a higher representation compared to the total population than British black prisoners. The high representation of black ethnicity is understood by looking at the largest

nationality groups of prisoners in E&W. The data showed a high representation of the traditional UK immigration nationalities: Africans (Nigeria, Somalia, and South Africans), Caribbean (Jamaica), South Asian (India and Pakistan) and Irish. Jamaican prisoners were predominant among all FNPs from 1999 until 2013, when Polish prisoners replaced them. These Polish prisoners have been the predominant group, proportionally speaking, in arrest data since 2008.

The decrease in the Jamaican prisoner population (due to the general decrease in FNPs population) did not affect their primary ranking until 2013. Jamaicans have been stereotyped and connected to drugs crime, one in six Jamaican prisoners are imprisoned for drugs offences, and some of these are drugs couriers arrested on entry to the UK (Bowling and Phillips, 2003; 2002). In 2008, 71 percent of those who have been arrested ended up in prison; in 2012, half of this percentage (35 percent) ended up in prison. However, it should be noted that the prison population in the table includes those remanded in prison, that those who are sentenced for drug offences have longer sentences, finally that the British Government has struggled to deport Jamaican prisoners to their homeland (Public Accounts Committee, 2014b). This means that some Jamaicans are held in prison longer, and the research suggests that the percentage of the Jamaicans convicted FNPs is less than the above. This is particularly problematic when discussing FNPs because statistics show that foreigners are now twice as likely to be held on remand as British citizens, and this discrepancy has grown significantly over the last decade. Therefore, it is very likely that actual percentages of convicted FNPs may be lower.

On the other hand, the increase in foreign nationals of white ethnicity in the prison population is strongly associated with the increase in the EU population. However, by combining the arrest and prison tables, the result shows: 11 percent only of arrested Polish were imprisoned in 2008, decreasing to 10 percent in 2012. This means that around 90 percent of those arrested were either discharged or released. This raises some concern that the police are targeting Polish citizens. Similarly, Romanian prisoner data shows 7 percent of those arrested in 2009 were jailed, and this percentage has only increased slightly in 2012. Lithuanian prisoners show the same pattern, with 8 percent of those arrested in 2010, and 11 percent of this arrested in 2012 imprisoned. It should be noted that prisoners who are on remand (untried or convicted unsentenced) are also included in these figures.

As such, this data seems to echo the arguments of Lee (2007b), who found that political discourses and the media now focuses on nationality rather than race/ethnicity as used to be the case. In an environment where the numbers of foreign nationals have increased, tightened immigration policy is not only expressed by greater borders control, but it also means indirect control through criminalising foreign nationals, and presenting them in general as potential criminals.

#### **6.2.3.4 Dangerous criminals: the types of crimes' committed**

The data in the tables shows that VATP and drug crimes were the most commonly committed crimes for both nationality groups. However, VATP was the highest category for imprisonment of British national prisoners, whereas drug crime stand was the largest category for which foreign

nationals were imprisoned. These results agree with those (Heaven and Hudson, 2005, Beddoes et al., 2010, Canton and Hammond, 2012, Bhui, 2007, Banks, 2011). Each of these studies found that foreign nationals are more likely to be convicted and sentenced for drugs, and that they are more likely to receive longer sentences.

There are different explanations of the high number of FNP for VATP, such as the intolerant crime policy towards foreign nationals and the wide range of crimes that VATP captures: 14 categories with over 100 types of violent crimes, which most of which do imply physical harm. For example, a threat to kill is considered a crime under the VATP with a sanction not exceeding 10 years;<sup>20</sup> under the law of some other countries, this is not considered a crime unless accompanied with concrete action (see for example Moroccan criminal legislation (s425-427); Iraqi criminal law (421, B)). Moreover, constructing the criminality of foreign nationals and stereotyping foreign nationals, presenting them as potential criminals and associating them with violence and terrorism might affect how criminal justice workers treat those (non-whites in particular) who do not fit the typical 'British' appearance (Bowling and Philips, 2002, p 207). Furthermore, it can be stated that immigration policy as a means to control the expansion of 'unwanted' immigrants has used prison as a primary tool (Lee, 2007a).

The other prominent offending categories for FNPs are those relating to sexual crimes and robbery, followed by fraud and 'other crime'. The

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<sup>20</sup> 'A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out, to kill that other or a third person shall be guilty of an offence and liable on conviction on indictment to imprisonment for a term not exceeding ten years' Offences Against the Person Act 1861/ section 16

position of British prisoners is a little different: proportionally speaking it features more serious crimes (in both quantity and quality) than FNPs. This result is contrary to the majority of the negative political and media discourses that focuses on the criminality of foreign nationals, blaming them for increases to the crime level in E&W.

It should be note that the increase of the FNP for property crimes since 2006 accompanied the Royal Assent for the Immigration, Asylum and Nationality Act 2006, which boosted government's powers to tackle illegal working and strengthen the UK borders. At the same time, immigration detainee data recorded its highest figures from 2005-2008, when tackling illegal immigrants and illegal workers was the main concern of the Home Office. After the incident in 2006 when it emerged over 1000 FNPs were released without being considered for deportation between 1999 and 2006, Labour's immigration policy became much tougher in order to rebuild public confidence in the immigration system in the UK (The Home Affairs Committee, 2012).

On the other hand, in spite of the data showing that FNPs are more likely to be imprisoned for drugs and non-serious crimes compared to British prisoners (who are more likely to be imprisoned for serious crimes), the sentence lengths for foreign national offenders are more likely to be longer than for British. This again raises the question of whether foreign nationals are targeted and discriminated against in the courts due to their nationality and legal status. Canton and Hammond (2012), Miller (2005), Solivetti (2011) and Councell and Olagundoye (2003) point out that when the defendant is a foreign national, the attitude of the court will be different compared to if the defendant was indigenous. However, none of

these studies was able to justify or explain the reasons for this difference. In this respect it is also useful to remember that other studies have shown that BAME individuals receive tougher sentences, suggestive of 'institutional' discrimination in the CJS (Fekete and Webber, 2010, Williams, 2000).

Prison data does not compare the differences in criminality behaviour between foreign and British citizens. In addition, it does not show whether foreigners are more prone to commit crimes than British. This is partly because prison data does not show the number of crimes committed by individual prisoners. The incarceration data gives an indication of the problems of penal justice incurred by foreign nationals in their host country, and this analysis suggests deeper thought is required in relation to crime policy and the problems of interaction, reception, integration, and adoption between foreigners and the host country (Solivetti, 2011, p. 126).

To sum up, by recognising the differences between FNPs and foreign national offenders (for non-immigration criminal offences), this chapter agrees with those studies that suggest foreign nationals do not have the large effect on crime levels in western countries, including the UK, that is often claimed. In addition, discrimination in the different legal stages, the varying representation of foreign nationals in contact with the police and the court, and the longer sentences they are more likely to receive (as well as those detained after their sentence has expired) all affect the construction of foreign national criminality. Immigration policy has intertwined with the CJS to facilitate the deportation of foreign prisoners, and ultimately act as a means of controlling the quantity of immigration in



the UK. Policy therefore plays a significant role in determining the relationship between foreign nationals and crime in the UK context.

The next chapter will explore this further by providing a qualitative analysis of the immigration and crime arena. It will examine political and parliamentary debates, alongside the impact of immigration policy, to reveal how this has helped widen the construction of foreign national criminality. Political discourse, along with the media reporting of the issues, will be shown to impact public attitudes, and in turn the general construction of foreign national criminality.

## **Chapter 7 Parliamentary and political debates: Discourse analysis**

Since the 1950s, the topic of immigration has been highly politicised and has been one of the leading issues in almost every election campaign in the UK. The rhetoric of different political parties about immigration has fuelled public concern over the economic, social and legal impact of immigration. From the 1990s onwards, foreign nationals have often been blamed for increasing crime, and linked to different illegal activities in spite of very little evidence supporting their criminality.

This chapter focuses on the construction of foreign criminality as a means of controlling foreign nationals, as well as rushing through legislation. It is useful to use discourse analysis to identify powerful discourses and the social, economic and political climate, which fostered its development, and track the historical development of the discourse over time. Analysing foreign criminality discourses would allow the research the opportunity of knowing what other ways of defending foreign criminality have been marginalised.

### **■ ‘Foreign predator’ and British victim: Analysing foreign criminality discourses**

Analysing parliamentary and political discourses has been used by scholars to develop our thoughts and identify constituents in terms of objects, statements, themes, arguments, traces of challenges and traces of ideas which changed directions (Yamamoto, 2013, Yamamoto, 2010, Noronha, 2015, Fairclough, 2000). Discourse analysis has been widely

used in studying the impact of legislation on foreign nationals, or how racism is implied through political and parliamentary debates, as well as the media (Huysmans and Buonfino, 2008, Van Dijk, 2000), Fairclough (2000), critically analysed political language produced by the British New Labour Party and Prime Minister Tony Blair. Fairclough runs his analysis in two different ways: qualitative analysis (called it critical discourse analysis) and quantitative data. Fairclough runs an analytical framework for explaining how discourse structured in projects for social and cultural change. Fairclough, analysed the style of politician's language, discourses based on political representation, and genres constitute a certain way of using language like genres identify how language works as a means of control (Engelbert, 2012).

Discourse analysts of foreign criminality discourses explained how political discourses have connected crimes with foreignness, emphasised the safeness of British communities without foreigners (Huysmans and Buonfino, 2008, Noronha, 2015). Yamamoto (2010), imaged the 'foreign predator and Japanese prey' dichotomization, which constitutes the core cognitive scheme of the official discourse of foreign criminality in Japan. Yamamoto (2010), qualitatively analysed Japanese police white papers and white papers on crime between 1986 and 2002, and found that social construction of foreign nationals criminality is developing and increasing due to the contribution of many barriers like policies, foreign criminality discourse and the media (Yamamoto, 2013). The author argued that foreign criminality discourses, which are increasingly prominent in contemporary Japan, is better understood as a political construction of foreign 'others' within, rather than as a response to an actual high crime

rate for foreign nationals. With the dichotomized picture of predator foreigners and British victim, the foreign criminality discourse frames immigration as a national security issue, proposing a more security-oriented approach to immigration stronger policing of illegal migrants, stricter border control, and closer surveillance of foreign national residents as measures of crime prevention (Aliverti, 2012b, Spiro, 2009, Bosworth and Guild, 2008b). Foreign criminality discourse emphasized the dramatic increase of FNPs and highlighted the brutality of some crimes especially those that are dominated by foreign nationals like terrorism and immigration crimes are explained as the result of cultural and religion differences (Noronha, 2015, Aliverti, 2013a, Anderson, 2013). Noronha (2015), Warner (2005), and Agozino (1997), analysed the media and political discourses of foreign criminality to represent facts, beliefs and events, identify the construction of foreign criminality, and interpret the outcome of focusing on the relationship between foreign nationals and crime. The scholars explored how the symbolic power is used to impose someone's version of social reality as legitimate, and is distributed within society, also they show how the overrepresentation of foreign nationals in CJS data was used to claim its objectivity and support legitimising the relationship between immigration and crime (see also Chapter 4).

While criminality is associated with foreignness, national security is represented as a traditional characteristic of Western communities (Rumbaut and Ewing, 2007, Every and Augoustinos, 2007). Claim-makers urge the British government to reinforce enforcement against foreign nationals that goes well beyond British attitude. This perspective

portrays the goal of the immigration administration to be effective policing of foreign nationals (Banks, 2011, Bowling and Sheptychi, 2015).

This chapter presents evidence that questions the basis of the foreign national-crime nexus in the UK by exploring the type of debates surrounding foreign nationals, the sorts of issues that have been linked to them, and the links to changes in immigration policy and public opinion. The analytical approach of analysing parliamentary debates and political discourses is intended to demonstrate/exemplify and explore the relationship between the text and the issue or the process of discussing the research problem (Jackson, 2007, Van Dijk, 2000).

## **Discussing foreign nationals in Westminster**

Looking at the parliamentary debates in Westminster on the Hansard website by the date reveals a consistent complaint in regards of the same issues that have been connected to foreign nationals historically.

This section will follow the same structure that was used in Chapter 2, and in doing so explore how parliamentary debates represent foreign national criminality as a feature of demographic, health, economic and housing concerns.

### **7.1.1 Populated pressures**

The immigrant population in the UK and its impact on the demographic changes has been discussed frequently in parliamentary debates. Many MPs from different political parties have welcomed the debates regarding the impact of foreign national overpopulation on different aspects of life in the UK (Wright, 2006). In the words of Nicholas Soames (Con MP) regarding the immigrant population:

*'...our country truly faces a turning point of historic proportions, which will profoundly affect the future of our children and subsequent generations. In fact, this is a crisis, of which members of the public are instinctively aware and about which many of them are rightly uneasy, but the Government are in almost total denial about it. I refer to the impact of mass immigration on our population, which will inevitably have the most serious consequences for our public services, our environment, our quality of life and even the future stability of our society. In some places, that is clearly already the case'*(Hansard, 2010b, col 1WH)

Such language suggests a 'foreign invasion', whereas the statistical data on the nationality of the UK population shows another story (Office for National Statistics, 2014). In spite of this, statistical data does not show the full picture due to the general meaning of 'immigrant' in British legislation (see section 1.2 Chapter 1); many foreign nationals are international students or economic migrants, working and paying taxes and ultimately contributing positively to the British economy (Science and Technology Committee, 2014).

The Public Administration Select Committee (2013) has published a report criticising the 'inaccuracy' of ONS migration publication statistics, as they underestimate the true migrant population in the UK, something that will impact on the efficacy of immigration policy. However, debates are mostly intended to show the impact of immigration on the crime rate, and to try and make a connection between the increase of the immigrant population and UK crime rates (House of Commons Library research service, 2008).

Finally, as a response to political and public concerns regarding new waves of migration from Romania and Bulgaria (first arriving from January 1<sup>st</sup> 2014) David Cameron stated he wants to make sure people come to the UK "for the right reasons", not just to claim benefits. The government says it is particularly concerned about the pressure that immigrants will put on local services, housing, and the health service. To tackle this, the Prime Minister stated immigrants would need to prove they are "genuinely seeking employment" to claim jobless benefits. This would be a tougher test than the current one, and would include a requirement for jobseekers to speak English. Immigrants may also be excluded from council house waiting lists in England for at least two years, under plans for councils to introduce a residency test. David Cameron says he wants the UK to get better at charging foreign governments for NHS treatment provided to non-working overseas nationals. Government ministers have also examined the possibility of linking some benefits to contributions, which could exclude new arrivals from eligibility (BBC News, 2013a, BBC NEWS, 2013b, Riley-Smith, 2013).

### **7.1.2 Health Pressure**

Pressures that foreign nationals are putting on public services (especially the NHS) have been widely discussed in both Houses of Parliament. In the debates of 'NHS Audit Requirements (Foreign Nationals) Bill', which failed to pass, Henry Smith (Con) alleged that foreign nationals are putting too much pressure on the NHS and wants to ensure that the 'British health budget is not unfairly burdened' (Hansard, 2012c, col 140). However, the highly respected Nuffield Trust showed in 2011 that

'immigrants are far less likely to use hospital services than the general population' (Hansard, 2013f, col 279). Ultimately, David Cameron has introduced heated debates in regards of 'health tourism', and the idea that tourists are taking benefits for free from the NHS (David Cameron's Office, 2013). This resulted in the Immigration Act legislation introducing NHS charges for all temporary non-EU citizens in the UK.

Prior to Cameron's mainstream 'health tourism' concerns, in a report of Health Select Committee, Committee Chairman David Hinchliffe said:

*'The Committee does not underestimate the difficulties the Government faces in combating 'health tourism', and it's vital that the UK does not become a magnet for HIV positive individuals seeking to emigrate to this country to access our health care. However, we have seen no evidence that this is happening. The Government has no estimates of the numbers of people likely to be involved in health tourism, or of what they might be costing the NHS' (Health select Committee, 2005)*

### **7.1.3 Economic pressure**

Following the banking crisis of 2008, parliamentary debates have focused on reducing welfare benefits as part of a general programme of austerity in public spending. This has had a direct impact on the immigration debate; for example, the House of Lords debates about the economic impact of immigrants in 2013 focused predominantly on foreign nationals' abuse of the welfare system, and a focus on illegal immigrants meant the Government introduced tougher measures to deter immigration crimes (Hansard, 2014d).

In the meantime, an official government data report analysed the economic impact of immigration to the UK, finding that immigrants who



arrived after 1999 in Britain, and made up a third of the overall immigrant population in the UK in 2011, were 45 percent less likely to receive state benefits than native Britons. They were also 3 percent less likely to live in social housing. Recent immigrants from the European Economic Area (EEA) contributed on average 34 percent more taxes than they received as transfers, while those from outside of the EEA contributed 2 percent more (Dustmann and Frattini, 2013, see also Kennedy, 2011).

Although welfare benefit has been central to the debate, employment and wages are central features (Dustmann and Preston, 2007 ) and have featured in parliamentary debates highlighting the relationship between immigration and crime. The shortage of employment and wages has meant some MPs have focused on the economic situation of Romanians and Bulgarians in particular (see for example, Hansard, 2006f, col 62W, Hansard, 2006b, col 14, Hansard, 2006c, col 20, Hansard, 2014c, Col 567W, Hansard, 2013i).

There are two implications of the above oft-repeated parliamentary debates. Firstly, it is possible that they raised anti-Romanian feelings or 'Romanian phobia' among the public (Hansard, 2013h, Hansard, 2013g). Secondly, the influence of parliamentary debates about EU migrants' economic impact and the 'open door' policy for working in the UK has affected their representation in the CJS statistics; as we have seen in the last chapter, the arrest and imprisonment rates of Polish, Romanian and Lithuanian nationals in particular has been elevated significantly.

On the other hand, although the economic impact may not be the main factor in criminalising foreign nationals, it is certainly an important aspect

of this discussion. For example, part of the big storm about the deportation of the FNPs and foreign national offenders related to how it would save the taxpayers money and would create space in British prisons. This would mean the government would not need to build extra prisons and therefore could save money (see for example, 1st Delegated Legislation Committee of the House of Commons, 2007/2008, col 4, Home Affairs Committee, 2011a, No. 6, Hansard, 2010a, col 53WH-60WH).

It is mentioned that keeping FNPs in prison would unnecessarily cost taxpayers thousands of pounds, at a time when the UK economy is struggling (Home Affairs Committee, 2010, Public Accounts Committee, 2014b). Furthermore, the representation of the delayed deportation of foreign nationals as wasting taxpayer's money helps solidify the foreign national-crime nexus, especially through focusing specifically on foreign national offenders and FNPs in media coverage. In other words, the 'unjustifiable' delay in the deportation process, for which the UK Border Agency was culpable, increased the construction foreign criminality (Home Affairs Committee, 2012b).

Tracing the different attitudes on topics raised by different politicians in relation to the main goals of some recent policy reveals the importance of economic factors, exacerbated by the global economic crisis. Politicians have tended to use in ways the economic pressure that have strengthened the relationship between foreign nationals and crime, and in reality criminalised some foreign nationals in order to facilitate their deportation or removal from the UK (Lee, 2007b).

#### 7.1.4 Housing pressures

As has been pointed in the section on asylum seekers (see Chapter 3, Section 3.3.2.4), 21<sup>st</sup> century foreign nationals are also brought into debates surrounding housing pressures, especially with the ‘free movement’ policy for EU citizens supposedly placing pressure on social housing (Rutter and Latorre, 2009). There is a consistent heated debate in the Parliament in relation to the welfare benefits and social housing for eligible foreign nationals. The debates have become particularly heated since Romanians and Bulgarians have become entitled to live and work in the UK (Kennedy, 2014). David Cameron, in his speech in 2013 at the University Campus Suffolk, Ipswich, touched on the ‘common sense’ negative impact of foreign nationals on public services:

*‘We’ve made significant changes to our policies in the Home Office to get net migration down, but now what we need to do is to work across government so that our immigration policy is factored into our benefits system, our health system and our housing system...stopping our benefits system from being such a soft touch; by making entitlement to our key public services something migrants earn, not an automatic right; and by bringing the full force of government together to crack down on illegal working’ (Cameron, 2013).*

However, Wilson (2014) report to the House of Commons argued there is little evidence that EU and non-EEA foreigners are able to ‘jump the queue’ in the wait for social houses. Indeed, she states that there is no entitlement to social housing for anyone in England, even if s/he is a British citizen. The policy of foreigners being considered as ineligible is

therefore focused more on addressing public and political concerns than any real pressure from foreign nationals on social housing.

## **■ Stereotyping and linking foreign nationals to crime**

This section explores how the relationship between foreign nationals and crime has been represented in Parliament, by looking at the type of crimes that have been connected to foreign nationals and the language used to describe their criminality. Some instances reveal this more than others do, and these have been identified from the general themes of the parliamentary and political debates. The examples that will be discussed here are therefore immigration crimes, terrorism and national security post 9/11 and 7/7, and the management of foreign national offenders following on from the April 2006 scandal.

### **7.2.1 Immigration crime**

As has been discussed in Chapter 3, the criminalisation of foreign nationals, and the connection of foreign nationals to different illegal activities, has increased significantly since the beginning of the 21<sup>st</sup> century. The expansion of 'crimmigration' legislation has influenced parliamentary debates, which started to connect illegal immigrants and illegal workers with almost every major issue facing the country. For example, economic issues keep the discussion of the relationship between immigration and illegal activities, especially immigration crime, at the forefront (see for example, Hansard, 2013c).

The strong immigration rhetoric in Westminster has been criticised, as has the tough immigration policy that prioritises the criminalisation of foreign nationals, and connects them to different immigration crimes. A

speech by Lord McConnell, he pointed to this fact (Hansard, 2013d, col 440):

*'...there is a huge gap in the middle that is damaging the strategy working towards those aspirations ... the first is immigration. We will compete and succeed in the world only if we are open, flexible and welcoming. The Government's rhetoric on immigration is damaging Britain's international standing and our ability to be entrepreneurial and competitive... and I urge the Government to address that issue and look again at their rhetoric on immigration.'*

Similarly, following the Queen's speech in 2013, Lord Karan Bilimoria (Crossbench) criticised debates for reinforcing the immigration and crime relationship in discussing different issues faced by the UK. He appealed to Members to distinguish between examples of beneficial immigration such as students and those who are causing genuine harm to the country. He gave an example of the Head of Immigration from Australia (Hansard, 2013e, col 173) who said: 'every day in Australia they pray and thank God for the existence of the UK Border Agency', as restrictions on immigration policy and the criminalisation of immigrants has affected the quantity of students who choose to study in the UK.

The wide focus on controlling borders and restricting immigration movement, especially asylum seekers while debating new legislation in parliament is inappropriate. Such debates have ended up linking foreign nationals to different sorts of crimes, and identifying citizens of certain countries as requiring greater control and monitoring before they enter the UK, including those from the Middle East (Hansard, 2001g, col 627,

Hansard, 2001d) or South Asians (Hansard, 2001e, col 712, 715, Hansard, 2001f, col 173)

The immigration-crime relationship has arisen in debates around border controls, including introducing differentiated borders to place more obstacles and barriers in front of those coming from countries classified as high-risk (regarding their asylum seekers, incidence of illegal entry, overstaying and terrorism), and alternatively facilitate entry for other desired categories of travellers (Hampshire, 2009). In other words, certain nationalities and religions (particularly those who came from countries known to house terrorists) are placed under suspicion, and nationals of these countries require significant documentation to be granted a visa. In addition, on entering the UK, they are questioned, stopped and searched, and many are detained in the airports. Despite the government's claim that immigration policy has progressed and any racism is in the past (Miles and Phizacklea, 1984), in practice it merely manifests in different ways.

## **7.2.2 The national security context**

### **7.2.2.1 The phrases used in debates**

There is no doubt about the influential role of the language to construct the knowledge and the credit some social realities over than others (Berger and Luckmann, 1991), especially the political one, which aim to convince oneself and others of the legitimacy of the dangerous side of a particular sector in a society. The importance of the language comes from the meaning of society as Gorman, O'Byrne, and Patron (2006) explained that the society is a symbolic construct of composed of ideas and

meanings and language is all the time changing through human actors themselves and language will be the most important factors to affect the meaning of crime and offenders.

All references to terrorism after September 2001 relate to Muslims and foreign nationals; Muslims have been encouraged to cooperate more with the local authorities to counter terrorism (Spalek and Lambert, 2008) indeed, the term 'international terrorism' automatically suggests the external origins of the terrorist threat (Huysmans and Buonfino, 2008). In addition, in most instances when the phrases 'national security', 'terrorism', 'criminal justice', 'borders' are used, either 'immigration' or 'asylum seekers' follow in the same line or paragraph (see for example, Hansard, 2013b, col 18, Hansard, 2013d, col 31, Hansard, 2001b, col 198). Lord David Howell (Con), during the first response of the UK Legislature to 9/11, said:

*'It seems also - this is more controversial - that young terrorists or young fundamentalists determined even to commit suicide in their mad cause are still coming too easily into this country. I am afraid that we shall yet again have to revisit the issue of the asylum entrants' (Hansard, 2001c, col 16 see in the same meaning also col 80)*

9/11 and the subsequent 7/7 London terrorist bombings resulted in a political and parliamentary discourse of alienation regarding Muslims, which distinguished between British Muslims and other British citizens. The language used avoided granting the status of British citizenship and identity to UK Muslims. The 'foreignness' of Muslims helped avoid using terms that emphasise the British nationality of those Muslims. The term 'British Muslims' has been restricted. Other alternative terms have been

used instead, such as ‘Muslims in the UK’, ‘British AND Muslims’, ‘Muslim groups’, ‘Muslim communities in Britain’ and ‘Muslim population in my constituency/neighbourhood’ (see for example, Hansard, 2001 , col 610, 620, 646, 657, Hansard, 2001e, col 712, 715, 716, 733, 714, 767, Hansard, 2005, col 902, 904). In addition, some political parties and MPs proceeded to talk about Muslims and their danger to British people without paying attention to the British identity of many Muslims in the UK (Hansard, 2001d, col 767). In a question by Baroness Kishwer Falkner (Lib Dem) to Baroness Amos (Secretary of State for International Development) following the 7/7 attack:

*‘when factual information is imparted by the Government in their search for the identities of the terrorists, it would be wise to make a clear distinction between those who may be Muslim but are foreign citizens and those who are Muslim and British citizens ... as the Minister will know, the Muslim Council of Britain is recording a large number – thousands – of low-level incidents, but incidents nonetheless, directed against the Muslim community in the UK’ (Hansard, 2005, col 907).*

#### **7.2.2.2 Terrorists foreigners**

In spite of most, if not all, terrorist attacks in the UK being committed either by British citizens or members of the Irish Republican Army (IRA), debates post 9/11 have primarily focused on foreign nationals, and border control has become a prominent part of parliamentary debate and political manifestos (Hansard, 2006e). The first statement of the British Prime Minister (PM) (Tony Blair) post 9/11 was a speech on 14 September 2001 in the House of Commons speculating on the source of



the terrorism, ignoring the preceding British experience with terrorist attacks, which had not been committed by foreign nationals or Muslims:

*'We do not yet know the exact origin of this evil. But, if, as appears likely, it is so-called Islamic fundamentalists, we know that they do not speak or act for the vast majority of law-abiding Muslims throughout the world'... Thirdly, whatever the nature of the immediate response to these terrible events in America, we need to rethink dramatically the scale and nature of the action that the world takes to combat terrorism' (Hansard, 2001h, col 605-606).*

Blaming foreigners for different issues placed more emphasis on national borders and their role in preventing crime and securing Britain. This focus has become somewhat skewed, as monitoring borders has become a focal point for the majority of MPs who believe that securing borders will mean defeating crime and terrorism (see for example, Hansard, 2001ccol 29, 50, Hansard, 2001d, col 933, 936). Appeals from MPs of different political parties have urged the government to take tougher measures, and blamed existing policies for not doing enough to tackle and monitor criminals (House of Commons, 2005, col 10). Hence, the enlargement and expansion of European borders were suggested frequently in Parliament as a solution for keeping terrorism and crime outside (Hansard, 2001d, col 619, 627, 644, 663, Hansard, 2001c, col 747, 748). Additionally, there were appeals to a coalition of the 'civilised world' to defeat terrorism (Hansard, 2001d, col 620).

Debates around foreign nationals, especially in the House of Lords, (see for example, Hansard, 2001b, col 173), have considered foreign nationals (asylum seekers in particular) as a threat to national security and suggested closing the borders (Hansard, 2001b, col 133, 145, 147, 157).

There are other debates connecting foreign nationals to other different sorts of criminal offence, which suggest to the public (via the media) that there are strong links between immigration and crime. A speech by Oliver Letwin (Con MP) in the House of Commons linked asylum seekers to violent crimes, claiming many are bogus in reference to a newspaper article:

*'Does the Home Secretary accept that requests for asylum can be misused by men of violence? What is his response to the statement made by the Saudi ambassador and reported in the Sunday papers that "many Arab governments have told the British Government repeatedly that a lot of people in Britain masquerading as political refugees are terrorists"?'*  
(Hansard, 2001a, col 3)

All in all, the discussion of terrorism and national security have opened the door for debates that see foreign nationals as a source of crime, and their motivation for coming to the UK has been linked to the commission of illegal activity rather than seeking a safe place or looking for better life. Lord Marlesford's comments on the Supply and Appropriation (Main Estimates) Bill 2013(Hansard, 2013a, col 1361) include this:

*'Many people arriving in Britain, including some of those seeking asylum from persecution, bring with them their own political, religious and cultural agendas. My premise is that if a nation cannot defend its own border security, everything is at risk.'*

### **7.2.3 Foreign nationals and non-immigration criminal offences**

#### **7.2.3.1 The 2006 scandal**

In April 2006, it was revealed that between 1999 and 2006, the Home Office released some 1,023 FNPs convicted of serious crimes, without

their being checked or considered for deportation (6th Report of the Public Accounts Committee of the House of Commons, 2006). Of these, more than 870 FNPs had been serving at least 12 months, and thirteen were serving more than 10 years. This event led to considerable and heated debate, especially when 445 of the 1,023 FNPs who had been convicted of a wide range of offences were given leave to remain. Their crimes were mostly under the categories of drug offences, forgery, robbery, deception and violence (Home Affairs Committee, 2012a). Their releases ultimately led to a row over deportations and whether or not the Home Office was in control. Charles Clarke resigned as Home Secretary and his successors, John Reid and then Jacqui Smith, pledged to ensure not to repeat these failings (Casciani, 2006).

The 2006 scandal can be considered as the official starting point for parliamentary debates connecting foreign nationals to non-immigration criminal offences, outside of the impact of terrorism or immigration crimes. The storm was largely whipped up by the Conservatives, who used the failure of the Labour Government to bolster their own political campaign. In 2006, after the Queen's Speech, which announced the Labour Government's future policies, David Cameron said:

*'...Look at the mess today – there are paedophiles in bail hostels, dangerous criminals in open prisons and 1,000 criminals released from prison who should have been deported' (Hansard, 2006a, col 18).*

Nevertheless, after all the criticism over the Labour Management of FNPs, the Coalition Government has not fared much better on the issue. The Home Secretary reported in September 2010 to the HAC that 28 FNPs had been released from prison during that year before being

referred to the UKBA (UKVI). The latter is in contact with 25 of them and the other three were, according to the Home Office 'currently being traced' (Home Affairs Committee, 2011a). However, the HAC in their fifth report found that 454 offenders were released (without sufficient explanation of the reasons) into the community between 1<sup>st</sup> December 2011 and 31<sup>st</sup> March 2012, despite being subject to deportation action (The Home Affairs Committee, 2012). The Coalition Government have repeated similar mistakes and share the same performance issues that the Labour Government has been blamed for (Public Accounts Committee, 2014a).

### **7.2.3.2 The used language**

As Chapter 5 showed, analysing language is constructive, functional and constitutive of reality. This section will analyse the language that has been used in Parliament and the related political discourses in relation to how the criminality of foreign nationals is described, and how FNPs are represented in parliamentary debates. It will do this by looking at the words used and the meaning they convey.

#### **7.2.3.2.1 Directing blame**

Without accurate data, reliable resources, or references to trusted empirical research, some Members in both Houses have used blaming language to describe foreign nationals and their legal impact on the UK. Such terminology has been used to unite negative sentiments against foreign nationals, gain support from other politicians and coax the government into taking further, harsher measures of deporting or repatriating foreign nationals to their countries of origin.

In a speech by Philip Hollobone (Con MP) in the House of Commons:

*'It is no exaggeration to say that Britain has become the "United Nations of crime". I understand that we are now paying for the board and lodging of criminals from some 160 countries, out of only 192 recognised countries; 80% of the world's nations are represented in our jails, and there are some pretty nasty people' (Hansard, 2010a, col 53WH).*

Hollobone was trying to gain support from other MPs for his Bill to repatriate 'all' of FNPs to avoid the considerable economic expenses and to free up considerable space in British prisons. Hollobone's proposal urged the government to be more proactive, and in doing so used derogatory language to describe foreign nationals and their criminal behaviour in the UK. He described them as:

*'Pretty nasty people...they have abused our trust...we want these nasty people back in their countries of origin' (Hansard, 2010a, col 53WH-54WH).*

Heated debates resulted in more complaints in relation to FNPs and their impact on prison administration and rehabilitation programmes. In the comments of Mr Peter Bone (Con MP) (Hansard, 2010a, col 55WH):

*'Wellingborough prison is in my constituency, and it is overcrowded all the time. Its prison officers, who do a wonderful job, tell me that they never have enough time to work with prisoners and get them educated, so that when they go back on the streets, they reoffend instead of being model citizens. That is partly due to the overcrowding, which is caused by there being so many foreign national prisoners.'*

The above comment illustrates the tendency of some MPs to blame foreign nationals for almost every issue facing the UK, making foreign nationals scapegoats for the faults of government and its agencies. In

consequence, the sentiments and negative tones relating to FNPs have sometimes turned into nationalistic and humiliating anti-foreign discourse. Such discourse dehumanises foreign nationals and blames them for all difficulties and challenges for prisons, which is especially unfair given they might not speak English or understand British customs (see for example, Hansard, 2010, col 55WH).

Furthermore, the criminality of some foreign nationals has been generalised, and FNPs have been represented as ‘dangerous foreigners’. At the Conservative conference in 2013, Theresa May described the implications of ‘dangerous foreigners’ on British society, and in doing so simultaneously stirred up negative public sentiments while criticising other political parties:

*‘It’s ridiculous that the British Government should have to go to such lengths to get rid of dangerous foreigners... Labour and the Lib Dems will have to explain why they value the rights of terrorists and criminals more than the rights of the rest of us’ (Conservative Party, 2013).*

The majority of foreign nationals who have clean criminal records and are law-abiding are stereotyped as being criminals as a result of a minority of foreign nationals having committed crime. In 2003, Britain’s most senior police officer, Sir Chris Fox, President of the Association of Chief Police Officers said:

*‘Mass migration has brought with it a whole new type of crime, from the Nigerian fraudster and the eastern European who deals in drugs and prostitution to the Jamaican concentration on drug dealing’ (Thompson, 2003)*

On the other hand, there is an exaggeration of using the offending data of foreign nationals by MPs. In an urgent question by Chris Bryant (Lab MP) to the Minister for Immigration (Damian Green) with regard to foreign national offenders who have committed crimes on release before being deported, Bryant used the following data to raise his case (Hansard, 2011b, col 1061 & 1062):

*'Will he [the Minister] confirm that according to the report by the Independent Chief Inspector of the UK Border Agency, John Vine, there were 3,775 foreign national offenders awaiting deportation in May this year, and that according to the secret internal Home Office report in his hands, that figure had leapt by September by nearly 500 to 4,238 – higher than the number that the Minister just gave us?...Will the Minister confirm that the number of foreign national offenders deported has actually fallen this year – fallen , not risen – by more than 700... Will he confirm that foreign criminals who left prison this year and have not yet been deported have been arrested and charged with violent crimes? If so, how many; and does that include murder, kidnapping and violence to the person?'*

Damian Green's reply was (Hansard, 2011b, col 1062):

*'The problem for the hon. Gentleman is that he should think carefully before asking urgent questions about newspaper reports that he has not read very carefully. All the figures in the newspaper report that he is relying on start not in May 2010 but in March 2009, so they cover a large period when his Government were in power.... The report at the weekend mentioned three cases involving murder. I have checked the facts. One of those people was charged and acquitted, so was not a murderer at all. Of the other two, one was not only released from immigration detention under the previous*

*Government, but committed the murder for which he was convicted under the previous Government'.*

Outside of the blame game the two politicians were playing, the unreliable data, which was presented as 'fact' by the Labour MP not only depended on media figures, but also has been exaggerated. For example, the last part of the Labour MP's question in regards of the violent crimes that has been committed by foreign nationals released before deportation clearly misrepresented the actual crimes that had been committed.

Another example from the Conservative conference in 2013 is of Theresa May using pejorative language and confusing statistics to emphasise the relationship between foreigners and crime:

*'In the meantime, we need to do all we can now to limit the damage... with almost 70,000 appeals heard every year. The winners are foreign criminals and immigration lawyers – while the losers are the victims of these crimes and the public' (Conservative Party, 2013)*

Such language was meant to stereotype those who appeal and win their cases as criminals, as well as to suggest they would 'harm' British society. Firstly, the (70,000) appeals every year cannot describe FNPs or foreign national offenders; unless asylum seeker appears are included the population of those two together makes no more than 1.4 percent of the mentioned number. Secondly, stereotyping asylum seekers as being criminals without clear evidence is breaking all principles stipulated by the 1951 Geneva Convention and the European Convention on Human Rights (ECHR).



There was a noticeable tendency of some MPs to exaggerate prison data when using it in order support their perspective or argument. For example, when Hollobone (Hansard, 2010a) mentioned that one third have been convicted of violence or sexual offences; the real figures show that combined foreign national imprisonment for such offences makes up 25 percent, and only 15 percent of FNPs were imprisoned for violent crimes alone in 2010 (see Chapter 6, Section 6.1.3.6 for more details).

The large volume of HAC discussion concentrating on managing FNPs has mostly used extreme language when the number of the foreign national offenders living in the community was discussed. In the HAC fifth report in 2012 (Home Affairs Committee, 2012b, No 27 Legal Challenges), they stated:

*'We believe that the interpretation of Article 8 rights currently weighs too heavily on the side of offenders rather than the safety of the public. Such interpretation allows criminals facing deportation to live freely in our communities and to endlessly prevent their removal through spurious claims about their right to a private and family life under Article 8 of the ECHR. The Article 8 rights of offenders must be balanced against the rights of law-abiding citizens to live their lives in peace, free from the threat of crime. We strongly support the Government's work to prevent the abuse of Article 8 rights, and hope to see robust measures to shift the balance in favour of public safety and against foreign criminals.'*

The response of the UKBA (Home Affairs Committee, 2012b, government response on recommendation 2) to the concern of the HAC in their fifth report about foreign national ex-offenders who are living in the communities was:

*'The UK Border Agency already has a dedicated team based in Liverpool managing FNOs living in the community who by law can no longer be detained. Cases are prioritised both in terms of the risk the individual poses to the public and removability and the team work closely with local immigration teams and the police to remove offenders. We are continuing to work towards increasing the return of FNOs, closely managing contact with the offender and utilising specialist investigation skills to document individuals. We are also making greater use of prosecution powers against FNOs who do not co-operate with the deportation process or breach bail conditions and we are working more closely with other agencies, including the police, to overcome barriers to removal. We work in partnership with the Ministry of Justice who will also take action when licence conditions are breached.'*

The restricted language that has been used to describe foreign national ex-offenders and the Government's efforts to investigate and tackle the released foreign nationals mirrors the tendency of the Government to represent foreign nationals to the public as somehow more criminal than British citizens. Immigration policy in this case plays a direct and significant role in raising the perception of the relationship between immigration and crime, without a well-founded pretext explaining the focus on FNPs rather than general prisoners. With the absence of statistics and reports indicating the number of FNPs who have reoffended, or whether the released foreign nationals engage in further illegal activities, it is not possible to assume that foreign national ex-offenders will introduce more danger to the British community than the British prisoners released after committing similar crimes.

### **7.2.3.2 The 'indirect' connection**

Van Dijk (2000, p 92), highlighted the 'disclaimer' language in political and parliamentary discourse regarding foreign nationals, which promotes a possible 'contradiction' between 'positive self-presentation' and 'negative other-presentation':

*'...all agree that immigration is a natural and essential part of an open economy... The real issue that must concern the House and all our fellow citizens is the scale of immigration. Heads must come out of the sand' (Hansard, 2012a, col 418), AND 'notes that immigrants are generally decent and hardworking people, but further believes that failure to openly address this issue damages race relations' (Spink, 2009).*

### **7.2.3.3 Prioritising deportation of foreign national prisoners**

Following the 2006 scandal, parliamentary debates have prioritised the deportation of FNPs more than the deportation of any other foreign national categories like failed asylum seekers (Committee of Public Accounts 28th). The HAC and Committee of Public Accounts reports have undertaken regular and frequent scrutiny of the UK Border Agency, having identified the significant and urgent need for it to improve its performance. The subsequent parliamentary debates have concentrated on the deportation system and the failure of the UK Border Agency to process FNP post-sentence deportation cases. A substantial blame-game between the different political parties has ensued (see for example the debates in Hansard, 2008; Committee of Public Accounts, 2009).

In answer to a question from Charlie Elphicke (Con MP) by the Minister for Immigration, in relation to FNPs who have been detained in the Dover

removal centre for three years after having served their sentence, the Minister replied:

*'... This Government – like the previous Government, to be fair – will keep people in detention after their prison sentence has finished only if they are thought to pose a danger to the wider community. I am sure he will appreciate that if such people cannot be deported immediately for the reasons that we have been discussing, but they pose a danger to the British public, the best place for them is in immigration detention'* (Hansard, 2011b, col 1064).

Anti-immigration discourses and appeals to expand the criminalisation of foreign nationals, as well as deporting them, have been the general theme and main concern among many MPs. For example, in presenting his private Bill to deport all foreign national criminals, Hollobone stated: (Hansard, 2013f, col 157):

*'My constituents in Kettering are fed up with repeat offenders, but incensed when those people are foreign nationals. The best way to have fewer crimes committed by fewer people is to ensure that foreign nationals cannot reoffend because after their first offence they are sent home.'*

It should be noted that there is no information or statistical data supporting the allegation that FNPs pose a greater danger to British society than their British counterparts. Lord Marlesford (Con), asked the Minister of State in about the process of transferring FNPs for deportation after finishing their sentence to be deported. The Minister's reply was:

*'In cases where it is not possible to remove a person on the date that they complete their sentence, consideration will be given to holding them in immigration detention. Where it is considered appropriate to detain, a*

*decision will then be made about where they should be detained in line with a protocol covering the management of foreign national detainees held in prison custody. In line with this protocol those individuals who pose a risk to national security, whose offences suggest involvement in serious criminality or who pose a known security or control risk will be detained in a prison rather than an immigration detention centre. In other cases where detention is deemed necessary, individuals will be transferred to an immigration detention centre as soon as possible. Those convicted of lesser criminal offences, who are not considered a risk to the general public, who have strong ties in the United Kingdom and are not considered at risk of absconding may be released on a restriction order' (Hansard, 2006d, col WA203)*

In addition, the process to identify those released foreign national offenders, from either prison or the court, is blurred and the information limited. Even the Chief Executive of the UKBA seems unclear and unsure, as the HAC convey in their 2011 report (Home Affairs Committee, 2011b):

*'When questioned about the 520 Foreign National Prisoners classified as 'allowed to remain', Mr Whiteman (Chief Executive) was unclear about the rights these individuals had. Specifically he was asked whether these individuals, who would be eligible to remain in the country, could apply for settlement and citizenship despite being considered for deportation after committing a serious offence. Indeed, he appeared to confuse the terminology, taking it to mean those who had been released pending deportation...The Committee has long suggested that the terminology and figures used by the UK Border "Agency" can be, at best, described as confusing and at worst, misleading.'*

The over-criminalisation of foreign nationals and the debates around their deportation are certainly not improving the performance of the UKBA; the HAC in their fifth report found no further progress in tracking the 57 former prisoners whose location is unknown, and only two former FNPs were deported between November 2011 and March 2012 (Home Affairs Committee, 2012). The Public Accounts Committee report (Public Accounts Committee, 2014a) did not record any improvement for the Home Office in deporting FNPs:

*‘The Agency holds foreign national offenders in a limited number of prisons, some of which only hold foreign national prisoners, to make it easier for the Home Office to interact with them. The Home Office told us that it does not have a target for removing foreign national offenders but tried to remove as many as possible at the earliest opportunity. It told us that it removed more than 4,500 foreign national offenders each year (mostly prisoners). The number of removals fell by 18% between 2009 and early 2012. We heard that this was due to a backlog of cases in the Home Office prior to 2010, an increase of 13% in the number of appeals lodged, and cases being generally complex, with offenders not wanting to be removed. Despite this fall, the number removed in recent years had been similar to the number convicted, meaning that the overall number of foreign national prisoners had remained fairly stable. The Home Office told us that it was now starting to reduce the stock of foreign national prisoners’*

At the same time, the main concern of politicians from different political parties is still how to increase and expedite the deportation of FNPs, especially since the CIA 1971 did not make this automatic and gave power to do so to the court or the Home Secretary. The Act made one distinction between the EEA and Non-EEA citizens: deportation action

against EEA nationals is taken under the Home Secretary's powers to deport, even if a court has recommended deportation. Therefore, Parliament wanted to cover the gap under Section 32 of Borders Act 2007; convicted 'foreign criminals' in the UK sentenced to at least 12 months imprisonment are automatically considered to be detrimental to the public good, and the Secretary of State is obliged to make a deportation order (Gower, 2013).

However, involuntary deportation has been restricted under Section 33; for instance, if the deportation breaches the foreign national ex-offender's ECHR rights or his rights under EU law (2007). In the new Immigration Act 2014, the exceptions of not deporting foreign national ex-offenders are mostly removed, particularly the one related to family ties and being entitled to Human Rights legislation; this was introduced following the case law of Abu Qatada. His case cost the British Government 1.7 million pounds before voluntary agreement to deportation to Jordan (Hansard, 2013a column 1363), and ultimately the Jordanian High Court discharged him from any terror plot (Corera, 2014).

National security is one clear catalyst for connecting foreign nationals to different sorts of crimes. Considerable attention has been given to foreign national offenders, either by exaggerating their 'danger' to the British community after release, or through discourses around deporting them and reducing their right to appeal. A letter written by Theresa May (Home Secretary) to the 'Rebel Judges' (Walters and Owen, 2013) says:

*'... Foreigners who have committed serious crimes in this country, or who have attempted to cheat the immigration system, should be deported from Britain. Parliament wants that to happen, the public wants that to happen,*

*and I want that to happen... the right to family life ... can be restricted when that is required, for example, to protect public safety, or for the prevention of crime... in June last year I ensured that the House of Commons was able to debate my amendments to the immigration rules... any foreign national who was convicted of a serious crime should be deported, regardless of whether or not the criminal had a family in the UK. ... This is not a dispute about respect for human rights... It is about how to balance rights against each other: in particular, the individual's right to family life, the right of the individual to be free from violent crime, and the right of society to protect itself against foreign criminals...'*

May's letter is an illustration of her personal attitude, her 'war on foreign nationals', which is a part of the current immigration policy the Coalition Government is trying hard to implement. In doing so their intention is to recapture the votes of those individuals who may have head their heads turned by UKIP. The exaggerated reaction and huge efforts made by the Home Secretary to abolish Article 8 of the ECHR clearly shows the extent to which foreign nationals have been connected to crime in political discourse. The above statement also exemplifies the way foreigners are described as more dangerous and violent than their British national counterparts do, and that they pose a danger to British society because of their criminality.

### **■ The implications of parliamentary debates**

The large volume of parliamentary debates, the large work and reports by different Committees in both Houses, and the related political discourses have resulted in significant changes to immigration and crime policies,



and increased negative public attitudes towards foreign nationals and their relationship with crime.

### **7.3.1 Changes in immigration policy and facilitating security legislation**

Since the terrorist attacks on the US in September 2001, debates regarding different categories of foreign nationals started to concentrate on legal factors rather than the economic and social factors. Foreign nationals are associated with different illegal activities and many significant changes have been made to immigration policy, like the indefinite detention of those suspected to be terrorists (Hansard, 2001a, col 4). The implication of the emphasis on tougher measures and more restrictive immigration policies towards FNPs has resulted in many FNPs remaining imprisoned or detained long after their sentence has ended, well after British prisoners with the same sentence have been released.

Furthermore, the government has seen FNPs as a burden and the most significant barrier in achieve its goals of protecting the public and reducing re-offending by rehabilitating prisoners. Parliamentary debates concerning the danger of foreign nationals have contributed significant changes in immigration policy (Hansard, 2010, col 59WH).

The relationship between foreign nationals and crime has been used frequently to make presented policy proposals more acceptable, to allow the Government's Bills to be legislated faster and without significant opposition. For example, the enlargement of the EU has emphasised the relationship between immigration policy and criminalising foreign nationals, as many espouse that greater control of its borders will keep Britain safer from crime and terrorism (Hansard, 2001c, col 1176, 1180,

1194, 1205, 1236). On the same day these arguments were made, the European Communities (Amendment) Bill was read for the third time and passed (Hansard, 2001c, col 1274). Facilitating immigration and security acts was the most obvious implications of the heated parliamentary debates concerning the linkage between foreign nationals and different sorts of crime, especially terrorism. Despite the Government having passed the Terrorism Act 2000 (it came into force in 19th February 2001) less than a year later they rushed through additional emergency anti-terrorism legislation. For example, the ATCSA 2001 was introduced to Parliament on 19<sup>th</sup> November 2001; it received Royal Assent and came into force on 14<sup>th</sup> December 2001 (Home Affairs Committee, 2001). The Act was passed very quickly; this rapid passing was criticised by the Select Home Affairs Committee (2001, NO 11):

*'We question whether it is appropriate for this Bill to be passed through the House of Commons in exactly two weeks with only three days of debate on the floor of the House. A Bill of this length - 125 clauses and eight schedules covering 114 pages - with major implications for civil liberties should not be passed by the House in such a short period and with so little time for detailed examination in committee'*

However, the sheer amount of immigration and terrorism legislation concerned some MPs who were looking to safeguard foreign nationals and protect their human rights. This meant they should not be penalised or detained without evidential proof of connection to any sort of crime or terrorism (Hansard, 2001i, 936-937). The acceleration of the immigration and security legislation without the presentation of sufficient evidence to legislate more acts has triggered resentment from some MPs, like Keith

Vaz (Labour MP) (Hansard, 2006e, col 44-45) who criticised the Government's rapid introduction of legislation:

*'... the need for tough measures to deal with those who wish to undermine our country and cause death and destruction to our people is a serious issue, and I accept that the Government have a responsibility to legislate. However, there is also a responsibility to ensure that proper evidence is put before the House when the case is being made, and I hope that in the rush for legislation – I take the point that it is urgent and important – we pause and consider people's responsibilities and their civil liberties'*

The legislative haste has been criticised by many MPs, particularly those belonging to the Liberal Democrat Party. The speech of Simon Hughes in 2001 contains many questions to the Home Secretary, and suggests that the need for legislation to be passed quickly post-9/11 should not mean breaching the human rights of any individual, including asylum seekers (Hansard, 2001h, col 929).

However, linking foreign nationals to different types of crimes and violence has been done widely in parliamentary debates in order to speed up the passing of certain legislation. This has included making immigration policy tougher for the 'suitable enemy', and decreasing the population of certain nationalities under 'suitable labels' such as foreigner criminality (Hansard, 2001, col 927-928). For example, the Prevention of Terrorism Act 2005, which was introduced in the House of Commons on 11<sup>th</sup> February 2005, received Royal Assent on 11<sup>th</sup> March 2005, and came into force immediately. The Act intended to deal with the detention without trial of eight foreigners at HMPS Belmarsh under Part 4 of ATCSA 2001. The Act also provided the Home Secretary with the use of

'control orders' on foreign nationals who were suspected of involvement in terrorism, which in some cases meant they were arrested and/or detained without trial. Along with the possibility that deportation may interfere with their human rights, this raised discontent among the Judiciary who emphasised the right of everyone to a free trial (Horne and Berman, 2011).

Finally, the political rhetoric in Parliament has focused on immigration control as the most important counter-terrorist approach. A speech by then Secretary of State for the Home Department (Charles Clarke) on July 20<sup>th</sup> 2005 suggested addressing more foreign nationals' activities through the Counter Terrorism Bill 2005. For instance, the Minister suggested criminalising activities that foreign nationals might engage in, such as the intention to be involved in terrorist activities or to encourage, directly or indirectly, people to engage in terrorist acts. In addition, the drive to increase the power of exclusion for these people from the UK led to the stipulation that passenger information must be divulged in advance of travel (E-Borders) (Hansard, 2005c, col 1255; on the same topic see Hansard, 2005a, col 2552W).

The tough headlines produced by the statements of different governments on immigration, and the long discourses on a small group of people considered as very dangerous should not detract attention from the human impacts of the immigration system, as Lord Bishop of Lichfield has reminded the House of Lords following the Queen's speech (Hansard, 2013d, col 37). The insight of Lord Bishop came when he mistakenly joined the immigration queue at Heathrow. After waiting for a long time to be seen, he became aware of the suffering of foreign

nationals. This led him to remind not only the house but also the public that harsher measures will always result in the harsher treatment of human beings. Consequently, appeals to restrict immigration policy because of far-right political discourse or to respond to the success of these parties, has resulted in many different MPs urging the government to control immigration policy, especially relating to asylum seekers. Calls to introduce tougher measures were partly based on the assumed relationship between foreign nationals and different sorts of crime (Hansard, 2001e, col 657; Hansard, 2001f, col 675, 681).

The unstable security situation and public disorder that has been correlated with the communities of foreign and ethnic minorities presence has used for the advantage of those politicians who are stricter immigration control supporters to push the government legislation that put more barriers in front of foreign national to enter Britain legally (Pressly, 2007).

### **7.3.2 Changes in Criminal Justice workers practice and crime legislation**

There are two correlations between those who working in the CJS and politicians. On one hand, both as human beings and being closer to the 'action', those who working in the CJS field are prone to being affected by political and parliamentary debates, which stereotype foreign nationals as a source of crime. On the other hand, politicians trust the opinion and the recommendation by the CJS chiefs', because it is based on their experiences with foreign nationals and their evaluation of the role foreign nationals' play in crime trends. In a speech by Chris Grayling, (Con MP, who became the Secretary of State for Justice in 2012) (Hansard, 2001f,

col 787), the MP connected foreign nationals and asylum seekers in particular to crime, basing his attitude on a senior police officer's opinion:

*'Last week a senior police officer said to me that there are people in this country – they may come here as asylum seekers or refugees, or perhaps through conventional channels – who are a genuine threat to our society. If we need a more regulated society to ensure that such people cannot take action that undermines our society, so be it. We should expect anyone who seeks to live here to respect the security of our society, and in my view, if there are people who do not do that, we should not be afraid to withdraw from them the welcome that we first offered them'*

The above statement contrasts with logic and academic findings that suggest the routes criminals and terrorists use to enter the country and commit crime is very different from illegal immigrants trying to avoid any contact with law enforcement institutions, and asylum seekers and refugees who are looking for safe place and new life. As Walter Menzies Campbell (Lib Dem MP) said:

*'We will examine with particular care any proposals that have the potential to penalise genuine asylum seekers. The pathetic men and women who try to cross the channel in inflatable rubber dinghies seem to me to be improbable terrorists. As we now understand, terrorists are much more likely to arrive in London in the first-class cabins of scheduled flights'*  
(Hansard, 2001c, col 707)

Moreover, the practical side of the immigration and the Criminal Justice legislation reflects how the CJS and immigration officers target foreign nationals, making them of high suspicion (Pantazis and Pemberton, 2009). For example, discussion of the draft Co-operation in Public

Protection Arrangements (UKVI) Order 2011, which is designed to enhance co-operation between the criminal justice agencies in each area and the UKVI in managing sexual and violent offenders, has given a clear expression that foreign nationals are more prone to commit sexual or violent crimes. Those foreign national offenders who received a community sentence or released into the community on licence are more closely monitored by CJS agencies (2011, col 3):

*'The criminal justice agencies have the task of protecting the public from further offending by offenders who receive a community sentence or are released into the community on licence. The UK Border Agency aims to protect the public by deporting foreign nationals who commit serious criminal offences—where legislation permits—and by actively monitoring and managing foreign national prisoners who are released into the community.'*

The draft order has made it clear that the CJS should be cooperating with the UKVI in order to manage FNP's effectively. However, the nature of this cooperation is unclear, as the report mentioned the informal cooperation of sharing information and release plans but recognised the need for practical cooperation at a higher level (2011). The Under-Secretary of State at the Ministry of Justice (Crispin Blunt) has based his proposal to the House of Commons on the Multi-Agency Public Protection Arrangements or MAPPA, where different agencies of the CJS like the police, probation, and prison services work together to manage offenders. However, using the ideas of MAPPA and recruiting all the CJS agencies to cooperate with the UKVI in order to monitor certain foreign nationals (those who have been released into the community after

finishing their sentences) at risk of committing violent and sexual offences, rather than monitoring offenders in general, is 'nativism'. There is discrimination based on nationality when different policies and legal treatments are applied according to those nationalities.

The Minister's proposal opposed Section 325(2) of the Criminal Justice Act 2003, which requires the responsible authority in each area – the police, probation, and prison services acting together – to make arrangements to assess and manage the risks posed by sexual and violent offenders. The Act did not distinguish the nationality of offenders, as the public should be protected from any offender regardless of their nationality. If the Minister is suggesting that foreign nationals are more criminal, or they are more dangerous than British nationals, then he needs to present data to support his belief.

On the other hand, if there is a law to monitor those who present a risk to the community, it raises the issue of why the Minister wishes to create specific legislation for monitoring foreign nationals. Furthermore, this should not require the explicit involvement of the UKVI when there is already cooperation between CJS agencies and the UKVI. It does not change the process by which foreign nationals, or indeed anyone else, are able to exercise their rights and access to the law. With regard to how foreign nationals are managed by the CJS, it makes no difference (2011, col 3 & 5).

While there is a focus on the criminality of FNPs and the necessity for them to be deported, the focus on British prisoners does not seem to be at the same level. It was left to the BBC to reveal the escape from an



open prison by the robber Michael Wheatley, given 13 life sentences in 2002 for a string of raids on banks and building societies, (BBC NEWS, 2014). Indeed, Miller (2005) has revealed in her article 'Blurring the Boundaries between immigration and crime control after September 11<sup>th</sup>' that discrimination in the CJS between Americans residents was based on their citizenship. In short, the 'aliens' are treated tougher than natives.

### **7.3.3 Negative public sentiment**

Historically, some British politicians have had a big impact on public sentiment. For example, Enoch Powell's anti-immigration rhetoric, especially in his 'Rivers of Blood' speech of 1968, was given great fanfare by sections of the media. Indeed, his anti-immigration views caused Powell to lose his shadow cabinet position as Shadow Defence Secretary (Hastilow, 2007). Powell and his anti-minority rhetoric both affected and shaped some Britons' opinions toward immigration, especially in the time he was politically active. For example, Powell won the 'most respected person' in a Gallup poll (a British public opinion survey in February 1969) (Dumbrell, 2001, p 35). Powell also shaped political opinion and, according to Pettigrew (1998), his views encouraged some members of the public to have a more negative attitude against immigrants, helping to increase the vote for the Conservative party. In turn, this helped mould the Conservative into becoming the mainstream anti-immigration party (Pettigrew, 1998).

Returning to the present, anti-immigration parties are single-issue political movements focusing specifically on immigration, and aiming to convince others – be they politicians from other political parties or the general

public – to view immigration as inherently ‘bad’ for the UK. Whilst marginal, these parties grow in size, and are able to influence not only immigration policy, but also significantly inform the debate about immigrants (van Spanje, 2010, Van Der Brug et al., 2005).

Frequent parliamentary debates discussing terrorism, immigration crimes, non-immigration criminal offences, the need to control borders, managing FNPs and Islamic extremism have fuelled negative public attitudes and Islam phobic sentiments (Spalek and Lambert, 2008, Home Affairs Committee, 2005). The 9/11 acts and the political and parliamentary debates that followed helped create more tension and stereotype ethnic minorities and foreigners as being associated with or supportive of terrorism and terrorists around the world (Hansard, 2001b, col 169). In the comments of Patsy Calton (Lib Dem MP), on the political language, which has been used, and the dangerous implications of using language that targets Muslims and asylum seekers in the UK:

*‘Politicians should be careful about their language and so should the media. I was much taken with the comments of the hon. Member for South-West Devon (Mr. Streeter), who talked about the need for positive language when dealing with these issues. We need to be careful because it is not only what we say that matters. There is the potential for misunderstanding on the part of people with different cultures and faiths. The Muslim population in my constituency is concerned about the linkage of asylum seekers with race issues...Justice has specific meanings for people of the Muslim faith. Similarly, I hope that "crusade" has dropped out of the language’ (Hansard, 2001e, col 740-741, see also Hansard, 2001 , col 610).*

Given that political discourses and parliamentary debates have a direct and considerable effect on public opinion (Hansen, 2003, Boswell et al., 2005), some politicians have ignored their responsibilities and deliberately continued espousing negative attitudes towards some ethnic minorities, or blaming foreign nationals for crime, as the MP John Battle (Lab) said, (Hansard, 2001e, col 642):

*'Interestingly, some younger Muslims said to me, "If as a politician you are committed to word-based politics, encourage all politicians and commentators to be most careful in the words that they choose and use to describe the realities we face now." Why? Because some of our language can be not only careless, but costly, thereby causing damage and isolation and deepening existing conflicts'*

The focus on borders as a response to every legal or economic issue in the UK suggests that foreign nationals are responsible for many issues relating to crime. This is because crimes are seen as 'imported': restricting newcomers and controlling the entry of some nationalities will therefore protect the UK. Consequently, parliamentary debates regarding border security and tackling immigration crime/terrorism have linked those crimes to foreign nationals and apportioned blame in their direction. These debates have helped to create a negative public perception of foreign national prisoners in E&W (see for example, Banks, 2011).

The implications of far-right political debate have been evident throughout the media, which has reported physical and racial attacks on some British Muslims, Mosques and foreign nationals. The racial attacks on Muslims and Mosques in Scotland, Wales and Belfast were mostly given recognition post 9/11, there is evidence for racial and religious hatred

attitudes leading to physical attacks on foreign nationals, Muslims or those who look like them (Hansard, 2001e, col 730 & 733).

However, some MPs have sensed the impact on race relations and attempted to calm down and remind the rest of the politicians and MPs that religion alone does not cause terrorism. For example, Khalid Mahmood's comments during heated parliamentary debates post 9/11 tried to calm the rhetoric against Islam and Muslims, and demonstrate how Muslims communities in Britain were side-by-side with the rest of the world in feeling sympathy for the terrible attacks in the USA (Hansard, 2001, col 612):

*'Will the Prime Minister accept my unreserved condemnation of the atrocities carried out in the United States? Will he also accept that that terrible act of terrorism claimed the lives of many people of many faiths, including Muslims? In addition, will he assure the House that it would be quite wrong for British Muslims to be tarred with the same brush following that dreadful act of terrorism' (see in the same context, Hansard, 2001e, col 649, 657 & 661; Hansard, 2001e, col 640, 626, 683, 693, 715; Hansard, 2001f, col 715).*

Finally, the tough economic situation and increase of support for far-right political parties like UKIP has led to increase in debates stereotyping and criminalising foreign nationals. Oft-repeated aspersions of the relationship between immigration and crime give the impression that the Government and politicians almost intend to encourage negative public sentiment against foreign nationals, along with stereotyping foreigners as criminals in order to exclude them from the country without censure.

## **Chapter 8 Guilty until proven innocent: Discussing the findings**

Historically, foreign nationals cast as the enemy; all foreign nationals from different nationalities and ethnicities have faced similar allegations both historically and more recently. Foreign nationals blamed of representing demographical, health, economic, and political threats to the UK as host society, their association with crime links these concerns together in the public consciousness, and this results from the influence of political discourses and the media.

This chapter will consider the arguments and findings of the previous chapters and explain logically the broad and heated debates regarding foreign criminality and the overrepresentation of foreign nationals in the CJS statistical data.

### **■ A historical enemy**

This research has revealed that Britain has always attracted and received foreign nationals from different parts of the world. They have been seduced (like Jews), offered opportunities to invest and work (like Irish), asked for help rebuilding damage from world wars (like BAME) or offered a place of safety in which to start a new life (like asylum seekers). All of these have created pressures on culture, structure of human populations, economy and ultimately politics.

This research showed that the large inflows of different ethnicities and religions who came to the UK have contributed to raise the cultural pressure. Throughout history, waves of Irish, Jewish, and Muslim immigrants have represented a threat to the Protestant and Anglo-Saxon

way of life (Rathod, 2014). Large influxes of different religions including Jews, Catholics (Irish) and Muslims has produced tension in the relationship between these newcomers and the police, something that has affected the representation of those foreign nationals in the CJS statistics (Swift, 2002, Smith, 2009).

Political and public concerns about unwanted changes to cultural life and the predominant religion (Christian/ Protestant) in the UK has expanded the stereotyping of the 'threat' posed by these nationalities, and consequently the threat construction has started to manifest through the relationship between foreign nationals and crime. For example, The Poor Law Amendment Act 1834, the 1848 Public Health Act and the large body of reports investigating the lifestyle and the health problems of Irish, were a response to political and public concerns. These culminated in seeing the Irish as the main problem, resulted in stereotyping and linking them to crime (MacRallied, 1999, McManus, 1994). People from certain countries or religions have often been stereotyped as a potentially criminal. For example, the Irish experience throughout the 1970s has been mirrored by the experience of Muslims in the 21<sup>st</sup> century; the same types of policies, political and public attitudes that confronted the Irish have been repeated against Muslims. However, the global connectedness and hypermedia of our times has ensured that these concerns have been expressed in more exaggerated terms than ever (Pantazis and Pemberton, 2009).

Seeing foreign nationals as a cultural threat is an important factor to raise the xenophobia, Hainmueller and Hiscox (2004) investigated the European Social Survey in 2003 and demonstrated that racial issues like diversity, culture and belief, and the protection of national identity

(particularly from identities from outside EU) are the main fuel for negative sentiment, rather than economic factors. This is especially the case for those people with few educational qualifications. It was found that better educated people display less racist attitudes (O'Rourke and Sinnott, 2006). However, raising the negative sentiment is not the only implication of describing foreign nationals as a threat to British culture but it influences the political and public constructions of foreign criminality by considering foreign nationals as a direct or indirect source to raise crime levels such as hate crimes, fraud, and drugs.

Moreover, foreign nationals have been blamed of creating a demographic change and a concurrent demand on public services, with more resources needed to cover the welfare benefit of people working and living in the UK. In order to restore balance, immigration policy has taken a leading role in distinguishing between 'valuable' and 'non-valuable' foreigners. However, the criteria of determining the value of the foreigner is not clear, and might be subject to change over time depending on the political and economic situation (Lee, 2007b). Those classified as non-valuable foreigners have been targeted by immigration policy. However, the traditional role of the immigration policy of refusing the applications of these foreigners, or deporting them, has developed due to immigration law becoming more intertwined with criminal law (Hartry, 2012, Stumpf, 2006). Since the Alien Act 1905, immigration legislation progressively began highlighting the relationship between foreign nationals and different illegal activities, putting more conditions into place for admission to the UK, reducing rights inside the UK and increasing the power of immigration and police officers to tackle foreign nationals (House of Commons, 2005,

col 2, Pantazis and Pemberton, 2009, p 769). For example, the Alien Act 1905 responded to the political and public pressure of the time in regard to the high population of Jews, showing a clear connection between Jews and crime as a response to their population increase at the end of 19<sup>th</sup> century (Harper and Constantine, 2010, Panayi, 1999, Pellew, 1989). Another example is the recent 'war on terror' and the subsequent 'package of legislation' that sees Muslims and foreign nationals as the source of the terrorism and immigration crimes (Mythen et al., 2009). In spite of the present history showed that terrorism is driven by a complex political agenda and done by home grown and citizens.

In a very recent migration wave, caused by enlargement of the EU, (see Table 6.4B) and British immigration policy was overcome by EU policies, which necessitated a greater reliance on the 'old method' of using the CJS, and the criminalisation of these undesirable foreigner citizens was an obvious means to begin putting it into action. The high arrest and prison rate was established at the same time as political discourses and parliamentary debates started including concerns about the high number of newcomers from these countries. Between 2004 and 2014 there were tens of debates in the both Houses regarding the demographic and economic impact of Polish, Romanian, Bulgarian, and Lithuanian incomers in the shared context with discourses of high crime in the UK (Public Bill Committee, 2014, Hansard, 2014a, Hansard, 2014f). For example, in the Select Committee on Home Affairs Written Evidence regarding the demographic changes in Cambridgeshire and the pressure on the police and the high crimes levels is as follows:



*'Recent A8 migration into Cambridgeshire continues to impact heavily on police and other services with evidence indicating that the pace of migration continue ... In 2002 there were on average three non UK nationals in custody per day. This went up to an average of 13 per day in 2006. The figure now stands at 10 non UK nationals in custody per day... These increases in custody figures are partly a reflection of the increasing number of migrants in the County... Immigration has also brought an "international" dimension to criminality within Cambridgeshire. A good illustration of this is the proliferation of cannabis farms' (Cambridgeshire Constabulary, 2008)*

Without forgetting the role of the media, such statements as these helps to elevate EU phobia (Hansard, 2013g; Hansard, 2013f), which is no different from historical anti-Semitism, Irish hatred sentiments and Islamophobia; all are placed under the umbrella of xenophobia, and each reinforces the construction of foreign criminality.

Furthermore, the historical perspective showed a correlation between public complaints linking foreigners to crime as a result of the prevailing economic situation, and significant changes in immigration policy. The economic success of foreign nationals in the UK has been seen as a result of being willing to do the 'three Ds' jobs (Dirty, Difficult, and Dangerous) (Anderson, 2013, p 90). However, in negative public sentiment foreign nationals have been described as unprincipled people who increase crime levels (and as such have a direct impact on crime) (Bevan, 1986 ). Alternatively, foreign nationals are presented as taking British jobs and decreasing their wages, which will encourage unemployed British to commit crime (meaning an indirect relationship with crime) (Ochsen, 2010, Hansard, 1919, col 2278).

The consequences of negative public sentiments are to reinforce political and parliamentary debates, along with media reports that call for tighten immigration policy due to the criminality of foreign nationals (Doyle, 2014, Al-Faris, 2010, Allen, 2010). This encourages the government to legislate for the criminalisation of foreign nationals (Aliverti, 2013c, 2014a), and introduce tougher measures for the admission and reception of new foreign nationals (Schuster and Solomos, 2004, Somerville, 2007, p 22, Riley-Smith, 2013). However, at the same time the expansion of 'cimmigration' legislation and tougher immigration policies, in addition to negative political debates, are emphasising negative sentiments and stereotyping foreign nationals as criminals (Al-Faris, 2010).

On the other hand, the pressure on public services and the consistent annual increase in foreign national population places political pressure. All mainstream political parties try to convince the public of their immigration credentials in their quest to either gain or retain power (Bobby and Frere-Smith, 2014). Therefore, different political parties have used immigration policy as a card to play in the general election to influence the public attitude (Galloway, 2014, Hansard, 2011c, col 1063). The important part for them is how to reduce the pressure on different services by reducing the number of foreign nationals and their rights in the UK.

Historically 'unwanted foreigners' were cut immediately and denied from entering the country once Royal power had made a decision, as happened with the Jews in the 13<sup>th</sup> century (Harper and Constantine, 2014, Wilson, 1970, Bevan, 1986 ). However, with the development of immigration policy principles and Human Rights institutions, the numbers

of foreign nationals now must be reduced legally and reasonably; targeting certain nationalities or ethnicity should be built on reasonable explanations. Hence, the construction of foreign criminality by exaggerating their impact on crime stands as a significant strategy for reducing the quantity of foreign nationals. For example, Alien Act 1905 was the first declaration of the intention to reduce the numbers of foreign nationals (Jews in particular) through their relationship with crimes; this act was only the starting point for the crimmigration legislation and stereotyping of foreign nationals that was to come later.

### ■ **Foreign criminality and social constructivism theory**

Using a theory enables researchers to make a discovery of approximations to the truth not a discovery of immutable laws (Howell, 2013). Social constructivism theory was chosen to understand why foreign nationals have been connected to crimes, how the perception of foreign criminality started and by whom, and explain changes in foreign nationals' representation in the CJS data. According to constructivists, Governance ideology, language, politics, culture, media, and religion, are the factors to construct the system of knowledge and create social reality. The cultural, social, demographical and economic threats of foreign nationals were acknowledged as a social reality that has a serious impact on British society. Consequently, politicians and the media acted like foreign criminality is a reality/fact by building a picture of a world where foreigners imaged as felonious, immoral, and British as prey. In this framework, foreign criminality is identified as a social problem due to the political discourses, racist language, the media, government policies (immigration policy), and the overrepresentation of foreign nationals in

CJS statistical data. Many of foreigners' behaviours and attitudes were categorised and labelled with immorality and criminality, as foreign criminality emphasised (see Chapter 7). Discussing foreign nationals continuingly in crime context has ultimately contributed to highlight their relationship with crime as a social problem that needs an action from a 'strong leadership' (Yamamoto, 2010).

The findings of the quantitative data of this research concur with social constructivism theory. Governing foreign nationals through crime by using of crime and punishment to manage illegal immigrants and illustrating the criminality of foreign nationals by using the statistical data of arresting and offending have resulted in constructing the nationality as an identity of offenders within CJ in modern western countries (Chacon, 2013, Inda and Dowling, 2013). The CJS data by nationality has been used as undeniable evidence of reality to demonstrate the objectivity of claim makers evidence (Warner, 2005, Yamamoto, 2010), however on the other hand it is fundamentally crucial to demonstrate the objectivity of claim makers evidence. This research argued that the limitation of recording and publishing the CJS data by nationality, in the police and court stages support the process of constructing the criminality of foreign nationals in the UK. At the time, there is a wide political and public perception that foreigners are connected to crimes, and they often choose the illegal way to live in the UK, is usually not supported with evidence to accept or deny the relationship between foreign nationals and crime. The criminality of foreign nationals was constructed because of their overrepresentation in police and prison data due to the crisis of emerging criminal law with immigration laws and over using criminal law

to manage foreign national. The power of the police and the immigration officers has been increased to deal with the criminality of foreign nationals at borders points or in the street resulted from the chaos in immigration policy.

The picture of foreign criminality has been used to distract the public and to avoid blame for failing policies. The construction of foreign criminality has mostly been used to justify security breaches, the failure to manage FNPs, or regression in the economic situation. The failure of keeping Britain safe and the expansion of the overall 'threat' has led in particular to enhance the policy of managing foreign nationals as foreign criminals to justify immigration controls. Political rhetoric, particularly after 9/11 and 7/7 London bombings, referred to managing terrorists and foreigners frequently and widely, and in doing so provided support for anti-immigration legislation, both from politicians and a fearful public (see Chapter 3). However, Andrew Parker (MI5 Chief) indicated that all 34 terrorist incidents after 7/7 were committed by locals (home grown British), not by foreign nationals (Laville, 2013).

On different occasions, parliamentary debates have demonstrated that foreign nationals are used as a scapegoat for Government and politician failings. Even though FNPs have been detained in prisons or in detention centres for years after their time has been served, they continue paying the price for Government faults and the chaotic joint working of the prison administration and UKVI. The relationship between foreigners and crime has been used frequently in parliamentary debates as a political 'blame game', despite the fact that all political parties restrict foreign nationals once in power through different methodologies in order to recapture votes

from right-wing UK parties like UKIP (Galloway, 2014). In addition, the over-criminalisation of foreign nationals, along with Government promises to tackle immigration crimes and deport more FNPs, has been used by different governments to reassure the public of the Government performance, and urge the public to re-elect them.

There are two implications (as below) of constructing foreign criminality: Firstly, the blurred cooperation between UKVI and the CJS, which led to over policing foreign and ethnic communities, stereotyping, receiving longer sentences and over representing them in prison data. Secondly, legitimising the discrimination on the bases of nationality as a contemporary version of racism and punishing people of being foreign.

### **8.1.1 The marriage between the UKVI and the CJS**

The cooperation between the UKVI and CJS, as an outcome of managing foreign nationals, which foreign criminality discourses and immigration policy have well imaged to draw public to the relatively small numbers of suspected and foreign national offenders, and in doing so try to dodge blame for the real issues connected to each system (Lee, 2007, Yamamoto, 2010). The UKVI and CJS act together to draw public to the relatively small numbers of offenders and ex-prisoners, and in doing so try to dodge blame for the real issues connected to each system and ultimately construct the criminality of foreign nationals.

This research demonstrated that the police are sometimes pushed towards the method of suspicion by the unquestionably policy, regulation, and immigration and criminal legislation. In the context of policing foreigners, policing responsibilities have been expanded globally due to

the changes in immigration policies; police are required to enforce immigration laws, secure the nation, policing foreigners became an element of policing and security. Practices of police power have been affected by legislative changes and different policies that associated immigration with crime such as 'tough on crime tough on the causes of crime' and wars on drugs, trafficking, and terror. These policies implemented an increase in the stereotyping of foreign nationals and brought them into direct contact with the police who now share powers with immigration officers to be to check the legal status of people in the street (Aliverti, 2012a, Aliverti, 2013a, Weber, 2013). Police officers had the power to investigate the legal status of any person they suspected, which eventually aligns with the general increase of foreign nationals in the CJS since 1997 (Berman and Dar, 2013). Suspecting and criminalising foreign nationals by increasing the power of the police and the immigration officers to deal with the suspected foreign nationals in the borders points or in the street (Aliverti, 2013, p. 135) has created confusion in the representation of foreign nationals in CJS statistics. Under new counter terrorism measures, the E-borders method to protect the nation from the outside danger was introduced in 2005 (Wilson, 2006, Bowling and Weber, 2011, Bowling and Sheptychi, 2015). At the same time there were also calls for a dedicated police force along the lines of the British Transport Police or the Ministry of Defence Police along the sea ports to combat the different sorts of crime that are imported from abroad (House of Commons, 2005, col. 2). Similarly, in the context of policing foreigners in Australia Weber (2013) argued policing responsibilities have been expanded globally due to the changes in immigration policies; police are

required to enforce immigration laws, secure the nation, policing foreigners became an element of policing and security (Weber and Bowling, 2004, Bowling and Sheptychi, 2015). The similarity between arresting foreign nationals in London and NI confirm that police forces have a similar policy towards suspecting and arresting foreign nationals.

There is no doubt that the stereotyping of foreign nationals and connecting them to different illegal activities like immigration crimes and terrorism has become well established. However, managing foreign national offenders and tackling illegal immigrants have gone too far in British immigration policy; tackling 'illegal immigrants' has been applied as a means to scrutinise those who stay legally in the UK (Al-Faris and Barton, 2014, Al-Faris, 2014). The overrepresentation of foreign nationals in CJS data mirrors the proposals that the CJS practise (especially the police) towards foreigners influenced and framed by the immigration policy, which targets 'ideal suspects', criminalising them in order to restrict their mobility through and to the country (Lee, 2007b).

The perceived relationship between immigration and crime has been reinforced by immigration policies of different British governments through extending the boundaries of immigration crime, the use, and misuse of deportation and extending immigration and crime legislation (Weber and Bowling, 2004). For instance, as Chapter 3 showed, New Labour's policy during their three consecutive general election victories had three significant features that encouraged the relationship between immigration and crime: Firstly, the expansion of immigration and crime legislation (Somerville, 2007). The expansion of using criminal law to 'manage' immigration (Aliverti, 2013a, p 60) resulted in a steady increase in the rate



of prosecutions and convictions for these offences (Aliverti, 2013c), and gave greater power to immigration officers to detain suspects for hours, refuse entry, stop and search passengers. In addition, police officers had the power to investigate the legal status of any person they suspected, which eventually aligns with the general increase of foreign nationals in the CJS since 1997 (Berman and Dar, 2013). Secondly, strengthening the British border to tackle criminals; British borders were expanded during the last Labour term in office in two ways: externally<sup>21</sup> and internally<sup>22</sup>, the tightening and expansion of British borders was always associated with the fear of crime and especially the relationship with foreign nationals (Weber and Bowling, 2004, Hampshire, 2009). Thirdly, controlling foreign nationals because of their association with crime; the terms risk and risk management have been used to describe an approach taken by government that does not 'gamble' with national security and the safety of citizens.

In addition, following the Criminal Justice Act 2003 and April 2006 scandal, new public protection sentences were introduced to improve the management of dangerous offenders. Those offenders judged to be dangerous, and who have committed serious sexual or violent offences, can be kept in prison until the Parole Board judges it is safe to release them (Indeterminate Sentence for Public Protection). The implications of such measures and legislation has targeted FNPs; foreigners committing violent and sexual offences are very likely to be detained in prison for as

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<sup>21</sup> Like agreements with neighbouring countries and new requirements from the airline companies to check documents and visas for the passengers.

<sup>22</sup> It is a new set of policies designed to focus control interventions on the inflow of specific foreign nationals

long as it takes to either decide their cases or facilitate their deportation. At the halfway point of the custodial sentence, the offender may be released if the Parole Board determines it is safe to do so, but release will not be automatic until the end of the sentence (Extended Sentence for Public Protection). Detaining FNPs after finishing their sentences, and the restrictive rules of not offering the foreign national offender parole or community service, is not part of the crime policy. Rather it is a co-option of the CJS by the immigration system as a tool to achieve its aims (Anderson, 2010, Anderson et al., 2011). Foreign nationals are detained and kept in prison not because they are serious criminals or pose a danger to society, as politicians, parliamentary debates and government policy suggest, but because they are foreigners (Anderson et al., 2011). The blurred lines between the HMPS and the Home Office (which culminated in the 2006 scandal) has established a habit of targeting, criminalising, and over-debating the criminality of foreign nationals and the need to deport them from the UK.

The accepted relationship between immigration and crime is being used and exaggerated to justify the delay in the administrative process (Anderson, 2013, Noronha, 2015). Under this process, the preferred method to control by the Home Office is unacceptable and raises issues of stereotyping and the possibility of increased public dissatisfaction, not towards the legislature but the foreign nationals themselves. Whether detaining FNPs in prison or transferring them to IRCs, parliamentary debates showed there is no objective evidence or data to justify the government policy of detaining foreign nationals for such long periods, sometimes without court authorisation (Hansard, 2006d, col WA203).

Hence, it seems that the Home Office has the discretionary power to decide the danger and impact to the British society of those detained. The administrative process the Home Office follows is to keep the control on those who are foreign nationals to be easily deported, rather than releasing them in society where they might disappear. Furthermore, from a social point of view, being in prison, even on remand or detained, has a strong labelling effect, the same as for those convicted offenders who have not received a custodial sentence (Solivetti, 2011, p125). The mere idea of having been in prison means an individual faces many challenges when trying to reintegrate back into society.

To conclude, foreign criminality discourses, immigration policy and the media influenced negatively the CJ practice towards foreign nationals. Foreign nationals were labelled, stereotyped, targeted and ultimately overrepresented in CJS due to the power of words and the 'war on foreigners' by the most powerful groups of the society towards powerless. The practical side of the immigration and crime legislation reflects how the CJS and immigration officers put foreign nationals on the spotlight, constructing them as ideal candidates for suspicion (Agozino, 1997, Pantazis and Pemberton, 2009, Wilson, 2015).

### **8.1.2 Guilty of being foreign**

British government redefined the term of 'foreigner' and the desires to live and work in the UK, and increased the gap between foreign nationals and citizens by applying more responsibilities, zero tolerance policy, and decreasing the rights of those who are not citizens under the label of managing immigration and make them work for the benefit of Britain

(Hayles, 2006, Anderson et al., 2011). In this framework, foreign nationals expected to be financially independent, have a clear criminal records, and 'extremely' collaborative with the immigration regulation, immigration policy and immigration measures, otherwise a severe punishment will be applied. Courts and UKVI have presented the violation of immigration laws as a bridge to more serious crimes such as robbery, drug offenses and murder. In a case where a radiologist was imprisoned as a result of lying about her country of birth, the judge who seen her case mentioned in his verdict: (Afed, 2009):

*'For the last seven years the life you led in this country was nothing short of a complete lie. Offences of this kind are always regarded by this court as serious and they must have with them some deterrent to dissuade others'.*

In the eyes of courts and the Border Agency, that one aspect of person's life (immigration status) means s/he is a serious criminal deserving no mercy. In this framework, the violation of immigration law is an indication of yet-to-be-committed serious offenses. Thus, the over policing on foreign national communities and severe punishment for immigration law violations is seen as a reasonable and justifiable reaction to emerging felons (Yamamoto, 2010). In contrast to the general legal principle, foreign nationals are guilty until proven innocent, the suspicion and the zero tolerance policy in the airports and inside the UK, all made foreignness in appearance is a clue to criminality. The implication of zero tolerance policy and the construction of foreign criminality led to increase foreign nationals' representation in police and prison data; foreign nationals are more likely to be arrested and severely punished than

indigenous people. It affects also the fluctuation and the change in the prison map, where the nationality of some foreign nationals has the highest prison representation due to the significant increase of their general population in the UK (see Chapter 6).

As social constructivism theory suggest, those who have the power and authority have the enforcement and the administration of the law and policy that shapes the public life and determine who is against the law and who is defined as criminal and why. The powerful groups of the society influence the decision of who is and what is the punishment for breaking the law. Several agencies play a part in the system and control different aspects of the justice system (police officers, judges and magistrates, probation officers and parole board members); each authority (member) based its acts on different powers, procedural rules and operating philosophies, leading to predictable points of tension in the system. There is evidence of substantial differences in making decisions about different ethnicities and nationalities in police cautioning and in sentencing between different officials fulfilling the same functions (Waters, 1990, Bell et al., 2010, Papadopoulos, 2010).

Foreign nationals have been often pictured as a negative risk importer; therefore, many precautions have been taken under the guise of 'defending' the nation from the risks that foreign nationals are seen to bring, including terrorism, crime, social disorder, cultural issues, public health issues and strain on the economy (Hampshire, 2009, Chacon, 2013). The anti-immigration discourses by the politicians and the media, led to increase xenophobia and the negative public sentiments towards foreign nationals. Criminalising foreign nationals has started to create an

environment where foreign nationals can be subject to strict and draconian measures, with the ultimate outcome that they are deported from the UK. In spite of the secondary data revealing that foreign nationals engaged in lower level of crimes and are imprisoned mostly for drugs and less serious crimes compared to British nationals thus reflecting the result of targeting foreign nationals because they are aliens in this country especially, when the fear of being victimised is fundamentally disturbing (Box et al., 1988), especially when the potential criminal is a stranger who has been described as a 'dangerous criminal'.

The above conceptual frameworks resulted couples of findings: Firstly, the crisis of crimmigration is a reasonable and predictable reaction of construction the criminality of foreign nationals; the overrepresentation of foreign nationals in prison data have resulted partially from the crimmigration crisis and stereotyping foreigners as criminals.

Secondly, in order to demonstrate a strong leadership by politicians foreign criminality discourses are emerged. Crimes by foreigners appear to be a perfect backdrop for a presentation of their strong leadership; foreigners play the villains; the British public plays innocent, helpless victims; and political leaders play the role of heroes who crack down on those bad people. A problem of crimes by foreigners gives political leaders an opportunity to demonstrate their leadership in dramatic ways when other problems are so deeply chronic and structural that there is no painless way to deal with them. By shedding a spotlight on crimes by foreigners, political and bureaucratic leaders maintain the image that they are acting on social problems, while distracting the public from larger problems that they have been failing to solve.

Thirdly, the construction of foreign criminality through the language, discourses, government policies, and media products established a new version of racism; focusing on non-white criminality has been replaced with foreign criminality. It is not about race superior anymore, the construction of foreign criminality enhanced a social perception of 'us and them' and different nationalities should be treated differently. Therefore, this new racism was a major driving force behind the discrimination of foreign nationals in the CJS.

**Introduction**

This research has looked at the historical development of immigration policy and immigration legislation, and its impact on constructing foreign criminality. The research has explained the historical context relating to foreign nationals and the consequent political and public blame placed on them of increasing crime either directly or indirectly. In order to examine these notions, secondary data comprising statistical offending data from the Home Office and the Ministry of Justice, and immigration data from the Office for National Statistics have been used. In addition, political discourse and parliamentary debates from 2001 to 2014 have analysed for two purposes. The first of these has been to show the impact of foreign criminality discourses and the relationship between these debates and increasing criminalisation of foreign nationals, which includes growing negative perception in regard to foreign criminals. Second, this has highlighted the weak basis of this negative discourse, which has used the idea that foreign nationals are more likely to commit crimes than British nationals to facilitate changes in immigration policy and gain public votes.

The above methodology has allowed the objectives of this research to be met. The research has inquired into the reasons for oft-repeated and heated debates concentrating on foreign criminality and the impact of foreign criminality discourses. The research has discovered the confusion in recording data that pertains to foreign nationals, and how the way



different categories of foreign nationals in prison are counted affects the total population of FNPs. This population is then used to make arguments about foreign national criminality in the political, media and public spheres. This concluding chapter offers a summary of the findings of this research, shows the contributions this study has made to academic knowledge, explains the limitation of the research, and recommends areas for future research.

### **An overview of the research problem and the limited literature**

The origins of the immigration movement in Britain have changed significantly in current immigration policy. Historically, immigrants from different parts of the world were welcomed to Britain and at times even seduced into coming to live and work here. However, when their population increased, or other issues of the time were connected to their presence in the country, political and public concerns began to emerge in relation to demographics, health, the economy and crime (Reid et al., 2005, p758, Hagan and Palloni, 1999).

The relationship between foreign nationals and crime has not gained the same academic interest as in the USA, not because the experience of foreign nationals in the UK is different from those in America, or that the issue is unimportant, but because of the limitation of the data. UK records are more focused on ethnicity than nationality, whereas USA records give more attention to the place of birth in offending and crime statistics (Butcher and Piehl, 1998, Butcher et al., 2008 , Cadwallader, 1992). In addition, ongoing political and parliamentary debates have focused on foreign nationals and their relationship with different criminal activities,

which has provided the basis for this research to investigate thoroughly this relationship.

In order to understand the phenomenon of how criminalising foreign nationals is a socially constructed and how the identity of foreign nationals is connected to offenders. Social constructivism theory has been used. Social construction of foreign nationals' criminality is developing and increasing due to the contribution of the stimuli and many restrictions as policies, political ideologies, and the media.

This research found that immigration policy, foreign criminality discourses, and the media have established the construction of foreign criminality, by criminalising widely or calling to criminalise foreigners' attitudes and behaviours. Thus, the relationship between foreign nationals and crime has been politicised to meet immigration policy aim of controlling 'non-valuable' foreign nationals as a result to the political pressure, which influenced by public concerns over immigration and the rhetoric of other political parties that criticise government in action on immigration policy. In other words, managing foreign nationals through crime is a political strategy, used by different political parties and politicians that are doing their best to 'blame' the opposite party for 'past policy mistakes'. They all produce the same results, even if they superficially espouse different policy. History showed how Labour immigration policy is similar to the Conservative's, and how the Liberal Democrats changed its position on immigrants on reaching office. There is a certain tendency from some MPs and politicians to connect foreign nationals to crimes, presenting them as criminals in order to control the phenomenon of immigration without significant opposition.

On the other hand, studying immigration policy to explain increasing foreign criminality has become a recent avenue of enquiry due to its rapid development and punitive direction. Immigration policy plays a significant part in the life of every foreign national, and those foreigners who have committed crimes will be affected as well as by penal policy. Immigration policy has an essential role to play in determining foreign nationals' everyday life in this country regardless to their criminal behaviours. Therefore, this research has paid a lot of attention to immigration policy alongside immigration, security, and criminal justice legislation to explain trends in foreign national criminality and their changeable relationship with the CJS.

By any means, British studies along with most American studies have not found a positive relationship between immigration and crime; on the contrary, some studies in the USA have found that the immigration movement has helped to reduce the crime level in some states (Stowell et al., 2009, Wadsworth, 2010). The limitation of previous studies and the importance of the topic, which is prominent in the media, national surveys, political discourse and the parliamentary debates, has motivated the researcher to engage examine the issues further, especially as they involve one of the most vulnerable sector in the society. Although prevented from speaking directly with such prisoners, this research gives them a voice of some kind.

## ■ The contributions of the research

### 9.3.1 In the literature review

The parts of this research providing a review of the literature (Chapters 2, and 3), presented immigration policy and the foreign national relationship with non-immigration criminal offences from a historical perspective. To do this it made use of four case studies (Irish, Jews, BAME, and asylum seekers). Chapter 2 took note of the first establishment of foreign nationals being linked to non-immigration offences by analysing the development of immigration policy, political discourses, and the media to explain how the criminality of foreign nationals was constructed. Chapter 2 looked also at Royal powers and the different trends in immigration policy that show evidence of both welcoming and excluding foreigners due to changes in the economic, social and political context. The chapter presented three case studies for the predominant foreign nationals during each time. In the first two case studies, which represented the 19<sup>th</sup> and the first half of the 20<sup>th</sup> century, the researcher found that the same issues are connected to every new foreign national group when their population increases and demonstrates economic success. The last part of the chapter, which covered the second half of the 20<sup>th</sup> century and included the third case study (BAME groups), showed the same blaming activity for the same kinds of issues, and as a consequence the relationship between these foreigners and crime has been highlighted. Chapter 2 introduced a body of knowledge to the historical background of constructing foreign criminality, supported by the experiences of 3 different foreign national groups from different times in history. Each of these shared similar experiences and each were connected to general

criminal activities, something followed by political and public appeals, supported in the media, to reduce their population and restrict immigration policy accordingly.

Chapter 3 (the second literature review chapter) took the reader through the most recent history of immigration, which focused on the two political parties who have played a significant role in changing immigration and penal policy, in relation to the level and type of foreign national criminality. The first half of the chapter focused on the immigration and penal policies for the Labour party, who stayed in the power for 13 years and played an essential role in increasing the connection between immigration and crime legislation. This section identified the most important themes that shaped the rule of the Labour party and how foreign nationals have been focused on due to tracking crime policies (like 'tough on crime tough on the cases of crime' rhetoric, the 'war on drugs' and 'war on terror') and the policies that resulted from them, leading to a considerable increase in the population of foreign nationals in prison.

The implications of these policies were an increase in negative public attitudes and the media coverage, as well as an increase in stereotyping the suspicion of foreign nationals. The large amount of immigration and crime legislation made foreigners a scapegoat for many illegal activities in the UK. In addition, various events during this era (like 9/11, 7/7, and the 2006 scandal) helped to shape Labour's immigration policy. The implication of the terrorist attacks and the release of over 1000 FNPs without considering them for deportation have strengthened the relationship between the UKVI and the CJS; the cooperation between

these two institutions started to be more recognisable (Pantazis and Pemberton, 2009, 2011, Home Affairs Committee, 2001). Previous studies have concentrated on immigration crimes and terrorism to illustrate how foreign nationals were increasingly criminalised while the Labour party was in power. Section 1 of Chapter 3 highlighted other aspects of Labour policies that in practice targeted foreign nationals and developed the relationship between foreign nationals and crime in the minds of the public and CJS workers, as well as the institutions they worked in.

The second part of the chapter looked at the policy of the Coalition Government. Unlike the previous government, the Conservative and Liberal Democrat Coalition has focused on the relationship between foreign nationals and non-immigration crimes, and in doing so has urged Parliament to facilitate deportation legislation and measures, fuelled the media, and increased public perception of a relationship between immigration and crime. The big campaign of the Coalition Government on deporting foreign prisoners and ex-offenders was intended to be part of a penal policy towards foreign nationals that minimised pressure on British prisons (and taxpayers), in addition to discarding foreign prisoners even if they have family ties in the UK (Immigration Act, 2014).

Considering the different themes of immigration and penal policies between the Labour and Coalition Governments, Chapter 3 identified the similarities and differences between different them. This allowed an increased understanding of why the overrepresentation of foreign nationals fluctuated. Second, it allowed for the examination of immigration policy, and made it clear that in any investigation into foreign

national criminality, it is essential to examine closely political discourse; this research has accomplished this as will be discussed below.

### **9.3.2 Contribution to the theory**

The relationship between foreign national and CJS in the UK has not been conceptualising with framework due to the limitation of recording and publishing their data by nationality rather than by ethnicity (Solivetti, 2011) and the consequent limited literature review. This research has conceptualised the relationship between immigration and crime by employing social constructivism theory to achieve this research aim and objectives. Chapter 4 explained that the most powerful groups in the society have constructed the criminality of foreign nationals; these dominant groups have the power and the authority to define crime and identify who is criminal. Social constructivism theory explained the implication of actuarial orientation that the recent governments follow of governing some sector of the population through using statistical analysis of risk. This research demonstrated that immigration policy, CJS data, foreign criminality discourses and the media constitute a core element of constructing immigration more broadly in criminogenic terms and foreign nationals more specifically as the 'enemy' and a problematic population.

This research developed the understanding of other functions of the CJS, which is to deliver indirectly immigration policy through controlling the quantity of those 'unwanted' foreign nationals. Employing Social constructivism theory allowed this research to enhance the theoretical framework of immigration and crime studies and investigate further the root of foreign criminality construction in the media and political

discourses and analysed in depth why foreign nationals are overrepresented in CJS data and over debated in parliament and the media.

This research demonstrated that not only the overrepresentation of foreign nationals in police and prison data contributes to construct the criminality of foreign nationals but also the absence/ limitation of recording nationality in CJS statistical data contributes to further understanding the process of labelling foreign nationals as criminals and constructing the foreign criminality perception. This is revealed when some politicians (especially those involved with managing the CJS and UKVI) and media outlets have used arrest data to illustrate the relationship between foreign nationals and crime.

### **9.3.3 Contribution to the methodology and data collection**

After the failing to receive permission from the NOMS/ MoJ to interview a sample of foreign nationals in British prisons, the researcher has looked for alternative methods to deliver the aims of this research. First, the researcher gathered all publishable secondary data that relating to foreign nationals and their relationship with the CJS. The research has used this data to facilitate a study of the relationship between foreign nationals and crime in the UK over an elongated period for the first time in this field of study in the UK.

The researcher is aware of the limitations of these statistical data, as well as the critical position of criminologists in relation to data produce by CJS agencies. Nevertheless, it has been used in this research to meet certain aims. For example, it has been used to demonstrate the level of



knowledge in relation to foreign nationals and the police, courts, and prisons, and in doing so to question why there is hidden information on one hand, and foreign nationals are freely linked with crime on the other. In addition, these data illustrate the sorts of relationships between the CJS and foreigners, especially when there is a shortage research studying the problem that this research is investigating. Finally, the analysis of the secondary data provides a foundation for interested fellow researchers in this field to build on, and to develop their own interpretations and explanations for offenders in the statistical data by nationality.

The numerical data provided an illustration of the level of criminality that foreign nationals demonstrate in E&W, and the type of crimes that have been committed by those foreigners. However, this secondary data alone is not sufficient in explaining why foreign nationals are targeted and discriminating against at different stages of the CJS. Therefore, parliamentary debates and the related political discourses have been used as another method through which to answer the research questions. The parliamentary debates, especially from the political party leaders, alongside those working in the Home Office and MoJ, have been used to support the arguments raised in related literature, along with the analysis of arrest and prison data. Parliamentary debates have been analysed alongside the literature to provide insight into how they have contributed to the relationship between foreign nationals, terrorism and crime becoming firmly embedded in the public consciousness (Aliverti, 2013a, Huysmans and Buonfino, 2008).

This research has therefore used this method to examine the likely influence of political discourse on the construction of foreign criminality, and in particular non-immigration criminal offences. Some of these parliamentary debates have helped give an interpretation of the confusing published statistical numbers of foreign nationals ex-offenders, and to understand the change in focus on criticising certain nationalities in the UK, and finally to explore the mind-set of the politicians and how foreign national criminality has been discussed in Parliament.

#### **9.3.4 Contribution to results**

The second halves of Chapters 6, 7 and 8 have presented an analysis into the situation of foreign nationals in the UK, and the blame that appears to be attributed to them. To the knowledge of the researcher, the research presents the first explanation in the criminological field using changes in immigration and crime policies, along with the prevailing political attitude towards foreign nationals, as the main variables.

The second part of Chapter 6 has added unexplored contexts to criminological knowledge base, including: the relationship between foreign nationals and the police; discrimination in sentence length between foreign nationals and British; the level of criminality foreign nationals present; and the type of criminal offences that foreigners are imprisoned for in comparison to British nationals. The results of Chapter 6 have been examined by looking at the sort of debates that arise when foreign nationals and crime are discussed in Westminster parliamentary debates. This research also makes a distinct contribution by exploring and affirming the general finding of previous studies, along with the

proposals of this research to examine the influence of immigration policy and parliamentary debates. The general themes of some of the language in Parliament have been used to show the level negativity in discourse relating to foreign nationals. The influence of immigration policy, foreign criminality discourse and the media have almost resulted in the normalisation of stereotyping, targeting, and managing the risk of foreign nationals in terms of their relationship with crime. The aim of risk management is to plot the characteristics of groups, develop predictors of the likelihood of disruptive activity, and to devise strategies for its minimisation.

Most of themes of analysis included here have been chosen because they demonstrate how FNPs and foreign national ex-offenders are represented in political debate. Various events have led to heated debates, which in some cases have exaggerated the criminality of foreign nationals. The second part of Chapter 7 analysed the implications of such debates more closely. First, it found that many changes in immigration and crime policies have been facilitated under the label of foreign national criminality. Second, CJS workers have been affected by these negative debates, which have likely affected their attitude to foreign nationals, who are subject to stricter treatment at various stages of the CJS. Third, immigration policy and measures that stereotype foreigners as being potential criminals has created an atmosphere of suspicion, similar to BAME experiences within the CJS.

The final contribution in this section is in the evaluation of the different areas of this research, which was presented in Chapter 8. The chapter has gathered the outcomes of the literature review, supported by four

cases studies, and demonstrated the vulnerability of foreigners throughout history and in times that are more recent. Chapter 8 showed how the 'hidden agenda' of politics has affected the prison population, the difficulty in gaining knowledge about FNPs inside prison, and concern in regard to the rights of FNPs. This has arisen in part due to the lack of transparency about their overall standing, especially in terms of finishing their sentence and preparations to deport them (Hardwick, 2012, Potter, 2011).

A further contribution in knowledge is presented by an explanation of how the CJS has been employed to achieve the aims of the immigration policy. This is evident as a part of the implications of merging immigration and penal policy by expanding 'cimmigration' legislation, which includes increasing cooperation between the UK Border Agency (now UK Border Force) and the CJS, alongside the battle to control and shape public attitudes towards immigration in general. Chapter 8 also made links between parliamentary debates and changes in the immigration policy, which also affected changes in CJS function, and the representation of foreign nationals' statistical data on offending. In order to gain public votes and avoid blame for failing in certain areas of policy, blaming foreign nationals for different issues and linking them to different illegal activities has it appears become a popular choice for those in government.

The final part of the discussion chapter explained the idea of punishing immigrants for being foreigners. The over criminalisation, policing and representation in the CJS statistical data has been used by politicians, immigration policy and the media to construct the criminality of foreign

nationals and identify those powerless people as risk importers and crime creators. British communities have been described as safe before foreigners came to this country and British nationals pictured as victims who are afraid of 'foreign predators'. Chapter 8 sends a message to policy makers and those in power to treat foreign nationals neither as angels nor devils but as human beings. Blaming foreign nationals for the UK crime problem is an unfounded approach, as there is no empirical study proving a positive correlation between foreign nationals and crime in the UK, nor are there any particular statistics showing how many (if any) crimes have been committed by FNPs during their prison sentence (Justice Statistics Analytical Services, 2011).

Some foreign nationals have committed serious crimes and imprisoned for them. The calls to deport such criminals are understandable. However, the consistent and extensive campaign to exaggerate the criminality of foreign nationals, and even the dangerousness of FNPs, is nativism. Therefore, the last finding of this research is to question the practice of placing suspicion on foreign nationals by associating them with crime. Furthermore, the parallel development of immigration and penal policy has, along with dominant anti-immigrant discourse in the political arena, served to develop an unfounded image of foreign nationals as more criminal than British nationals.

### **Limitation of the research**

There are some areas of limitation in this study, including the standard and depth of the obtainable secondary data, the lack of cooperation from the Ministry of Justice, the time constraints introduced by the data that

was used, and the implications of this research. This section will consider these limitations in turn.

#### **9.4.1 The limitation and chaos in recording nationality**

The absence of recording nationality in the police stage of the CJS, and the unorganised way of recording the nationality of foreign national defendants in the courts, have limited the outcomes of examining the relationship between foreign nationals and each of these components of the CJS. This has meant that it is hard to ascertain whether there is any unequal treatment of foreign nationals during these significant stages of the CJS.

This absence of recording or publishing the data is limited the consequent research. The police-foreign national relationship is still under-researched, although this study has drawn some inferences from the arrest data in London and NI. Court procedures relating to foreign national defendants remain under-researched as well. Even so, this study has connected the reception and prison data, and used previous studies of BAME individuals to make sense of how court procedures and the level of sentence varies between different groups (Hood, 2003). This has enabled the researcher to make informed assumptions relating to the role of the courts in the sentences length of FNPs.

#### **9.4.2 The lack of cooperation from the Ministry of Justice**

The research methodology focused on analysing secondary data, alongside a qualitative analysis of political and parliamentary debates. This has taken place on the foundation of early chapters that have outlined the historical background of immigration and crime using case

studies. With greater cooperation from the Ministry of Justice, this research would be able to present a richer account of the experiences of FNPs themselves, including their economic and social circumstances and their experiences with the different stages of the CJS. This would, alongside the analyses presented above, have facilitated a more rounded and grounded study the immigration-crime nexus in respect to FNPs.

#### **9.4.3 Time span**

This research has presented a longitudinal study of secondary data to demonstrate changes in the representation of foreign nationals in offending data, alongside changes in ruling parties and their related immigration and penal policies. However, parliamentary debates between 2001 and 2014 only present a snapshot of political developments and may have limited the understanding of non-immigration criminal offences and their relationship to foreign nationals. This is partly because debates between 2001 and 2006 were dominated by terrorism and immigration crimes committed by foreign nationals, and as such, there was less scope to investigate prevailing attitudes towards non-immigration and non-terrorist foreign national criminality.

#### **9.4.4 Generalising the outcomes of this research**

This research is classified in the criminological field. However, it has mainly focused on changes in dominant political discourse, and related changes in immigration and penal policies. The contribution of knowledge within the field of British criminology is clear, but applying the result of this research to other countries that have different immigration policies and political attitudes toward foreign national criminality should be considered.

It is likely that a similar picture would emerge in those countries that have recently felt the impact of a far-right political resurgence.

#### **9.4.5 The implication of this research**

This research recognises the challenges, barriers, and the sensitivity of the problem it has attempted to clarify. In consequence, it is not assuming to have presented a full picture of the relationship between foreign nationals and crime in E&W. Instead, the outcomes of this research provide researchers with an opportunity to engage more and investigate further the reality of foreign criminality, and the way that immigration policy and the political discourse affects this relationship. This is true both for the UK and other countries demonstrate a similar overrepresentation of foreign nationals in offending data.

#### **Recommendation and future studies**

The following recommendations are made in relation to the findings of this research:

1. There is substantial work to do to improve the recording of the nationality of those who come into contact with the CJS, especially in the first stages of the system (the police). Recording nationality, alongside ethnicity, should be required by law. This would provide equality and avoid potential discrimination through abuse of this power based on nationality.
2. Important attention should be paid to the court recording system in terms of the nationality of defendants and the type of the crime (unrecorded crime) that those defendants have committed.
3. Despite prison data being considered the most complete data that takes nationality in consideration, comparing to other statistics like arrest or court



proceeding database there are still many limitations, particularly as to how the nationality of prisoner is collected and recorded. This needs to be addressed.

4. The government needs to consider publications that contain the nationality of the offender and its relationship with the CJS more seriously. They should clamp down on those who use ambiguity and limitations of the data to their political advantage.

As a final point, this research is meant to provide a foundation for future research, contribute to the knowledge of criminological studies in the UK and open the door for further studies to look at the relationship between the nationality and the CJS. In this last respect, there are some areas of future study recommended for those interested in investigating the legal impact of foreign nationals in the UK, and examining the prejudice of the CJS against foreign nationals in the UK:

1. Observational study of routine police patrol work to examine police behaviour towards foreign nationals, and if nationality is an important factor in stopping and searching those who have a 'different' appearance
2. Observational study of magistrate and crown court procedures and examining foreign national cases in certain areas in the UK
3. Observational study of the demeanour of immigration officers in international airports and the fair treatment of new arrivals
4. Make a qualitative study (interviews) with FNPs in British prisons to look at the personal and cultural circumstances that lead foreigners to engage in illegal activities in a foreign country.
5. Make a qualitative study in regards to the role of immigration and social policy in the relationship between asylum seekers and crime (especially property crime).
6. Make an empirical study of recording data, especially in the police and the court sectors, due to the limitation of finding reliable crime and offender data in these fields.

7. Make an historical study of old parliamentary debates, especially when Hansard started its project to supply a full account of the parliamentary debates since 1803.
8. An empirical study examining the legal system in the UK and the most common crimes that foreign nationals are imprisoned for, like drugs, VATP, fraud and forgery (as immigration and non-immigration crimes).
9. A particular study to examine the media role to highlight and exaggerate the criminality of foreign nationals as this research has acknowledged this role but it needs further studies to cover the significant role that the media is paying of reshaping the public perception and even in some cases the political perceptions.

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## **Appendix (1)**

This Appendix will include:

1. The first refusal from NOMS to allow the researcher making interviews with FNPs in prisons in England
2. The final refusal from the above institution after resubmitting an edited application



# Ministry of JUSTICE

National Offender  
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*National Research Committee*  
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20 October 2014

## **NATIONAL RESEACH COMMITTEE DECISION**

**Ref:** 238-12

**Title:** Immigration- Crime Nexus: An empirical study in England and Wales

Dear Mrs Al-Faris

Further to your application to undertake research across NOMS, the National Research Committee (NRC) has considered the information provided and is unable to support your application at the present time. Reasons are as follows:

- While the application makes reference to broad 'public concerns', the Committee felt that the potential benefits to NOMS were not clearly specified and did not justify the significant resource demands (assisting with identification/recruitment, accompanying the researcher, staff interviews, providing data) to be placed upon the establishments.
- The links between the research aims and the proposed methodology were unclear. Further information was required as to why interviews/focus groups with offenders/practitioners were the most appropriate approach for addressing the aims of the research. The Committee further noted that focus groups would increase the resource demands due to the logistics and staff numbers required.
- There were some uncertainties around the sampling of offenders – FNPs or Muslim FNPs? Would any exclusion criteria be applied? While the application states that the research would take into account ethnicity and gender, it was not clear how this was to be done.
- It was felt that the interview schedule contained some leading questions, made certain assumptions (e.g. "Are FN Muslims at risk of becoming getting more radicalized" assumes they have already been radicalized to some extent) and covered some emotive subjects which could require careful handling in terms of debriefing/follow up support. It was also unclear how any language barriers would be handled.
- It was unclear how the interview data would be transported, stored and destroyed.

October





# Ministry of **JUSTICE**

National Offender  
Management Service

We appreciate that this will be disappointing for you and that this is not the response you would have hoped for.

If you wish to resubmit your application, the National Research Committee's next meeting is the **15 January 2013**. For this meeting, information needs to be received by **1 January 2013**. Please be aware that this will be your final submission for this research and the NRC decision will be final.

Yours sincerely

National Research Committee

CC



# Ministry of JUSTICE

National Offender  
Management Service

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20 October 2014

## **NATIONAL RESEACH COMMITTEE DECISION**

**Ref:** 238-12(a)

**Title:** Immigration- Crime Nexus: An empirical study in England and Wales

Dear Mrs Al-Faris

Further to your resubmission to undertake research across NOMS, the National Research Committee (NRC) has considered the information provided and is unable to support your application at the present time. Reasons are as follows:

- The Committee felt that the potential benefits to NOMS remained limited and did not justify the significant resource demands (assisting with identification/recruitment, accompanying the researcher, staff interviews, providing data) to be placed upon the establishments.
- The links between the research aims and the proposed methodology were unclear. It was noted that many of the research aims and questions were wider criminal justice issues and did not require interviews/focus groups with prisoners and prison officers.
- It was felt that the interview schedule still contained some leading questions and covered some emotive subjects which could require careful handling in terms of debriefing/follow up support.

We appreciate that this will be disappointing for you and that this is not the response you would have hoped for. Please be aware that this was your final submission for this research and the NRC decision is final.

The committee wishes you all the best in your future studies.

Yours sincerely

National Research Committee

## Appendix (2) Quantitative data (Tables)

Table 1.1: Foreign born and foreign nationals' population January-December 2004-2013

Year	Total UK population	Foreign Born population(000)		Foreign national population (000)	
		UK	E&W	UK	E&W
2004 <sup>23</sup>	60000 <sup>24</sup>	5233	4958	2946	2799
2005	60400	5552	5268	3198	3045
2006	60800	5997	5692	3594	3428
2007	61300	6342	5992	3942	3721
2008	56395	6683	6294	4169	3886
2009	56590	6910	6488	4344	4024
2010	56893	7139	6715	4460	4125
2011	56977	7509	7063	4772	4419
2012	57317	7679	7180	4852	4464
2013	62605	7780	7307	4902	4538

Source: ONS

Table 2.1: Foreign nationals and criminal offences evidences

Source	Type of evidence	Quote/ Result
(Evans-Gordon, 1903)	Sir Alfred Newton, Lord Mayor of London in 1899, and a Commissioner of the Central Criminal Court	'15 percent of the persons charged before him were 'certainly foreigners'
	The Chairman of the	'Apparently there were 'organised colonies of foreign crime' in London. He showed that the percentage of

<sup>23</sup> From 2004-2008 the data is taken from the APS and from 2008 the data is taken from the APS and LFS. The research found no difference between the two methods in determining the foreign born and foreign nationality migrants in the UK and England and Wales.

<sup>24</sup> Total UK population from 2004-2008 is incomparable with the total population from 2008-2013, as the first is mid-year population and from different resource Source: National Records of Scotland and Northern Ireland Statistics and Research Agency (NISRA)/ ONS.

County of London Sessions (Mr W. R. McConnell, K.C.)	the aliens tried in his court, north of the Thames, had risen from 7 percent in 1892 to 11 percent in 1900 to 22 percent at the October Sessions, 1902, and to 25 percent at the first sessions held in 1903'
Mr John Dickinson, magistrate of the Thames Police Court	'I had A.G.'s case before me a few days ago for picking a woman's pocket. He had been only a short time in this country, and there were find on him some letters from persons in prison in France, in which they declared their intention of joining his as soon as they were released'. '[I can notice a sort of invasion of professional criminals]...in the Winter of 1901 a gang of twelve Germans. Eight of them charged with burglary and four with receiving ... it was proved that these men were skilled burglars who had simply come into this country'.
Mr Justice Darling at the Old Bailey, in sentencing the last batch of the nine bank-note forgers of whom the suicide Barmarsh was the most notorious	' I do not think there is another country in the world to which undesirable foreigners like you would be allowed to come in enormous numbers, and to exist, doing little or no work, but preying on the country which has given you refuge' P 259
The Recorder of the Old Bailey 1903. P 259	'This court is occupied for days each session in trying these disreputable foreigners, whom nevertheless, we receive with open arms' P 259
Mr Loveland-Loveland, K.C., in sentencing a foreigner at the Clerkenwell Session 1903. P 259-260	'The case fully illustrates how desirable and necessary it is to check the unwelcome invasion of alien criminals. At present, the dregs of foreign countries flow incessantly into hospitable England and within few days are engaged in committing all sorts of offences. The sooner Parliament frames laws to prohibit the landing of these undesirable the better'
(Mr McConnell, K.C.) 1903, in sentencing two foreign Jews. P 260	'This is another of those cases in which undesirable foreigners land here without a trade and without money, and with the express intention of living by plunder'
Major E.G. Clayton, formerly Governor of Lewes and Wormwood Scrubbs Prisons and became later Secretary of the Prisons Commission. P 260	'The number of aliens sent to prison during the period of five years ending March 31, 1903, was 13,114' 1337 had been once previously convicted, 525 had been twice previously convicted, 285 had been previously convicted three times, 215 four times, 162 five times, 484 from six to ten times, 203 from eleven to twenty times, 123 above twenty times'  'The number of foreign prisoners in the year ending March 31, 1899 was 2181; the figure had risen to

		<p style="text-align: center;">3449 in the year ending March 31, 1903</p> <p style="text-align: center;">‘The percentages of increase of crime during the same period were:</p> <table style="margin-left: auto; margin-right: auto;"> <tr><td>Russians and Poles</td><td>117percent</td></tr> <tr><td>Austrians</td><td>86percent</td></tr> <tr><td>Spaniards</td><td>85percent</td></tr> <tr><td>Norwegians and Danes</td><td>78percent</td></tr> <tr><td>Germans</td><td>67percent</td></tr> <tr><td>French</td><td>58percent</td></tr> <tr><td>Italians</td><td>45percent</td></tr> <tr><td>Belgians</td><td>44percent</td></tr> <tr><td>Swiss</td><td>40percent</td></tr> <tr><td>Americans</td><td>25percent’</td></tr> </table> <table style="margin-left: auto; margin-right: auto; margin-top: 10px;"> <thead> <tr> <th style="text-align: left;">‘year</th> <th style="text-align: left;">sentenced</th> <th style="text-align: left;">Aliens</th> <th style="text-align: left;">percent</th> </tr> </thead> <tbody> <tr><td>1899</td><td>730</td><td>47</td><td>6.5</td></tr> <tr><td>1900</td><td>777</td><td>28</td><td>3.6</td></tr> <tr><td>1901</td><td>785</td><td>32</td><td>4</td></tr> <tr><td>1902</td><td>978</td><td>68</td><td>7’</td></tr> </tbody> </table>	Russians and Poles	117percent	Austrians	86percent	Spaniards	85percent	Norwegians and Danes	78percent	Germans	67percent	French	58percent	Italians	45percent	Belgians	44percent	Swiss	40percent	Americans	25percent’	‘year	sentenced	Aliens	percent	1899	730	47	6.5	1900	777	28	3.6	1901	785	32	4	1902	978	68	7’
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(Hansard, 1919, col 2778)	Sir Ernest Wild (Con MP)	<p>‘You cannot be in the criminal Courts without realising what an enormous amount of the work of our Courts is caused by the aliens and by their crimes. I ask the House to draw no distinction between the crimes for which they are directly and indirectly responsible. It is very difficult to get figures. However, figures were given in the Royal Commission of 1902, which were quoted in the Debate when the Aliens Bill was passed. Figures were given that between 1899 and 1903, there were 1,731 offences against the person, 3,189 against property, 62 of forgery and coining, and 8,132 of other offences, including indecency, disorderly houses, and matters of that kind, all committed by aliens. That is a total of 13,114 offences committed by aliens in the period of this four or five-years’</p>																																								
(Evans-Gordon, 1903)	Inspector Hyder, Mr Johns Dickinson a magistrate at the Thames Police Court.	‘...the foreign prostitution increased...and has driven the others away’ P 264-265																																								
	Royal Commission on Alien Immigration report 1902. P	‘As regard prostitution, the evidence shows that in certain parts of London there are a large number of foreign prostitutes. In the police returns given for the C Division, where there are the greatest number of foreign women of this class:																																								

	262- 263	<p style="text-align: center;">London</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Year</td> <td style="text-align: center;">British prostitutes</td> <td style="text-align: center;">Foreign nationals</td> </tr> <tr> <td style="text-align: center;">1892</td> <td style="text-align: center;">256</td> <td style="text-align: center;">150</td> </tr> <tr> <td style="text-align: center;">1902</td> <td style="text-align: center;">350</td> <td style="text-align: center;">347</td> </tr> </table> <p style="text-align: center;">Whitechapel Division</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <tr> <td style="text-align: center;">Year</td> <td style="text-align: center;">British prostitutes</td> <td style="text-align: center;">Foreign nationals</td> </tr> <tr> <td style="text-align: center;">1892</td> <td style="text-align: center;">331</td> <td style="text-align: center;">13</td> </tr> <tr> <td style="text-align: center;">1901</td> <td style="text-align: center;">220</td> <td style="text-align: center;">52</td> </tr> </table> <p>'Prostitution by itself is no offence, unless it is accompanied by solicitation or disorderly conduct, and that the evidence is to the effect that the foreign prostitute is generally far more sober than the English'</p>	Year	British prostitutes	Foreign nationals	1892	256	150	1902	350	347	Year	British prostitutes	Foreign nationals	1892	331	13	1901	220	52
Year	British prostitutes	Foreign nationals																		
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Year	British prostitutes	Foreign nationals																		
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	N.J. Highmore, Senior Assistant Solicitor of the Inland Revenue at Somerset House. P 266-268	<p>'In five years ending in 1897, six convictions for keeping illicit stills were obtained in the East End of London. But between January 1, 1898 and December 8 1902 there had been 51 convictions of this offence – all obtained against foreign Jews'</p> <p>' the number of foreigners convicted in the Metropolitan area during the five years from 1898 to 1902 inclusive, was:</p> <table border="0" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: left;">Offence</th> <th style="text-align: center;">Foreign nationals</th> <th style="text-align: center;">English</th> </tr> </thead> <tbody> <tr> <td>Clubs</td> <td style="text-align: center;">26</td> <td style="text-align: center;">17</td> </tr> <tr> <td>Restaurants</td> <td style="text-align: center;">56</td> <td style="text-align: center;">2</td> </tr> <tr> <td>Shebeens</td> <td style="text-align: center;">2</td> <td style="text-align: center;">18</td> </tr> </tbody> </table> <p style="text-align: center;">(only drink supplied)</p> <p>These were entirely unlicensed places ...kept mainly by Italian and Jews. Some of them are kept by French, German and Poles'</p>	Offence	Foreign nationals	English	Clubs	26	17	Restaurants	56	2	Shebeens	2	18						
Offence	Foreign nationals	English																		
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The Royal Commission on Alien Immigration 1902/ Results	(Evans-Gordon, 1903, p 277-285)	<ol style="list-style-type: none"> <li>1. There is a large number of newcomers in the UK especially from Russia and Poland (the majority were Jews)</li> <li>2. The residency and the entrance of those immigrants who are from Eastern Europe in particular should be conditioned.</li> <li>3. Further regulations are needed to prevent the UK from 'undesirable aliens and those who might be a burden on the British society</li> <li>4. The worst impact of foreign nationals is their overcrowding and gathering in particular areas in London. New Aliens should be relocated</li> <li>5. Special attention should focus on the criminality of foreign nationals and the impact of their connections with different criminal offences</li> </ol>
The Royal Commission on Alien Immigration 1902/Recommendations	(Evans-Gordon, 1903, p 277-285)	<ol style="list-style-type: none"> <li>1. Certain classes of foreign nationals should be controlled</li> <li>2. A department of immigration should be established and do the following missions: <ul style="list-style-type: none"> <li>- Made and enforced orders and regulations</li> <li>- Appointed sufficient staff of officers to apply and protect the immigration regulations</li> </ul> </li> <li>- Gave the immigration officers staff that are checking the newcomers at arrival the power to report those who thing that are 'undesirables' to the immigration department</li> <li>3. The immigration department should check and react to those reports before a Court of Summary Jurisdiction reviewing these cases</li> <li>- Any foreign nationals who has been imprisoned two years before his arrival or 'is reasonably supposed to be' a criminal, prostitute, or living on the proceeds of prostitution, ill, have no source to support his living cost may be ordered by a court of Summary Jurisdiction to be deported</li> <li>4. Medical examination at arrival</li> <li>5. Refusing or giving wrong information at the entry port is an offence</li> <li>6. The overcrowded areas with foreign nationals or certain foreign nationals should be prohibited from new resettlement</li> <li>7. the registration at arrival is necessary</li> <li>8. Upon conviction of any felony or misdemeanour upon indictment, the Judge may recommend to deport that foreigners and the latter might punish as rogue or vagabond if he refused to do so.</li> </ol>

Source: (Evans-Gordon, 1903, Hansard, 1919)

**Table 2.2 European imprisonment rate**

<b>Ranking</b>	<b>Title</b>	<b>Prison population total</b>
1	Russian Federation	644 237
2	Turkey	176 268
3	United Kingdom: England & Wales	85 982
4	Poland	71 806
5	Ukraine	70 417
6	France	66 864
7	Germany	61 906
8	Spain	61 835
9	Italy	52 636
10	Belarus	29 000
11	Romania	28 319
12	Azerbaijan	22 526
13	Czech Republic	20 829
14	Hungary	18 424
15	Portugal	14 238
16	Greece	11 798
17	Belgium	11 769
18	Netherlands	11 603
19	Serbia	10 500
20	Georgia	10 236
21	Slovakia	10 007
22	Bulgaria	9 028
23	Austria	8 188
24	Lithuania	7 810
25	Moldova (Republic of)	7 643
26	United Kingdom: Scotland	7 464
27	Switzerland	6 923
28	Albania	5 455
29	Sweden	5 400
30	Latvia	4 745
31	Armenia	3 880
32	Norway	3 710
33	Ireland, Republic of	3 647



34	Denmark	3 481
35	Croatia	3 424
36	Finland	3 105
37	Macedonia (former Yugoslav Republic of)	3 034
38	Estonia	2 807
39	Kosovo/Kosova	1 816
40	Bosnia and Herzegovina: Federation	1 722
41	Slovenia	1 511
42	United Kingdom: Northern Ireland	1 443
43	Montenegro	1 083
44	Bosnia and Herzegovina: Republika Srpska	940
45	Cyprus (Republic of)	811
46	Luxembourg	631
47	Malta	582
48	Jersey (United Kingdom)	154
49	Iceland	147
50	Guernsey (United Kingdom)	83
51	Isle of Man (United Kingdom)	80
52	Andorra	55
53	Gibraltar (United Kingdom)	52
54	Monaco	28
55	Faeroe Islands (Denmark)	11

Source: The World Prison Brief

**Table 2.3 Ethnic Minority groups in national and prison population**

Ethnicity	2001 general population %		2001 prison population %	2011 general population %		2011 Prison population %
	Census	Aged 10+		Census	aged 15+	
<b>White</b>	92	95	90	86	89	74
<b>Mixed</b>	1	1	-	2	1	4
<b>Asians</b>	4	3	3	8	6	7
<b>Black</b>	2	1	12	3	3	13

<b>Others</b>	1	1	3 <sup>25</sup>	1	2	1
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Source: Census, April 2001, ONS, Ethnicity and National Identity in England and Wales 2011, ONS. Table A1.20 Offender Management Caseload Statistics 2011, MoJ; Mid-2009 population estimates, ONS.

**Table 3.1 The level of cash support for qualifying asylum seekers**

Qualifying person	The cash level of support
Couple (married or in a civil partnership)	£72.52
Lone parent aged 18 or over	£43.94
Single person aged 18 or over excluding lone parent	£36.94
Person aged at least 16, but under 18 (except a member of a qualifying couple)	£39.80
Person aged under 16	£36.94
Single person aged 25 or over (excluding lone parents) decision to grant support was made prior to 5 October 2009	£42.62
0-12 months infant	Extra £5 a week
Pregnant woman (for healthy food)	Extra £3 a week
1-3 years toddlers	Extra £3 a week

Source: (UK Visas and Immigration (UKVI), 2014).

**Table 3.2: Enforced and voluntary removal by 'medium harm' assessment category**

Year	Total	Medium harm
2008/09	34920	18614
2009/10	37746	25524
2010/11	41264	28205
2011/12	36859	18063

Source: Table rv.08: Enforced removals and voluntary departures by harm assessment category

<sup>25</sup> Other includes Mixed

**Table 5.1: Freedom of Information requests by the researcher**

<b>Title</b>	<b>To</b>	<b>Sent</b>	<b>Receive</b>	<b>Status</b>
Crime committed by foreign nationals (ref: 15168)	Home Office (by WDTK)	8 June 2010	27 July 2010	Partially successful
Foreign nationals arrested in London 2008-2012	MPS (by WDTK)	-	1 August 2014	Successful
British nationals arrested in the UK	MPS (by WDTK)	20 March 2014	25 March 2014	Information not held
British nationals arrested in London	MPS (by WDTK)	25 March 2014	22 May 2014	Successful
ref. 2014030002094: Why British nationals arrested for immigration crime	MPS (by WDTK)	1 August 2014	5 August 2014	Information not held
Ref. No: 2014080000310 what is the country of origin, ethnicity, and the other nationality of arrested British nationals for immigration crimes.	MPS (by WDTK)	16 August 2014	28 August 2014	Refused
Foreign nationals arrested by nationality questions in regards to previous FOI request	MPS (by University email)	March 19/ 2014	June 11/ 2014	Successful
Muslims foreign national prisoners population in the UK	MoJ	November 4/ 2011	December 5/ 2011	Partially successful
Muslims prisoner population	MoJ	March 14/ 2012	May 10/ 2012	Successful
Foreign national prisoners by type of custody and sentence length	MoJ	March 5/ 2014	May 10/ 2012	Partially successful
British nationals arrested	MPS	March 20/ 2014	August 1/ 2014	Successful
ref. 2014030002094: Why British nationals are arrested for immigration crime	MPS	August 1/ 2014	August 28/ 2014	Refused
Unrecorded nationality prisoners and the UKVI procedures	Home Office	August 17/ 2014	September 4/ 2014	Partially successful
Asylum seeker and illegal immigrant prisoner by the type of crime	MoJ	August 29/ 2014	-	Do not hold a national dataset. The request exceed the permitted expenses
British prisoners by sentence length in E& W	MoJ	August 16/ 2014	September 9/	Successful

			2014	
The reoffending rate, broken down by nationality, of released foreign offenders before deportation	MoJ	September 7/ 2014	-	Waiting for internal review
Non recorded prisoners	Public Enquiries [NOMS]	February 11/ 2014		Referred
Non recorded prisoners	Data Access and Compliance Unit (MoJ)		June 11/ 2014	Successful
Processing non- recorded nationality prisoner cases (30721)	FOI Team/ Home Office	February 13/ 2014	-	Did not reply (only acknowledgment email sent )
Arrest of foreign nationals by nationality questions in regards of previous FOI request	MPS	March 19/ 2014	June 11/2014	Successful

Source: 'What Do They know' (WDTK) website and the researcher's University email

**Table 5.2: the limited (unpublished) data of foreign nationals- CJS relationship**

Category	Type of data	Available variables
Stop and search	Stop and search foreign nationals at the individual and aggregate level	Ethnicity, age and gender
	Number of persons and vehicles searched under Section 1 of the Police and Criminal Evidence Act 1984 by police force area, Section 60 of the Criminal Justice and Public order Act 1994, Section 44 (1&2) Terrorism Act 2000	self-defined ethnicity
	Number of arrests resulted from searches under Section 1 of the Police and Criminal Evidence Act 1984 by police force area and Section 60 of the Criminal Justice and Public order Act 1994, 2009/10	self-defined ethnicity
	Searches of vehicles and occupants under Section 44(1) and searches of pedestrians under Section 44(2) of the Terrorism Act 2000 and resultant arrests, by police force area, by ethnic appearance, 2008/09	Ethnicity, and police force area
	Section 44(1) & (2) Searches, terror arrests and other arrests by police force area	self-defined ethnicity and
Arrest	Arrest foreign nationals data in aggregate level	Ethnicity
	Persons arrested for notifiable offences by type of offence 2001/02 to 2011/12	Gender and age
	Persons arrested for notifiable offences by police force area, 2009/10 to 2011/12	Gender, age and ethnicity
	Number and proportion of persons arrested for recorded crime (notifiable offences) by police force area 2008/09 and 2009/10	self-defined ethnicity
	Recorded committed crimes by Foreign nationals ( Khamael Al-Faris FOI 15168/ 2010)	self-defined ethnicity
court	Annual sentenced offenders by nationality	-
	Persons sentenced for indictable offences at magistrates' courts by outcome, offence group	Ethnicity

	Persons tried for indictable offences at the Crown Court by outcome, and police force area	Ethnic appearance
	Number of persons cautioned for notifiable offences by police force area	Ethnicity , age
Reception into prison	Convicted un sentenced reception into prison by offence group	Gender , age
	Reception into prison by nationality (Available by nationality only between 2004-2010)	Ethnicity and gender
	Reception into prison by type of custody, sentence length, and offence group	Gender, age
	First reception into prison by type of custody	gender
	Receptions of fine defaulters into prison establishments by offence group	gender
	Convicted un-sentenced receptions into prison establishments by offence group	gender
	Receptions of prisoners on indeterminate sentences by type of sentence	gender
	Month end population in prison 2000- 2009 30 June	Gender
Prison population	Population in prison establishments under sentence at 30th June 2007 and 2008 by sentence length and number of previous convictions and cautions	Gender
	Population in prison establishments by type of custody and offence group (2008 available by nationality)	Gender, ethnicity
	Population in prison establishments by, custody type, length of sentence,	Ethnicity, age and gender
	Population of indeterminate sentenced prisoners by type of prisoner/ or type of sentence	Gender
	Immediate custodial sentenced population in prison establishments by sentence length and offence group	Gender and age
	Population in prison establishments under sentence by offence group	age and gender
Foreign nationals and immigration crime	Type of crimes committed by the Asylum seekers (criminal offences and illegal working)	-
	Population in prison establishments under immediate custodial sentence by number of previous convictions and cautions	Gender and age
Supervision pre-release	Pre-release supervision orders commencements, England and Wales, 2008 to 2012	self-identified ethnicity
	Proportion of offenders who re-offend and average number of re-offences per re-offender by ethnic appearance, England and Wales, 2007 to 2011	self-identified ethnicity
	Percentage of persons starting court order supervision by the Probation Service, 2012	self-defined ethnic group

Source, MoJ

**Table 5.3: The collected and available data from different government institutions**

Category	Type of data	Source	Time
Foreign nationals population	Estimated population resident in the UK, by nationality/ foreign nationality	APS/ LFS, ONS	Jan-Dec. 2008-2012
	Estimated population resident in the UK, by country of birth/ foreign country of birth	APS/ LFS, ONS	Jan-Dec. 2008-2012
	Top five common nationalities	APS/ LFS, ONS	Jan-Dec. 2008-2012
	LC2208EW - Passports held by country of birth	ONS	2011
	Distribution of non-UK passports held in the usual resident population by English region and Wales; 2001 LFS and 2011 Census	2001 LFS and, 2011 Census of England and Wales	-
	Country of birth and passport held for all usual residents of England and Wales, 2011	2011 Census of England and Wales	-
	The annual asylum seekers inflow the population of immigration detainee in England and wales	ONS, MoJ, and FOI request to MPS	1993-2012
	Top ten asylum seekers population	MoJ	1999-Q1 2013
	Subsidies for asylum seekers	UKVI	-
	Estimated Resident Population of the UK by Most Common Non-British Nationality,	ONS	2004-2011
	Estimated Resident Population by Non-UK Country of Birth and Non-British Nationality for Scotland, Wales and NI.	ONS (report) 'Population by Country of Birth and Nationality Report, August 2012'	2004-2011
	Foreign nationals arrested (NI)	NISRS (FOI)	2006-2010
	Foreign nationals arrested (London)	MPS (FOI)	2008-2012
British Nationals arrested (London)	(FOI Reference No: 2014030002094) Khamael Al-Faris 47420	2008-2013	
Arrest, sentenced, and prison reception	Untried reception and immediate custodial sentenced receptions into prison establishment by nationality and ethnic groups	MoJ	1993-2009
	The population of non-criminal and fine defaulter breaking by nationality	MoJ	1999-2012
	Prison population by the type of prisoner breaking by nationality	MoJ	1999-2012
	FNPs by type of custody and sentence length	FOI 88548 (Khamael Al-Faris) (Sentenced type unavailable prior 2002)	1997-2013
	Population in prison by nationality and ethnicity	MoJ	1993-2013
Prison population	Population in prison by nationality and ethnicity, type of prisoner, offence group and sex	MoJ	2008
	Population in prison establishments by ethnic group, type of prisoner, sex and nationality	MoJ	1999 & 2006-2009
	Population in prison under sentence by ethnic group, nationality, offence and sex		1999-2000 & 2003- 2012

		MoJ, FOI 70025	
	Top ten largest nationalities of FNPs	MoJ	1999-2013
	Population in prison under immediate custodial sentences by type of offence and nationality	MoJ, FOI 70025. MoJ (JSAS FOI 75790)	1999-2012
	prison population by self-identified ethnicity and type of offence	MoJ	2009-2012
	Number of committed violent and property crimes	HO	
	Recorded crimes and offenders for the Violence Against The Person (VITP), property crimes, and Theft and Handling by nationality	MoJ and FOI	1991-2011
Offence group by nationality	VATP, sexual, robbery, burglary, hand and theft, fraud and forgery, motoring offence and drugs offenders by nationality and ethnicity	MoJ	2000-2011 by ethnicity 2004-2011
	Muslims prisoners population by nationality	FOI 75790 (Khamael Al-Faris) & FOI 73257	2002-2011
	Muslims Foreign national prisoners population in the UK by establishment	FOI 73257 Khamael Al Faris	2011
	Number of Muslim foreign national prisoners by offence type and sentence length	FOI 73257	2011
	FNPs discharged from determinate sentences by offence group	JSAS (MoJ - FOI 73215)	2001-2011
Muslims and other data	Offenders eligible for removal under the TERS scheme by nationality	MoJ (JSAS FOI 77617)	2012
	Enforced and voluntary removal by 'medium harm' assessment category	UKVI/ HO	2009-2012

Source: MoJ, Home Office, ONS, and FOI

Table 6.1A Total annual foreign nationals arrested in NI from 2006-2010

Data category	Year				
	2006	2007	2008	2009	2010
<b>Total annual arrest</b>	4883	6174	7281	7145	6611
<b>The annual growth %</b>	-	26	18 (49) <sup>26</sup>	-2	-7 (-9) <sup>26</sup>
<b>APS of foreign national population<sup>27</sup></b>	32000	51000	51000	63000	60000
<b>Representation %</b>	15	12	14	11	11
<b>APS of foreign born population</b>	77000	95000	100000	100000	99000
<b>Representation %</b>	6	6	7	7	7

Source: FOI (F-2011-00331), and APS 2004-2012 ONS.

<sup>26</sup> Numbers between brackets refer to the annual growth in the first two years (2006-2008) and last two years (2008-2010) of the table.

<sup>27</sup> Estimated Resident Population by Non-UK Country of Birth and Non-British Nationality for Scotland, Wales and Northern Ireland, 2004-2012 (ONS)

Table 6.1B: Foreign nationals arrested in NI per crime from 2006-2010

Crime Type	Year				
	2006	2007	2008	2009	2010
<b>Murder</b>	14	12	11	12	6
<b>Rape</b>	32	44	36	38	58
<b>All sexual</b>	42	38	67	71	81
<b>All violent</b>	513	706	896	1024	1053
<b>Robbery</b>	39	39	41	60	64
<b>Burglary</b>	177	230	303	316	297
<b>Other total crimes</b>	4066	5105	5927	5624	5052

Source: FOI (F-2011-00331), and ONS: Table 6: Detailed Migration, Northern Ireland, 2000-2012.

Table 6.2A: Foreign nationals arrested for specified areas in London, April 2008- December 2012

Annual arrest	Year				
	2008	2009	2010	2011	2012
<b>Grand total</b>	37560	72434	81673	74786	68428
<b>Arrest annual growth %</b>	-	93	13 (117) <sup>28</sup>	-9	-9 (-16) <sup>28</sup>
<b>Foreign nationals population in London<sup>29</sup></b>	1577000	1625000	1663000	1777000	1763000
<b>Representation %</b>	2	4	5	4	4

Source: FOI, and APS/ ONS.

Table 6.2B: foreign nationals arrested in London only per crime from April 2008-31<sup>st</sup> December 2012

Crime type	Year				
	2008	2009	2010	2011	2012
<b>Murder</b>	47	175	88	82	74
<b>Rape</b>	297	636	785	795	644

<sup>28</sup> Numbers between brackets refer to the annual growth in the first two years (2008-2010) and last two years (2010-2012) of the table.

<sup>29</sup> Estimated population resident in the United Kingdom, by nationality January to December 2008- 2012. Source: APS/ LFS, ONS



<b>All sexual</b>	672	1592	1902	1503	1422
<b>All violent</b>	7748	15390	17975	16269	15905
<b>Robbery</b>	644	1627	1773	1883	1616
<b>Burglary</b>	941	1805	2640	2446	2170
<b>Other offences</b>	26794	50571	56764	51357	46867

Source: FOI (Directorate Of Information Reporting Services, 2013)

**Table 6.3A: Total British arrested in London from April 2008- December 2013**

Annual arrest	Year					
	2008	2009	2010	2011	2012	2013
<b>Grand total</b>	196951	227689	215165	197659	172583	164860
<b>annual arrest growth %</b>	-	16	-6	-8	-13	-5
<b>British Londoners<sup>30</sup></b>	5044000	6061000	5136000	6030000	6122000	-
<b>Representation %</b>	4	4	4	3	3	-

Source: (Metropolitan Police Services, 2014), and ONS.

**Table 6.3B: British nationals arrested in London only per crime from April 2008-31<sup>st</sup> December 2013**

Crime type	Year					
	2008	2009	2010	2011	2012	2013
Murder <sup>31</sup>	1879	2501	2340	1892	1747	1849
Rape <sup>32</sup>	1319	1690	1698	1615	1356	1321
All sexual	1526	2071	1916	1899	1718	1703
All violent <sup>33</sup>	15933	21462	21060	18935	18065	17534

<sup>30</sup> Estimated population resident in the UK, by nationality January to December, ONS.

<sup>31</sup> Includes: Murder, murder attempt, murder conspiracy, and murder threat

<sup>32</sup> Includes: Rape, rape attempted and rape conspiracy

<sup>33</sup> Recorded under common assault and common assault racial

Robbery <sup>34</sup>	7644	9364	10103	10137	7867	6310
Burglary <sup>35</sup>	7789	10430	9304	10276	8632	7484
Other offences <sup>36</sup>	6908	6603	8539	8105	7863	7652
Grand total	196951	227689	215165	197659	172583	164860

Source: (Metropolitan Police Services, 2014)

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<sup>34</sup> Includes: robbery business (attempt, racial, and conspiracy), robbery personal (attempt, racial, and conspiracy)

<sup>35</sup> Includes: Burglary dwelling (attempt, conspiracy, and racial) and burglary non-dwelling (attempt and conspiracy)

<sup>36</sup> Include: other, other non-notifiable, other notifiable

**Table 6.4A1: Top ten nationalities arrested in London comparing to their general population in London<sup>37</sup> April 2008- December 2012**

Category	2008	%	2009	%	2010	%	2011	%	2012	%
<b>Arrest rate (1)</b>	<b>Poland 4086</b>	<b>11<sup>38</sup></b>	<b>Poland 7232</b>	<b>10</b>	<b>Poland 8132</b>	<b>10</b>	<b>Poland 7980</b>	<b>11</b>	<b>Poland 7475</b>	<b>11</b>
General population	110000	4	110000	7	124000	7	145000	6	143000	5
<b>Arrest rate (2)</b>	<b>Romania 2201</b>	<b>6</b>	<b>Romania 4958</b>	<b>7</b>	<b>Romania 6396</b>	<b>8</b>	<b>Romania 6787</b>	<b>9</b>	<b>Romania 7383</b>	<b>11</b>
General population	25000	9	37000	13	42000	15	48000	14	57000	13
<b>Arrest rate (3)</b>	<b>Jamaica 1957</b>	<b>5</b>	<b>Lithuania 3768</b>	<b>5</b>	<b>Lithuania 4521</b>	<b>5</b>	<b>Lithuania 4373</b>	<b>6</b>	<b>Lithuania 4087</b>	<b>6</b>
General population	25000	8	38000	10	33000	14	56000	8	45000	9
<b>Arrest rate (4)</b>	<b>Nigeria 1902</b>	<b>5</b>	<b>Nigeria 3608</b>	<b>5</b>	<b>India 4015</b>	<b>5</b>	<b>India 3460</b>	<b>5</b>	<b>India 3147</b>	<b>4</b>
General population	54000	4	52000	7	117000	3	117000	3	143000	2
<b>Arrest rate (5)</b>	<b>Lithuania 1845</b>	<b>5</b>	<b>Jamaica 3334</b>	<b>5</b>	<b>Nigeria 3983</b>	<b>5</b>	<b>Nigeria 3309</b>	<b>4</b>	<b>Nigeria 2798</b>	<b>4</b>
General population	32000	6	24000	14	48000	8	53000	6	46000	6
<b>Arrest rate (6)</b>	<b>India 1444</b>	<b>4</b>	<b>India 3138</b>	<b>4</b>	<b>Jamaica 3549</b>	<b>4</b>	<b>Jamaica 2997</b>	<b>4</b>	<b>Jamaica 2538</b>	<b>3</b>
General population	88000	2	93000	3	22000	16	28000	11	28000	9
<b>Arrest rate (7)</b>	<b>Somalia 1232</b>	<b>3</b>	<b>Somalia 2368</b>	<b>3</b>	<b>Somalia 2667</b>	<b>3</b>	<b>Somalia 2403</b>	<b>3</b>	<b>Irish 2158</b>	<b>3</b>
General population	43000	3	32000	7	30000	9	26000	9	93000	2
<b>Arrest rate (8)</b>	<b>Irish 1087</b>	<b>3</b>	<b>Irish 2244</b>	<b>3</b>	<b>Irish 2538</b>	<b>3</b>	<b>Irish 2232</b>	<b>3</b>	<b>Portugal 2085</b>	<b>3</b>
General population	102000	1	105000	2	106000	2	108000	2	52000	4
<b>Arrest rate (9)</b>	<b>China 1066</b>	<b>3</b>	<b>Portugal 2054</b>	<b>3</b>	<b>Portugal 2220</b>	<b>3</b>	<b>Portugal 2147</b>	<b>3</b>	<b>Somalia 2018</b>	<b>3</b>
General population	24000	4	53000	4	41000	5	51000	4	25000	8
<b>Arrest rate (10)</b>	<b>Portugal 1051</b>	<b>3</b>	<b>China 1924</b>	<b>3</b>	<b>Pakistan 2046</b>	<b>2</b>	<b>Pakistan 1970</b>	<b>3</b>	<b>Pakistan 1994</b>	<b>3</b>
General population	44000	2	21000	9	39000	5	40000	5	42000	5
Total annual arrest	37560	-	72434	-	81673	-	74786	-	68428	-

Source : FOI. (Directorate Of Information Reporting Services, 2013), APS, ONS.

**Table 6.4A2: Top ten nationalities arrested in London according to their population in their population**

Year	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
<b>2008</b>	Romania	Jamaica	Lithuania	China	Poland	Nigeria	Somalia	Portugal	India	Irish
<b>2009</b>	Jamaica	Romania	Lithuania	China	Poland	Nigeria	Somalia	Portugal	India	Irish
<b>2010</b>	Jamaica	Romania	Lithuania	Somalia	Nigeria	Poland	Pakistan	Portugal	India	Irish
<b>2011</b>	Romania	Jamaica	Somalia	Lithuania	Nigeria	Poland	Pakistan	Portugal	India	Irish
<b>2012</b>	Romania	Jamaica	Lithuania	Somalia	Nigeria	Poland	Pakistan	Portugal	India	Irish

Source : Adapted from table 6.4A1

<sup>37</sup> Population by nationality, London January - December 2004, 2008- 2013. Greater London Authority, APS, ONS.

<sup>38</sup> Percentage of the total foreign nationals arrested in London

**Table 6.4B: Foreign nationals' population from EU and the rest of the world in E&W and the UK 2004-2013**

Year	EU Foreign nationals								Foreign nationals from the rest of the world	
	27 <sup>39</sup>		14 <sup>40</sup>		8 <sup>41</sup>		2 <sup>42</sup>		UK	E&W
	UK	E&W	UK	E&W	UK	E&W	UK	E&W		
2004	1094	-	951	-	125	-	-	-	1852	-
2005	1198	-	945	-	233	-	-	-	2000	-
2006	1403	-	981	-	404	-	-	-	2191	-
2007	1588	-	971	-	567	-	33	-	2354	-
2008	1736	1578 <sup>43</sup>	975	895	677	603	64	-	2433	2308
2009	1858	1689	1006	931	745	654	88	-	2486	2336
2010	2003	1808	1038	950	829	728	119	-	2457	2317
2011	2283	2070	1091	1021	1038	911	135	-	2489	2349
2012	2343	2115	1092	994	1074	956	155	-	2509	2351
2013	2507	2269	1168	1081	1148	1002	177	173	2394	2268

Source: ONS

(-) = Not applicable

**Table 6.5A: Untried receptions into prison establishment by nationality 1993-2009<sup>44</sup>**

Year	Total reception	British reception	%	foreign reception	%	Unrecorded nationality
1993	53565	49964	93	3286	6	N/A
1994	57079	53005	93	3820	7	N/A
1995	55287	51269	93	3731	7	N/A
1996	58888	54778	93	3914	7	N/A
1997	62066	57440	93	4163	7	N/A
1998	64697	59494	92	4906	8	N/A
1999	64572	59456	92	4772	7	0

<sup>39</sup> Includes countries in the EU14, EU8, EU2, Malta, Cyprus, and Croatia from July 1/ 2013

<sup>40</sup> Includes Austria, Belgium, Denmark, Finland, France, Germany, Greece, Italy, Luxembourg, Netherlands, Portugal, Republic of Ireland, Spain and Sweden.

<sup>41</sup> Includes the Eastern European countries that joined the EU in 2004: Czech Republic, Estonia, Poland, Hungary, Latvia, Lithuania, Slovakia and Slovenia.

<sup>42</sup> Includes Romania and Bulgaria Joined EU in 2007

<sup>43</sup> From 2008 Includes 26 EU nationalities only (the EU14, EU A8, Malta and Cyprus, Bulgaria and Romania). Table 2.1: Estimated population resident in the United Kingdom, by nationality. ONS

<sup>44</sup> This is the only information the research could get from the Ministry of Justice publications.

<b>2000</b>	54892	49363	90	4994	9	0
<b>2001</b>	53467	47184	88	5666	11	0
<b>2002</b>	58708	51624	88	6326	11	0
<b>2003</b>	58696	51333	87	6623	11	0
<b>2004</b>	54556	46845	86	7176	13	535
<b>2005</b>	55455	46575	84	8346	15	534
<b>2006</b>	55809	46092	83	9215	17	502
<b>2007</b>	55305	44056	80	10739	19	510
<b>2008</b>	57417	45687	80	11176	19	554
<b>2009</b>	55207	42655	77	11268	20	1284
<b>%</b>	3	-15	-1 <sup>45</sup>	243	8 <sup>45</sup>	140

Source: MoJ

**Table 6.5B: Untried prisoner population by nationality 1999-2012**

Year	Total prison population		Untried		% Of total prisoners	
	Foreign	British	Foreign	British	Foreign	British
<b>1999</b>	5388	59074	760	7169	14	12
<b>2000</b>	5587	59043	880	5928	16	10
<b>2001</b>	6926	58732	905	5343	13	9
<b>2002</b>	7719	62564	966	6282	13	10
<b>2003</b>	8912	63614	1150	6004	13	9
<b>2004</b>	8942	64379	1284	5627	14	9
<b>2005</b>	9651	65670	1496	6058	16	9
<b>2006</b>	10879	66160	1532	5919	14	9
<b>2007</b>	11093	67767	1747	6016	16	9
<b>2008</b>	11498	70751	1654	6424	14	9
<b>2009</b>	11350	71231	1711	6552	15	9
<b>2009<sup>46</sup></b>	11467	70898	1704	6675	15	9
<b>2010</b>	11135	71016	1739	6074	16	9
<b>2011</b>	10779	73030	1757	6170	16	8
<b>2012</b>	10861	73238	1555	5656	14	8
<b>%</b>	102	24	105	-21	6 <sup>47</sup>	-2 <sup>47</sup>

Source: MoJ

<sup>45</sup> These percentages refer to the annual growth of untried prisoners receptions for 16 years from 1993 to 2009.

<sup>46</sup> The 2009 figures from both the old and new prison IT systems have been presented to aid comparison for the whole table parts.

<sup>47</sup> These percentages refer to the annual growth of untried prisoners for 13 years from 1999 to 2012, excluding the new 2009 IT records.

**Table 6.5C: Comparison between untried reception and untried prison population by nationality 1999-2009**

Year	Total untried British reception	Total untried British prisoners	%	Total untried foreign reception	Total untried FNPs	%
1999	59456	7169	12	4772	760	16
2000	49363	5928	12	4994	880	18
2001	47184	5343	11	5666	905	16
2002	51624	6282	12	6326	966	15
2003	51333	6004	12	6623	1150	17
2004	46845	5627	12	7176	1284	18
2005	46575	6058	13	8346	1496	18
2006	46092	5919	13	9215	1532	17
2007	44056	6016	14	10739	1747	16
2008	45687	6424	14	11176	1654	15
2009	42655	6552	15	11268	1711	15
%	-28	-9	-1	136	125	8

Source: Adapted from tables 6.5A & B

**Table 6.6: Convicted un-sentenced prisoners by nationality 1999-2012**

Year	Total prison population		Total convicted un-sentenced	Convicted un-sentenced		% of their total prisoner	
	Foreign	British		Foreign	British	Foreign	British
1999	5388	59074	4651	272	4379	5	7
2000	5587	59043	4184	259	3925	5	7
2001	6926	58732	4227	389	3838	6	7
2002	7719	62564	5166	455	4711	6	8
2003	8912	63614	5127	532	4595	6	7
2004	8942	64379	4738	575	4163	6	6
2005	9651	65670	4723	775	3948	8	6
2006	10879	66160	4958	862	4096	8	6
2007	11093	67767	4429	718	3711	6	5
2008	11498	70751	4648	754	3894	7	6
2009	11350	71231	4491	674	3817	6	5
2009 <sup>new</sup>	11467	70898	4464	645	3819	6	5
2010	11135	71016	4259	760	3499	7	5
2011	10779	73030	4018	605	3413	6	5
2012	10861	73238	3534	518	3016	5	4

%	102	24	-24	90	-31	5 <sup>48</sup>	-3 <sup>48</sup>
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Source: MoJ

**Table 6.7A: Immediate custodial sentenced receptions into the prison establishment by nationality from 1993-2009**

Year	Total reception	Total British sentenced reception	%	Total foreign sentenced reception	%	Unrecorded ethnicity	Unrecorded nationality
1993	50563	43628	86	2218	4	0	105
1994	61188	52552	86	2746	4	1	123
1995	69016	58498	85	3405	5	12	155
1996	74306	70507	95	3671	5	17	128
1997	80832	76321	94	4167	5	8	344
1998	85908	80772	94	4895	6	3	241
1999	90238	85126	94	4927	5	4	185
2000	91195	85712	94	5237	6	5	246
2001	90523	84217	93	6026	7	5	280
2002	93615	86114	92	7018	7	3	483
2003	92245	84251	91	7482	8	NA	512
2004	93326	84579	91	8355	9	37	392
2005	90414	80418	90	9612	11	6	384
2006	88134	77975	88	9832	11	8	327
2007	90261	79193	88	10737	12	8	331
2008	98820	86354	87	12136	12	4	330
2009	93621	79763	85	12408	13	3	1450
%	85	83	4 <sup>49</sup>	459	11 <sup>49</sup>	-	1281

Source: MoJ

<sup>48</sup> These percentages refer to the annual growth of convicted un-sentenced prisoners for 13 years from 1999 to 2012.

<sup>49</sup> These percentages refer to the annual growth of ICSR into prison for 16 years from 1993-2009.

**Table 6.7B: Sentenced prisoner population by nationality 1999-2012**

Year	Prison population		Sentenced <sup>50</sup>			
	Foreign	British	Foreign	%	British	%
1999	5388	59074	3864	72	47377	80
2000	5587	59043	3919	70	49059	83
2001	6926	58732	4576	66	49471	84
2002	7719	62564	5617	73	51462	82
2003	8912	63614	6281	70	52882	83
2004	8942	64379	6256	70	54453	85
2005	9651	65670	6509	67	55497	85
2006	10879	66160	7284	67	55956	85
2007	11093	67767	7488	68	57880	85
2008	11498	70751	7682	67	60275	85
2009	11350	71231	7502	66	60716	85
2009 <sup>51</sup>	11467	70898	7418	68	54575	79
2010	11135	71016	7554	68	56439	79
2011	10779	73030	7346	69	57914	81
2012	10861	73238	7526	67	59200	80
%	102	24	95	5 <sup>52</sup>	25	2 <sup>52</sup>

Source: MoJ

**Table 6.7C: Immediate custodial sentenced receptions and prison population by nationality 1999-2009**

Year	Total British sentenced receptions	Total sentenced British	%	Total sentenced foreign receptions	Total sentenced foreigners	%
1999	85126	47377	56	4927	3864	78
2000	85712	49059	57	5237	3919	75
2001	84217	49471	59	6026	4576	76
2002	86114	51462	60	7018	5617	80
2003	84251	52882	63	7482	6281	84
2004	84579	54453	64	8355	6256	75

<sup>50</sup> Sentenced - held in custody as a result of receiving a sentence in a criminal court; persons committed in default of payment of a fine are normally included in this group. Immediate custodial sentenced numbers do not include fine defaulters. OFFENDER MANAGEMENT ANALYSIS (2006). *Offender Management Caseload Statistics 2005* UK Home Office p, 76. This does include immediate custodial sentenced prisoners.

<sup>51</sup> The 2009 figures from both the old and new prison IT systems have been presented to aid comparison.

<sup>52</sup> These percentages refer to the annual growth of Immediate custodial sentenced prisoners into prison for 13 years from 1993 to 2012, excluding the 2009 new IT records.



<b>2005</b>	80418	55497	69	9612	6509	68
<b>2006</b>	77975	55956	72	9832	7284	74
<b>2007</b>	79193	57880	73	10737	7488	70
<b>2008</b>	86354	60275	70	12136	7682	63
<b>2009</b>	79763	60716	76	12408	7502	60
<b>%</b>	-6	28	-	152	94	-

Source: Ministry of Justice

**Table 6.8A: Prison population by nationality, 1993-2013**

<b>Year</b>	<b>Total</b>	<b>British</b>	<b>Foreigner</b>	<b>Immigrants' detainees</b>	<b>Unrecorded</b>	<b>% Foreign prisoners</b>
<b>1993</b>	44246	40264	3982	NA	NA	9
<b>1994</b>	48879	44886	3993	NA	NA	8
<b>1995</b>	49073	46607	2466	NA	388	5
<b>1996</b>	55256	50682	4574	519	315	8
<b>1997</b>	61467	56611	4677	476	179	8
<b>1998</b>	65727	60393	5133	477	201	8
<b>1999</b>	64529	59074	5388	490	67	8
<b>2000</b>	65194	59043	5587	524	565	9
<b>2001</b>	66403	58732	6926	1081	745	10
<b>2002</b>	71218	62553	7716	759	946	11
<b>2003</b>	72286	62417	8912	1079	1141	12
<b>2004</b>	74488	64379	8942	957	1168	12
<b>2005</b>	76190	65670	9651	996	869	13
<b>2006</b>	77982	66160	10879	1366	944	14
<b>2007</b>	79734	67767	11093	1218	874	14
<b>2008</b>	83194	70751	11498	1473	946	14
<b>2009</b>	83454	71231	11350	1465	874	14
<b>2010</b>	85002	71016	11135	963	2851	13
<b>2011</b>	85374	73030	10779	633	1565	13
<b>2012</b>	86048	73238	10861	730	1949	13
<b>2013</b>	83842	72179	10786	832	877	13

%	89	79	171	60	126	5 <sup>53</sup>
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Source: MoJ, and (Ministry of Justice, 2014a).

**Table 6.8B: The population of non-criminal prisoners by nationality 1999-2012**

Year	Total prison population	British National		Foreign National				
		Detainees <sup>54</sup>	Fine defaulter	Detainees	Fine defaulter	FNPs	Foreign offenders	%Foreign offenders of total prison pop.
1999	64529	57	92	490	2	5388	4896	8
2000	65194	51	80	525	4	5587	5058	8
2001	66403	41	39	1054	2	6926	5870	9
2002	71218	78	1	675	4	7716	7039	10
2003	72286	107	1	944	6	8912	7962	11
2004	74488	106	1	819	8	8942	8115	11
2005	76190	108	1	857	13	9651	8781	12
2006	77982	121	0	1188	12	10879	9679	12
2007	79734	57	1	1135	5	11093	9953	12
2008	83194	66	1	1390	17	11498	10091	12
2009	83454	58	1	1439	24	11350	9887	12
2010	85002	43	6	913	17	11135	9616	11
2011	85374	30	8	881	20	10779	9849	12
2012	86048	27	13	1094	15	10861	9960	12
%	89	-53	-86	123	650	102	103	6 <sup>55</sup>

Source: MoJ

**Table 6.8C: Foreign national offender by time served and detention after in the prison**

Year	Becoming time served			Time served detained		
	2011/12	2012/13	2013/14	2011/2012	2012/13	2013/14
Q1 (Apr - Jun)	1079	1242	1208	1467	1410	1271
Q2 (Jul - Sept)	1149	1309	1206	1409	1466	1277
Q3 (Oct - Dec)	1099	1211	1152	1396	1333	1319
Q4 (Jan - Mar)	1234	1308	-	1403	1367	-

Source: (UK Visas and Immigration, 2014)

<sup>53</sup> This percentage refers to the annual growth of FNPs for 20 years from 1993 to 2013

<sup>54</sup> Detainees for immigration crimes: not all British nationals (overseas) have the right to enter, live and work freely in the UK, like British overseas territories citizens from Hong Kong who are controlled under immigration regulation GOV.UK (2014). *Types of British nationality* London <https://www.gov.uk/>,

<sup>55</sup> This percentage refers to the annual growth of foreign national offenders for 13 years from 1999 to 2012

**Table 6.9: Prison population broken down by nationality and ethnic group 1993-2012**

Year	White		Mixed		Asian		Black		Chinese <sup>56</sup>		Not stated		Unrecorded ethnicity		Unrecorded nationality
	FN*	BN**	FN	BN	FN	BN	FN	BN	FN	BN	FN	BN	FN	BN	
1993	1206	34944	NA	NA	622	730	1137	3585	481	532	NA	NA	NA	4	1005
1994	1281	39241	NA	NA	593	747	1351	4237	550	526	NA	NA	6	10	337
1995 <sup>57</sup>	1376	40565	NA	NA	636	849	1414	4542	659	637	NA	NA	4	14	388
1996	1389	43416	NA	NA	661	979	1436	5525	769	741	NA	NA	4	21	315
1997	1515	48526	NA	NA	637	1223	1623	5946	899	890	NA	NA	3	26	179
1998	1710	51815	NA	NA	643	1363	1721	6227	1059	976	NA	NA	NA	14	201
1999	1734	50598	NA	NA	633	1293	1886	6074	1133	1086	NA	NA	2	23	67
2000	1749	50473	NA	NA	534	1288	2068	6091	1228	1165	NA	NA	7	26	565
2001	1946	49919	NA	NA	598	1352	2868	6191	1508	1227	NA	NA	6	43	745
2002	2006	52449	NA	NA	555	1519	3870	6933	1283	1519	NA	NA	4	59	946
2003	2088	51697	NA	NA	695	1606	4362	7320	1578	1719	NA	NA	4	74	1132
2004	2422	48622	340	1477	1214	2549	3766	6093	475	191	38	173	3	74	1167
2005	2789	53645	372	1746	1551	2929	4197	6750	655	168	62	177	5	36	869
2006	3200	53494	401	1864	1854	3159	4582	6997	757	157	63	230	5	53	944
2007	3150	54651	389	2016	1860	3332	4644	7190	971	162	53	215	11	45	874
2008	3343	56370	403	2248	2009	3707	4539	7828	1120	203	60	220	8	27	946
2009	3567	56497	367	2435	2065	3849	4086	7782	1211	189	43	114	2	8	874
2009 <sup>58</sup>	3547	55462	374	2488	2106	3897	4162	7752	1229	181	40	114	4	42	1026
2010	3705	55462	404	2488	1970	3897	3705	7647	987	181	24	83	340	1257	2851
2011	3905	56894	377	2683	1969	4121	3302	7617	739	157	25	106	487	1452	1565
2012	3921	56631	381	2723	1963	4228	3312	7756	750	183	28	108	534	1609	1949
%	225	62	12	84	216	479	191	116	56	-190	-35	-38	8800	40125	94

Source: Ministry of Justice

\*=Foreign nationals, \*\*=British national

<sup>56</sup> From 1995-2003 the classification was Chinese and other

<sup>57</sup> 1995-2003 Asians was classifying as south Asians and it may differ from the later classification in 2004

<sup>58</sup> New prison IT system changed in 2009 the both old and new data systems have been presented to aid comparison

**Table 6.10: The top ten largest foreign nationalities in prison from 1999-2013**

Year	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
1999	Jamaica 858	Irish 727	Pakistan 351	India 231	Netherlands 222	Nigeria 211	Turkey 190	Colombia 121	Ghana 116	Germany 115
2000	Jamaica 1062	Irish 671	Pakistan 293	Netherland 209	Turkey 196	India 190	Nigeria 184	Colombia 118	Somalia 116	Spain 116
2001	Jamaica 1699	Irish 689	Pakistan 372	Turkey 225	Nigeria 221	India 209	Netherlands 203	Somalia 146	S. Africa 130	Spain 125
2002	Jamaica 2583	Irish 663	Pakistan 314	Nigeria 265	Turkey 217	Netherlands 204	India 185	S. Africa 170	Somalia 156	Serbia & Montenegro 114
2004 <sup>59</sup>	Jamaica 2493	Irish 658	Nigeria 399	Pakistan 367	Turkey 252	India 231	Netherlands 220	Somalia 220	Iraq 156	Bangladesh & China 144
2005 <sup>60</sup>	Jamaica 1486	Nigeria 859	Irish 727	Pakistan 416	Turkey 292	Somalia 284	India 253	Iraq 240	Ghana 212	China 201
2006	Jamaica 1422	Nigeria 945	Irish 719	Pakistan 428	Somalia 339	China 320	India 278	Iraq 276	Turkey 255	Poland 243
2007	Jamaica 1374	Nigeria 1028	Irish 638	Vietnam 437	Pakistan 389	China 374	Somalia 344	Poland 320	India 285	Iraq 257
2008 <sup>61</sup>	<b>Jamaica 1657</b>	<b>Nigeria 1902</b>	<b>Irish 1087</b>	<b>Vietnam 296</b>	<b>China 1066</b>	<b>Poland 4086</b>	<b>Somalia 1232</b>	<b>Pakistan 8366</b>	<b>India 1444</b>	<b>Iraq 362</b>
2008	Jamaica 1176	Nigeria 1002	Irish 657	Vietnam 494	China 454	Poland 450	Somalia 445	Pakistan 393	India 343	Iraq 283
2009	<b>Jamaica 3334</b>	<b>Nigeria 3608</b>	<b>Irish 2244</b>	<b>Vietnam 562</b>	<b>Poland 7232</b>	<b>China 1924</b>	<b>Pakistan 1668</b>	<b>Somalia 2368</b>	<b>India 3138</b>	<b>Romania 4958</b>
2009	Jamaica 1055	Nigeria 765	Irish 627	Vietnam 564	Poland 523	China 479	Pakistan 457	Somalia 441	India 344	Romania 327
2010	<b>Jamaica 3546</b>	<b>Nigeria 3983</b>	<b>Irish 2538</b>	<b>Poland 8132</b>	<b>Vietnam 638</b>	<b>Pakistan 2047</b>	<b>Somalia 2667</b>	<b>Romania 6396</b>	<b>China 1831</b>	<b>Lithuania 4521</b>
2010	Jamaica 942	Nigeria 727	Irish 681	Poland 642	Vietnam 596	Pakistan 440	Somalia 433	Romania 380	China 364	Lithuania 361
2011	<b>Jamaica 2997</b>	<b>Irish 2223</b>	<b>Poland 7980</b>	<b>Nigeria 3309</b>	<b>Pakistan 1970</b>	<b>Romania 6787</b>	<b>Vietnam 529</b>	<b>Lithuania 4373</b>	<b>Somalia 2403</b>	<b>India 3460</b>
2011	Jamaica 837	Irish 736	Poland 722	Nigeria 614	Pakistan 498	Romania 473	Vietnam 472	Lithuania 428	Somalia 417	India 364
2012	<b>Jamaica 2538</b>	<b>Poland 7475</b>	<b>Irish 2158</b>	<b>Nigeria 2798</b>	<b>Romania 7383</b>	<b>Pakistan 1994</b>	<b>Lithuania 4087</b>	<b>India 3,147</b>	<b>Somalia 2018</b>	<b>Vietnam 452</b>

<sup>59</sup> The prison population in 2004 as in January unlike other years in 30<sup>th</sup> June

<sup>60</sup> As 30 September unlike other years 30 June

<sup>61</sup> Arrest data for the top 10 prison nationalities are bold typing from 2008-2012

<b>2012</b>	Jamaica 900	Poland 750	Irish 737	Nigeria 594	Romania 541	Pakistan 472	Lithuania 462	India 426	Somalia 410	Vietnam 396
<b>2013</b>	Poland 829	Irish 769	Jamaica 759	Romania 608	Nigeria 534	Pakistan 517	India 509	Lithuania 462	Somalia 408	Vietnam 341

Source: Ministry of Justice and FOI request to the Metropolitan police.

**Table 6.11: Top ten nationalities arrested in London comparing to their population in prison April 2008- December 2012**

Category	2008	2009	2010	2011	2012
<b>Arrest rate (1)</b>	<b>Poland 4086</b>	<b>Poland 7232</b>	<b>Poland 8132</b>	<b>Poland 7980</b>	<b>Poland 7475</b>
Prison population <sup>62</sup>	450 (6)	523 (5)	642 (4)	722 (3)	750 (2)
<b>Arrest rate (2)</b>	<b>Romania 2201</b>	<b>Romania 4958</b>	<b>Romania 6396</b>	<b>Romania 6787</b>	<b>Romania 7383</b>
Prison population	193 (17)	327 (10)	380 (8)	473 (6)	541 (5)
<b>Arrest rate (3)</b>	<b>Jamaica 1957</b>	<b>Lithuania 3768</b>	<b>Lithuania 4521</b>	<b>Lithuania 4373</b>	<b>Lithuania 4087</b>
Prison population	1,002 (2)	308 (11)	361 (10)	428 (8)	462 (7)
<b>Arrest rate (4)</b>	<b>Nigeria 1902</b>	<b>Nigeria 3608</b>	<b>India 4015</b>	<b>India 3460</b>	<b>India 3147</b>
Prison population	237 (11)	765 (2)	329 (11)	364 (10)	426 (8)
<b>Arrest rate (5)</b>	<b>Lithuania 1845</b>	<b>Jamaica 3334</b>	<b>Nigeria 3983</b>	<b>Nigeria 3309</b>	<b>Nigeria 2798</b>
Prison population	1,176 (1)	1,055 (1)	727 (2)	614 (4)	594 (4)
<b>Arrest rate (6)</b>	<b>India 1444</b>	<b>India 3138</b>	<b>Jamaica 3549</b>	<b>Jamaica 2997</b>	<b>Jamaica 2538</b>
Prison population	343 (9)	344 (9)	942 (1)	837 (1)	900 (1)
<b>Arrest rate (7)</b>	<b>Somalia 1232</b>	<b>Somalia 2368</b>	<b>Somalia 2667</b>	<b>Somalia 2403</b>	<b>Irish 2158</b>
Prison population	445 (7)	441 (8)	433 (7)	417 (9)	373 (3)
<b>Arrest rate (8)</b>	<b>Irish 1087</b>	<b>Irish 2244</b>	<b>Irish 2538</b>	<b>Irish 2232</b>	<b>Portugal 2085</b>
Prison population	657 (3)	627 (3)	681 (3)	736 (2)	220 (11)
<b>Arrest rate (9)</b>	<b>China 1066</b>	<b>Portugal 2054</b>	<b>Portugal 2220</b>	<b>Portugal 2147</b>	<b>Somalia 2018</b>
Prison population	454 (5)	202 (15)	209 (14)	225 (11)	410 (9)
<b>Arrest rate (10)</b>	<b>Portugal 1051</b>	<b>China 1924</b>	<b>Pakistan 2046</b>	<b>Pakistan 1970</b>	<b>Pakistan 1994</b>
Prison population	199 (15)	479 (6)	440 (6)	473 (6)	472 (6)

Source: (Directorate Of Information Reporting Services, 2013). Ministry of Justice

<sup>62</sup> Includes the prison population and the (rank of prisoners) from these nationalities in prison

**Table 6.12A: FNP's under immediate custodial sentences by type of offence 1999-2012**

Year	VATP	Sexual	Robbery	Burglary	Theft & handling	Fraud & forgery <sup>63</sup>	Drugs	Motoring	Other	Not recorded <sup>64</sup>	Total <sup>65</sup>
1999	637	367	276	190	176	200	1604	NA	285	127	3862
2000	678	421	289	211	207	141	1748	NA	190	33	3918
2001	650	392	318	212	201	212	2146	NA	411	34	4576
2002	756	365	405	221	201	250	2983	79	303	55	5618
2003	856	391	434	236	224	330	3141	112	374	52	6150
2004	1055	471	489	227	253	396	2756	137	426	45	6255
2005	1134	576	508	244	258	611	2539	142	465	34	6511
2006	1271	674	579	242	297	866	2605	175	550	24	7283
2007	1366	787	623	250	274	914	2551	139	562	25	7491
2008	1494	817	646	275	297	1085	2322	142	583	21	7682
2009	1640	822	611	308	377	1077	2435	131	514	25	7940
2009 <sup>66</sup>	1643	926	593	256	325	977	2110	122	553	94	7599
2010	1710	1115	641	292	419	606	2057	110	782	74	7806
2011	1741	1034	703	286	500	447	1757	130	878	40	7516
2012	1821	1063	731	372	534	434	1716	97	873	38	7679
% <sup>67</sup>	186	190	165	96	203	117	7	23	206	-70	-
% <sup>68</sup>	8	9	8	5	9	6	1	2	9	-9	-

Source: Population in prison establishments under an immediate custodial sentence by ethnic group, nationality, offence group, and sex. MoJ. FOI70025. MoJ (JSAS FOI 75790)

**Table 6.12 B: British prisoners under immediate custodial sentences by type of offence from 1999-2012**

Year	VATP	Sexual	Robbery	Burglary	Theft & handling	Fraud & forgery	Drugs	Motoring	Other	Not recorded	Total
1999	10,208	4,576	6,058	8,582	4,232	904	6,574	NA	5,109	1,132	47375
2000	10,512	4,670	6,056	8,756	4,811	874	6,703	NA	5,856	831	49069

<sup>63</sup> Between November 2008 and March 2012, cases were categorised as either 'Theft/Fraud' or 'Fraud'. Then from March 2012, the 'Theft/Fraud' category was separated as one category for 'Theft' and one category for 'Fraud'. (FOI request to NOMS. Ref: 82155)

<sup>64</sup> Where the offence data are incomplete, the category "offence not recorded" is used instead. THE RESEARCH DEVELOPMENT AND STATISTICS DIRECTORATE (2006). Offender Management Caseload Statistics 2005 *Home Office Statistical Bulletin*. London NOMS, Home Office

<sup>65</sup> The total represented the aggregated population of FNP's by the type of crime not the total of sentenced FNP's. See table 6.7B to notice the difference between the two totals.

<sup>66</sup> According to the new system when the prison recording system has changed in 2010

<sup>67</sup> This percentage represented the overall aggregate growth from 1999-2012

<sup>68</sup> This percentage represented the annual growth for every individual year from 1999-2012.

2001	10,966	4,661	6,483	8,290	4,377	805	6,882	NA	6,156	851	49471
2002	11,408	4,928	7,079	8,915	4,519	775	7,041	NA	5,794	1,013	51472
2003	11,766	5,062	7,668	8,665	4,259	733	7,511	2,222	3,671 <sup>69</sup>	951	52508
2005 <sup>70</sup>	16,225	6159	7554	7824	3849.00	832	8,088	2,016	4,810	628	57985
2006	14,911	5,609	7,812	7,535	3,819	806	8,019	1,739	5,023	383	55656
2007	16,208	6,538	8,110	7,661	3,417	812	8,029	1,339	5,402	356	57872
2008	17,299	6,783	8,075	7,647	3,528	910	8,636	1,231	5,834	232	60175
2009	18,270	7,063	8,431	7,568	3,047	922	8,542	1,014	5,268	257	60382
2010	18,140	8,146	8,062	6,391	3,239	909	8,786	769	5,114	436	59992
2012	14537	8,098	6,075	5954	3,352	722	5,859	521	5,310	247	50675
% <sup>71</sup>	42	77	0.2	-31	-21	-20	-11	-76	4	-78	-
% <sup>72</sup>	3	5	0	-3	-2	-2	-1	-19	0	-13	-

Source: Population in prison establishments under an immediate custodial sentence by ethnic group, nationality, offence group, and sex. Ministry of Justice.

**Table 6.12C1: The rank of the type of crimes committed by British prisoners comparing to their total from 1999-2012**

Year	Crimes rank %									
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
1999	VATP 22	Burglary 15	Drugs 11	Robbery 13	Other 11	Sexual 10	Theft &H. 9	Fraud &F. 2	Not rec. 2	-
2000	VATP 22	Burglary 18	Drugs 14	Robbery 12	Other 12	Sexual 10	Theft &H. 10	Fraud &F. 2	Not rec. 2	-
2001	VATP 22	Burglary 17	Drugs 14	Robbery 13	Other 12	Sexual 9	Theft &H. 9	Fraud &F. 2	Not rec. 2	-
2002	VATP 22	Burglary 17	Drugs 14	Robbery 14	Other 11	Sexual 10	Theft &H. 9	Fraud &F. 2	Not rec. 2	-
2003	VATP 22	Burglary 17	Robbery 15	Drugs 14	Sexual 10	Theft &H. 8	Other 7	Motoring 4	Not rec. 2	Fraud 1
2004	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2005	VATP 28	Drugs 14	Burglary 13	Robbery 13	Sexual 11	Other 8	Theft &H 7	Motoring 3	Not rec. 1	Fraud 1
2006	VATP 27	Drugs 14	Burglary 14	Robbery 14	Sexual 10	Other 9	Theft &H 7	Motoring 3	Not rec. 1	Fraud 1
2007	VATP 28	Drugs 14	Robbery 14	Burglary 13	Sexual 11	Other 9	Theft &H 6	Motoring 2	Not rec. 1	Fraud 1
2008	VATP 29	Drugs 14	Burglary 13	Robbery 13	Sexual 11	Other 10	Theft &H 6	Motoring 2	Fraud 2	not rec 0.3
2009	VATP 30	Drugs 14	Robbery 14	Burglary 13	Sexual 12	Other 9	Theft &H 5	Motoring 2	Fraud 2	not rec 0.4
2010	VATP 30	Drugs 15	Sexual 14	Robbery 13	Burglary 11	Other 9	Theft &H 5	Fraud 2	Motoring 1	Not rec 1
2011	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
2012	VATP 29	Sexual 16	Drugs 12	Robbery 12	Burglary 12	Other 10	Theft &H 7	Fraud 1	Motoring 1	not rec 0.4

Source: adapted from the above table 6.12B

Not rec = not recorded crime

<sup>69</sup> Other offences and non-recorded crimes in 2003 as 28 February unlike other years 30 June

<sup>70</sup> 2004 and 2011 data are not available

<sup>71</sup> Percentage change from 1999-2012

<sup>72</sup> Percentage change per year for 11 years 1999-2012

**Table 6.12C2: The rank of the type of crimes committed by FNP's comparing to their total from 1999-2012**

Year	Crimes rank %									
	1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>	6 <sup>th</sup>	7 <sup>th</sup>	8 <sup>th</sup>	9 <sup>th</sup>	10 <sup>th</sup>
1999	Drugs 42	VATP 16	Sexual 10	Robbery 7	Other 7	Burglary 5	Theft 5	Fraud 5	Not rec 3	-
2000	Drugs 45	VATP 17	Sexual 11	Robbery 7	Burglary 5	Theft 5	Other 5	Fraud 4	Not rec 1	-
2001	Drugs 47	VATP 14	Sexual 9	Robbery 9	Other 9	Burglary 5	Fraud 5	Theft 4	Not rec 1	-
2002	Drugs 53	VATP 13	Robbery 7	Sexual 6	Other 5	Burglary 4	Fraud 4	Theft 4	Motoring 1	Not rec 1
2003	Drugs 51	VATP 14	Robbery 7	Sexual 6	Other 6	Fraud 5	Burglary 4	Theft 4	Motoring 2	Not rec 1
2004	Drugs 44	VATP 17	Robbery 8	Sexual 8	Other 7	Fraud 6	Burglary 4	Theft 4	Motoring 2	Not rec 1
2005	Drugs 44	VATP 17	Sexual 9	Fraud 9	Robbery 8	Other 7	Burglary 4	Theft 4	Motoring 2	Not rec 1
2006	Drugs 36	VATP 17	Fraud 12	Sexual 9	Other 8	Robbery 8	Theft 4	Burglary 4	Motoring 2	Not rec 0.3
2007	Drugs 34	VATP 18	Fraud 12	Sexual 11	Other 8	Robbery 8	Theft 4	Burglary 4	Motoring 2	Not rec 0.3
2008	Drugs 30	VATP 19	Fraud 14	Sexual 11	Other 8	Robbery 8	Theft 4	Burglary 4	Motoring 2	Not rec 0.2
2009	Drugs 31	VATP 21	Fraud 14	Sexual 10	Robbery 10	Other 6	Theft 4	Burglary 4	Motoring 2	Not rec 0.2
2010	Drugs 26	VATP 22	Sexual 14	Other 10	Fraud 8	Robbery 8	Theft 5	Burglary 4	Motoring 1	Not rec 1
2011	Drugs 23	VATP 23	Sexual 14	Other 12	Robbery 9	Theft 7	Fraud 6	Burglary 4	Motoring 2	Not rec 1
2012	VATP 24	Drugs 22	Sexual 14	Other 11	Robbery 10	Theft 7	Fraud 6	Burglary 5	Motoring 1	Not rec 0.4

Source: adapted from the above table 6.12A

**Table 6.13A: FNP by the type of custody 2002-2014 England and Wales**

Year	2002	2003	2004	2005	2006	2007	2008	2009	2009(1 )	2010	2011	2012	2013	2014
<b>Total FNP</b>	<b>7716</b>	<b>8912</b>	<b>8942</b>	<b>9651</b>	<b>10879</b>	<b>11093</b>	<b>11498</b>	<b>11350</b>	<b>11467</b>	<b>11135</b>	<b>11076</b>	<b>10861</b>	<b>10786</b>	<b>10834</b>
<b>Remand</b>	<b>1421</b>	<b>1682</b>	<b>1,859</b>	<b>2,271</b>	<b>2,394</b>	<b>2,465</b>	<b>2,408</b>	<b>2,385</b>	<b>2,349</b>	<b>2,499</b>	<b>2,469</b>	<b>2,073</b>	<b>2,051</b>	<b>2,253</b>
Untried	966	1150	1,284	1,496	1,532	1,747	1,654	1,711	1,704	1,739	1,821	1,555	1,616	1,763
Convicted un-sentenced	455	532	575	775	862	718	754	674	645	760	648	518	435	490
<b>Sentenced</b>	<b>5,621</b>	<b>6,287</b>	<b>6,264</b>	<b>6,523</b>	<b>7,296</b>	<b>7,493</b>	<b>7,699</b>	<b>7,527</b>	<b>7,619</b>	<b>7,723</b>	<b>7,580</b>	<b>7,694</b>	<b>6,874</b>	<b>6,836</b>
Fine defaulter	4	6	8	13	12	5	17	24	20	17	25	15	14	15
Less than or equal to 6 months	327	425	463	477	655	555	666	674	705	714	780	653	683	556
Greater than 6 months to less than 12 months	101	138	150	227	347	380	483	316	317	318	313	310	252	277
12 months to less than	1,507	1,606	1,478	1,669	1,928	2,092	2,221	2,188	2,137	2,203	2,063	2,336	1,842	1,919



4 years														
4 years or more (excluding indeterminate sentences)	3306	3716	3751	3689	3792	3677	3375	3273	3217	3160	2971	2982	2781	2826
Indeterminate sentences	378	394	413	448	562	784	937	1052	1042	1159	1258	1245	1136	1085
Recalls	-	-	-	-	-	-	-	-	181	152	170	153	166	158
<b>Non-criminal prisoners</b>	<b>675</b>	<b>944</b>	<b>819</b>	<b>857</b>	<b>1,188</b>	<b>1,135</b>	<b>1,390</b>	<b>1,439</b>	<b>1,499</b>	<b>913</b>	<b>1,027</b>	<b>1,094</b>	<b>1,861</b>	<b>1,745</b>

Source: Ministry of Justice (JSAS/FOI 88548) and Table A1.9 Prison population by type of custody and nationality status, 2002 to 2014, MoJ

**Table 6.13B: British national prisoners by the type of custody 2002-2014 England and Wales**

Year	2002	2003	2004	2005	2006	2007	2008	2009	2009(1)	2010	2011	2012	2013	2014
<b>Total British prisoners</b>	<b>62564</b>	<b>63614</b>	<b>64379</b>	<b>65670</b>	<b>66160</b>	<b>67767</b>	<b>70751</b>	<b>71231</b>	<b>70898</b>	<b>71016</b>	<b>73030</b>	<b>73238</b>	<b>72179</b>	<b>73999</b>
<b>Remand</b>	<b>10993</b>	<b>10599</b>	<b>9790</b>	<b>10006</b>	<b>10015</b>	<b>9727</b>	<b>10318</b>	<b>10369</b>	<b>10494</b>	<b>9573</b>	<b>9583</b>	<b>8672</b>	<b>8539</b>	<b>9627</b>
Untried	6282	6004	5627	6058	5919	6016	6424	6552	6675	6074	6170	5656	5803	6601
Convicted un-sentenced	4711	4595	4163	3948	4096	3711	3894	3817	3819	3499	3413	3016	2736	3026
<b>Sentenced</b>	<b>51492</b>	<b>52921</b>	<b>54496</b>	<b>55560</b>	<b>56033</b>	<b>57942</b>	<b>60366</b>	<b>60804</b>	<b>60365</b>	<b>61401</b>	<b>63412</b>	<b>64525</b>	<b>63587</b>	<b>64333</b>
Fine defaulter	29	39	43	64	77	62	92	88	79	106	101	99	115	104
Less than or equal to 6 months	5085	5515	5256	5508	5273	4586	5193	4413	4176	4206	4516	4072	3842	3929
Greater than 6 months to less than 12 months	2247	2061	2150	1994	2172	2076	2367	2136	2071	2052	1994	2063	1858	1778
12 months to less than 4 years	20283	19687	19882	19908	19636	20689	21342	21538	18119	18001	17974	18400	17381	17548
4 years or more (excluding indeterminate sentences)	19092	20607	21997	22665	22182	21855	20957	21181	19107	20262				
Indeterminate sentences	4756	5012	5168	5422	6692	8675	10417	11448	11102	11918	21081	22225	23446	24384
Recalls	-	-	-	-	-	-	-	-	5711	4856	5397	5226	4919	5095
<b>Non-criminal prisoners</b>	<b>79</b>	<b>95</b>	<b>92</b>	<b>104</b>	<b>112</b>	<b>97</b>	<b>66</b>	<b>58</b>	<b>39</b>	<b>42</b>	<b>35</b>	<b>41</b>	<b>53</b>	<b>39</b>

Source: Table A1.9 Prison population by type of custody and nationality status, 2002 to 2014/ MoJ

